

**Eastern Interior Alaska Subsistence Regional Advisory Council**

c/o Office of Subsistence Management  
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In Reply Refer To:  
OSM.24004

JAN 23 2024

Steven Cohn, State Director  
Bureau of Land Management  
222 W 7th Ave., #13  
Anchorage, Alaska 99513

Dear Mr. Cohn,

I write to you on behalf of the Eastern Interior Alaska Subsistence Regional Advisory Council (Council) to request the Bureau of Land Management (BLM) review and take actions to revise its policies and regulations regarding cabin use for subsistence activities on BLM-managed lands.

The Council represents subsistence harvesters of fish and wildlife resources on Federal public lands and waters in the Eastern Interior Region. It was established by the authority in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) and is chartered under the Federal Advisory Committee Act. Section 805 of ANILCA and the Council's charter establishes the Council's authority to initiate, review and evaluate proposals for regulations, policies, management plans, and other matters related to subsistence uses of fish and wildlife within the region. The Council also reviews resource management actions occurring outside their regions that may impact subsistence resources critical to communities served by the Council. The Council provides a forum for the expression of opinions and recommendations regarding any matter related to the subsistence uses of fish and wildlife within the region.

At its October 4-5, 2023, public meeting in Arctic Village, the Council discussed BLM policies and costs that prohibit subsistence users from utilizing cabins when trapping and conducting other subsistence activities on BLM managed lands. This is not a new subject of concern, and we included it as a topic in our FY-2022 Annual Report to the Federal Subsistence Board (Board) (Enclosure 1). In the Board's reply on this topic, BLM notified the Council that cabins on BLM managed lands are not available for subsistence uses because the BLM is constrained by regulations and fee schedules that do not allow for these uses.

**In response to this, the Council requests that BLM change their policies and regulations in Alaska so that 1) cabins can be used for subsistence purposes without incurring fees or by only incurring nominal fees, and so that 2) there is a very simple application process for use or lease of cabins that does not require documentation of income.**

As the Council has noted previously, we strongly maintain that there should be a distinction made between the permits, leases, and fees required for subsistence users versus for commercial users in policy and regulation. Rural residents residing in the Eastern Interior Region and throughout rural Alaska should have no application fee or a very low application fee to use BLM cabins when engaged in subsistence activities. Subsistence users should also not be burdened with providing documentation of their income. Most rural residents and subsistence users have limited incomes, and the application fees to utilize BLM cabins are cost prohibitive to them. We ask that a fee schedule for subsistence uses be created and that a more streamlined application process be developed within the next year. If this requires going through the rulemaking process and receiving public input, the Council believes that many rural residents and other Regional Advisory Councils would be highly supportive of this change since it will increase subsistence opportunity and remove unnecessary burdens to subsistence users.

Further, the Council also recognizes that cabin use issues are not unique to just BLM managed lands in Alaska and that other Federal agencies also need to review and update their policies. In 2019, members of the Alaska Delegation petitioned the Secretaries of Interior and Agriculture to address the inconsistencies in how federal land managing agencies implement cabin use policies under ANILCA (Enclosure 2). The Secretary of the Interior responded with a commitment to improving the clarity and consistency of such agency policies (Enclosure 3). **The Council kindly requests that as the head of BLM in Alaska, you liaise with your peers in leadership positions with all other Federal land managing agencies in Alaska to resume and prioritize this work.**

Many cabins located on BLM and other Federal public lands in Alaska were being used by rural residents prior to ANILCA. Presently, there are very few people still living out on the land and fewer trying to teach their children traditional skills. These people need support to continue on the traditions that make Alaskan culture so vibrant and unique. Subsistence hunters and trappers use cabins as occasional shelters when traveling out on the land or as needed for emergency shelters. Sometimes it is necessary to stash limited emergency supplies or tools in such locations. Subsistence users also help maintain cabins that would otherwise be in ill-repair, which is a great benefit to Federal agencies due to limited maintenance budgets. Subsistence users should be encouraged, not discouraged, to use cabins and we kindly ask that you work with your colleagues to develop new policies in this regard.

The Council thanks you for considering these requests and looks forward to your reply. If you have any questions or would like to discuss this further, please contact me through our Subsistence Council Coordinator Brooke McDavid at (907) 891-9181 or [brooke\\_mcdavid@fws.gov](mailto:brooke_mcdavid@fws.gov).

Sincerely,



Robert C. Wright Sr.  
Vice Chair

Enclosures

cc: Federal Subsistence Board

Eastern Interior Alaska Subsistence Regional Advisory Council

Office of Subsistence Management

Interagency Staff Committee

Sara Taylor, Congressional Affairs and Policy Advisor, Office of the Secretary,  
Department of the Interior

Ben Mulligan, Deputy Commissioner, Alaska Department of Fish and Game

Mark Burch, Assistant Director, Division of Wildlife Conservation, Alaska Department of  
Fish and Game

Administrative Record

## Excerpt from the Federal Subsistence Board's Reply to the Eastern Interior Alaska Subsistence Regional Advisory Council's FY2022 Annual Report

### **10. Cost to use Bureau of Land Management (BLM) public use cabins for subsistence activities**

*The Council is concerned about the fees required to use BLM cabins for subsistence activities such as trapping. Most rural residents and subsistence users have limited income, and the application fees to utilize BLM cabins are cost prohibitive. There are very few people still living out on the land and fewer trying to teach their children traditional skills. Subsistence trappers use cabins as occasional shelter when traveling out on the land or as needed for emergency shelter. Subsistence users help maintain the cabins, which is a great benefit to BLM.*

*The Council strongly feels that there should be a distinction made between the permits and fees required for subsistence users versus for commercial users. Rural residents residing in the region should have no application fee or a very low application fee to use BLM cabins. They should also not be burdened with providing documentation of their income. Subsistence users should be encouraged, not discouraged, to use public use cabins. The Council asks the Board to urge the BLM to change their policies for public use cabin permits for subsistence users to make it easier for rural residents to continue their traditional practices out on the land.*

#### **Response:**

The Board reached out with your concerns to the Bureau of Land Management (BLM) and received the following response:

First, it is necessary to clarify terminology. Bureau of Land Management (BLM) does not have cabins available to use for subsistence activities. BLM's Public Use Cabins are facilities available for short term reservation by the public. If a subsistence user wishes to reserve a public use cabin, the fee would be no different than the fee for any user. That said, we believe the Council's concerns relate to fees required to obtain authorization to construct cabins on BLM-managed land or, in some cases, rehabilitate existing cabins to a usable state for use in subsistence activities. Fees for obtaining such authorization are constrained by regulatory requirements.

Section 1316 of ANILCA allows, subject to reasonable regulation, temporary campsites, tent platforms, shelters or facilities directly and necessarily related to the taking of fish and wildlife. The only procedures BLM has to implement are found in regulations at 43 CFR 2920, which allow BLM to grant land use permits (<3 years) or leases (>3 years) for structures on BLM-managed lands. These are generally referred to as "2920 permits." Structures that do not fit the temporary provisions in ANILCA can also be authorized under 2920 permits, generally in support of commercial activities. All such authorizations require an application to be filed and documentation prepared to comply with the National Environmental Policy Act (NEPA).

Per 43 CFR 2804.14, applicants must pay a fee to the BLM for the reasonable costs of processing their application. Reasonable costs are those costs defined in Section 304(b) of the

Federal Land Policy and Management Act. Fees are assigned to a category based on an estimate of the amount of time needed to process the application and issue a decision granting or denying the application. Fees for each category are based on an annually updated fee schedule. For 2023, fees range from \$146 for category 1 applications to \$1,393 for category 4 applications ([https://www.blm.gov/sites/default/files/docs/2023-01/IM2023-023\\_att1.pdf](https://www.blm.gov/sites/default/files/docs/2023-01/IM2023-023_att1.pdf)). After an initial application review, BLM is required to notify the applicant of the processing category into which their application fits and to collect payment before processing the application.

Temporary structures as outlined under ANILCA Section 1316 can often be considered under a categorical exclusion if the authorization is for 3 years or less and none of the Exceptional Circumstances in Department Manual 516 DM2 Appendix 2 apply. Permanent structures and authorizations longer than 3 years generally require an environmental analysis (EA). Processing time may vary based on details of the proposal, but an authorization that requires a categorical exclusion generally falls in a less costly category than one that requires an EA.

If an authorization is granted, regulations also require that the BLM charge rental based on fair market value of the authorization. This is also determined based on a periodically updated schedule (see Topic 10 Enclosures 1 and 2). The Authorized Officer may also require a Performance and Reclamation bond or other security to insure fulfillment of the terms and conditions of the authorization and protect taxpayers from incurring liability for site reclamation (43 CFR 2820.7(g)).

The BLM State Director may reduce or waive some fees under some circumstances. These include if payment of actual costs would result in undue financial hardship and the applicant would receive little monetary value from the permit relative to the processing and monitoring fees, or if the processing and monitoring fees grossly exceed the costs of constructing the project. It is incumbent on the applicant to demonstrate such hardship based on the applicant's specific financial status, not simply membership in a category (such as being a rural Alaska resident).

In summary, the fees for an authorization to construct shelters, temporary or permanent, on BLM-managed land are governed by regulation. Fees can be waived or reduced under limited circumstances. It is the responsibility of the applicant to demonstrate that their specific circumstances meet the criteria for waiver or reduction.

**DON YOUNG**  
CONGRESSMAN FOR ALL ALASKA  
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Congress of the United States  
House of Representatives  
Washington, D.C. 20515

COMMITTEE ON  
NATURAL RESOURCES  
CHAIRMAN EMERITUS  
  
COMMITTEE ON  
TRANSPORTATION & INFRASTRUCTURE  
  
REPUBLICAN  
POLICY COMMITTEE  
  
CANADA-U.S.  
INTER-PARLIAMENTARY GROUP

April 8, 2019

The Honorable David Bernhardt  
Acting Secretary  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Re: Implementation of Statutory Authority for Cabin Construction and Use in Alaska, 16 U.S.C. §3193

Dear Secretary Bernhardt,

We are writing today to bring an issue of grave and generational consequence to your attention, as well as to provide critical background and context regarding available legal remedies. The Bureau of Land Management (BLM), the U.S. Fish and Wildlife Service, and the U.S. Forest Service all have identical direction in Section 1303 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) to authorize both new and existing cabins in conservation system units throughout Alaska. Decades of regulation, planning, and policy development have failed to include or account for this clear direction from Congress, and it has been substantially undermined as a result.

To ensure Congressional intent for cabins in Alaska is realized, we request the Department engage in joint rulemaking with the U.S. Department of Agriculture to implement ANILCA §1303. A similar request is being submitted to Secretary Perdue. In 1984, the interagency Alaska Land Use Council made this exact recommendation to the departments, as have many constituents and organizations since then, none of which were ever taken up. Consequently, each agency manages cabin use differently and with minimal adherence to ANILCA provisions, if any. Joint departmental regulations, followed by comprehensive agency-specific cabin policies for Alaska, will provide the clear and consistent direction needed for each agency to accommodate cabin use in its regional and national programs, as Congress intended.

ANILCA Provides for the Authorization of New and Existing Cabins on Federal Lands in Alaska

Under ANILCA §1303(b)-(d), on public lands outside National Park System units, a permit can be issued for any cabin that meets certain criteria. New construction can be permitted for five years wherever the cabin and any related structures are needed to continue ongoing use of the area, after which permits would be available for the "existing" cabin(s). Permits for existing cabins and related structures are guaranteed renewable every five years for the life of the original permittees, including immediate family members and descendants, safeguarding our traditional and customary use of cabins for generations to come.

Once eligibility is established, the discretion to revoke or not renew cabin permits is limited. Permits are non-transferrable, except that, at the permittee's election or death, the Secretary can transfer the permit to any other person. This is a critical exemption for existing cabin users, in particular, where otherwise eligible family members may not be old enough to hold a permit. Non-transferability also provides the Department with an opportunity to vet each of its cabin permittees for consistency with statutory criteria. It does not, however, impose any kind of bar on issuing or renewing permits for eligible cabin users.

VISIT OUR WEBSITE  
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**Secondly, the statement in the policy summary attached to the October 12, 2017 letter regarding the management of designated Wilderness Areas is of particular concern.** The legislative history of ANILCA is rich with testimony by Alaskans, the delegation, state officials, public interest organizations (including The Wilderness Society), and others earnestly advocating for cabin use to protect the “Alaska lifestyle” on the enormous “conservation system units” which were proposed for designation throughout the state. Much of that lifestyle involved, and was made possible by, the traditional and customary use of remote cabins, which ANILCA specifically protected within designated Wilderness units in Alaska.

In explaining his interpretation of Section 4 of the Wilderness Act of 1964, Rep. John Seiberling (D-OH), one of the principle architects of ANILCA, offered this assurance:

*[J]ust to eliminate any argument about it, we intend to see that conditions that are necessary to meet Alaska's actual conditions on the ground are incorporated in the bill when we create wilderness areas and that would include such other things as wilderness cabins where they are necessary from a safety standpoint and such similar things and fish hatcheries where they are not too intrusive and that sort of thing.*

On proposing Admiralty Island be designated as Wilderness, which local residents and others fiercely opposed (referring to it as “Seiberling Park”), he posed the following question at a 1977 field hearing:

*Perhaps we should write into law what I think is really in the law anyway. I think the Forest Service has been unduly restrictive in its interpretation of the wilderness. But if we allowed continued cabins of the kind the Forest Service has built, continued traditional uses and traditional access, how would you feel then?*

While the discussions excerpted here were early in the development of ANILCA, the underlying intent was expanded upon and incorporated into the Act's passage. In October 1980, while the House was considering the final version of ANILCA which had just passed the Senate, Rep. Seiberling continued his strong advocacy to protect and benefit Alaskans, particularly hunters, industry groups, and the State. A summary of his agenda was circulated, among which was the following:

*Special provisions to protect “Alaskan lifestyle” including (among others) the assured continued use of hunting camps and of recreational and other cabins in conservation system units[.]*

Under ANILCA §102(4), the definition of “conservation system units” includes designated Wilderness. All of this and more starkly contradict the policy summary provided by your office, which stated that “[p]hasing out isolated cabins, like Mr. Hammer's, that are located in wilderness is also consistent with Section 4(c) of the Wilderness Act, which precludes structures or installations in wilderness areas.” As the Senate Committee on Energy and Natural Resources stated, in its report accompanying the adoption of language which would ultimately be enacted in ANILCA:

*It is recognized that some uses which are allowed within wilderness areas designated by this bill, most notably guiding and trapping, may in some areas require the use of rudimentary line cabins, shelters, caches, and other minimal support facilities. Without recognition of these incidental uses and facilities, guiding, trapping and other allowed uses, while technically allowed, would be impossible to conduct as a practical matter. Therefore, the Committee intends that those related uses and facilities required to accomplish uses otherwise allowed within wilderness areas shall also be allowed, consistent with the allowed use and the purposes of the areas designated as wilderness.*



S. Rep. 96-413, at 308 (Nov. 14, 1979). Thirdly, Congress intended to protect existing cabins, and to provide for new cabins, to safeguard and ensure the continued use of all our federal public lands, fully aware of how complicated that would otherwise be considering the variety and enormity of the land status changes being proposed in ANILCA. As to the language which would ultimately be enacted at ANILCA §1303, the Committee stated the following:

*This section provides the Secretaries with authority to permit the continued use of cabins in Alaska even though the occupants may not hold legal title to these cabins.*

*The Committee is familiar with the use by Alaska residents of cabins and other sites of occupancy on lands which are located in the various units established by this Act. The use of such cabins has become known nationwide because of the descriptions of John McPhee in his book 'Coming Into the Country.' The types of occupancies described in this book provide a difficult question for the Committee because in many instances it appears that the occupants do not hold any legal interest in the land on which they occupy. Nevertheless, the Committee believes these residents carry on a unique lifestyle which may further the purposes of or may not necessarily endanger the units established by this Act.*

*While recognizing that many of these occupants hold no legal interest in these sites, it is the intent of the Committee that the Secretary be fair and equitable in his administration of the permitting authority granted under provisions of this Act. In some cases, the residents of Alaska have lived on these site [sic] of occupancy for a number of years but were unaware of the legal requirements of filing under the various public land laws. The Committee intends that the Secretary utilize this permitting system to permit the continuation of this lifestyle wherever possible and where there is no real conflict or danger to the resources for which the unit has been established.*

*The Committee adopted an amendment which provides for the continuation of valid leases or land use permits for cabins, homesites, or similar structures on federal lands. The Secretary is directed to renew existing valid permits or leases unless he determines the use of the lease is a direct threat or significant impairment to the values of the units.*

*Id.* at 304-05. In ANILCA §1303, Congress directed the land management agencies to administer a cabin authorization program with limited capacity to reject, revoke, or not renew those authorizations, including within designated Wilderness Areas. This is not presently reflected in agency direction, which is keenly apparent in the handling of the Hammer Family's request. The fact permits are non-transferrable does not mean applicants could not be granted their own permit for the existing cabin. They simply have to prove, in a separate decision-making process, that they are eligible permittees, too.

Proving that, however, is not easy. Decades of regulation, planning, and policy development have failed to include or account for Congressional direction in ANILCA, and it has been substantially undermined as a result. Since cabin accommodations are in statute, however, they are automatically part of any regional application of those regulations and policies. ANILCA §1303 grants the USFS discretion to authorize cabins and related structures indefinitely for applicants who meet the criteria for eligibility, with express considerations for immediate family members. As such, it is both inaccurate and unreasonable to claim ANILCA prohibits issuing a cabin permit to the Hammer Family, or to anyone else in their situation.

Lastly, current USFS policy regarding cabin use in Alaska forests contradicts Congressional direction in ANILCA, which is unmistakably evident in the October 12, 2017 letter and its attached summary. Both demonstrate an immediate need for consistent and durable guidance on the implementation of ANILCA.



**To ensure Congressional intent is realized, we request the Department engage in joint rulemaking with the U.S. Department of the Interior to implement ANILCA §1303.** A similar request is being submitted to Secretary Zinke. In 1984, after extensive review, the interagency Alaska Land Use Council made this exact recommendation, as have many constituents and organizations since then, none of which were ever taken up. Consequently, each affected agency manages cabin use differently, and with minimal adherence to ANILCA provisions, if any. Joint regulations, **in addition to a comprehensive Alaska-specific cabin policy in the USFS Handbook**, will help provide clear and consistent direction essential to accommodate current and future cabin use on the public lands in Alaska, as Congress intended.

The Hammer Family and the Tongass have a shared history, an intimate relationship we could never hope to know, but we can honor it and provide for its future, and others like it, to our enduring, mutual benefit. Recent communications demonstrate a compelling need to review USFS interpretations and policies to accomplish this. And, although the provisions in ANILCA §1303 are arguably limited to certain areas, wherever it is consistent with the Department's other statutory authorities, there seems little practical justification for refusing to permit cabins on general multiple-use lands in Alaska if those same structures could be permitted in a Wilderness Area. Consistent regional direction for cabins on all forest lands in Alaska will significantly reduce confusion and further Congressional intent for the management of these large, remote areas. The usual limiting factors for such regional conformity are absent here, as Congress expressly provided for cabin use in even the most prohibitive land management categories.

From the October 12, 2017 letter, it was our understanding the Alaska Region would be reviewing its current guidance. From the April 19, 2018 decision memorandum from then-Regional Forester, Beth Pendleton, it appears as if that review was limited to the implementation of ANILCA §1303(d) and has concluded in a limited modification to allow for additional discretionary transfers. While this approach is entirely more consistent with the plain text of ANILCA §1303(d) than the previous "one-time-only" transfer policy, it is insufficient in scope to resolve the complex implementation concerns brought to light during this process.

For the above reasons and many others, we make the following requests:

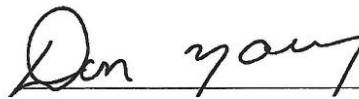
- (1) Allow the Hammers and other eligible users to apply for renewable, five-year permits for their existing cabin(s), as authorized by Congress, to maintain and exercise their allowed traditional and customary uses on our public lands. Under ANILCA §1303(c), such permits can only be revoked or not renewed where certain statutory conditions are met or where a deceased permittee has no immediate family. Under ANILCA §1303(d), this further applies to cabins with a valid lease or permit in effect at the time ANILCA passed, not just within conservation system units, but which may have a different renewal period, depending on the terms of the original permit.
- (2) Engage the U.S. Department of the Interior in a joint rulemaking effort to codify and consistently implement Congressional direction for new and existing cabins on federal public lands in Alaska.
- (3) Develop a comprehensive Alaska-specific cabin policy to ensure the ability to authorize cabin use is restored and available for former, present, and future cabin occupants, recognizing the intended extent of the authority Congress granted to protect and provide for ongoing and traditional and customary public uses on our National Forest System lands in Alaska.
- (4) Review related regulations and policies to address the unique Alaska context and the need for fairness and parity among all forest users nationwide, particularly regarding land use planning, permitting, and cost recovery. While administrative burdens may have grown and expanded in the intervening years since ANILCA passed, the public policy reasons for those developments are not universal and very likely did not account for Congressional direction in ANILCA.

Thank you for your attention to this issue of great significance to the future of our state and the ability to use, understand, care for, and enjoy our federal public lands. Cabins are necessary for Alaskans to maintain their connection to the land and its resources, which generates inestimable contributions to the public interest, including the kind of appreciation, knowledge, and informed stewardship the Service's approach to multiple use was designed to foster. Do not hesitate to contact our offices for additional information, our dozens of constituent testimonies, or other opportunities to lend value to this critical undertaking.

Sincerely,



Dan Sullivan  
United States Senator



Don Young  
United States Representative



## United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

The Honorable Dan Sullivan  
United States Senate  
Washington, DC 20510

AUG 30 2019

Dear Senator Sullivan:

Thank you for your letter dated April 8, 2019, requesting that the Department of the Interior implement existing statutory authority for cabin construction and use on Federal public lands in Alaska. I agree that this is an important issue that must be addressed to provide clarity for the people of Alaska.

I understand the importance of maintaining Alaskan traditions and of ensuring public safety in the remote areas of Alaska. As your letter pointed out, despite identical direction in the Alaska National Interest Lands Conservation Act (ANILCA), a significant amount of inconsistency exists across federal agencies in the management of these cabins. We recognize the adverse effect that this regulatory climate has on users, many of whose livelihood relies on their ability to use trapping cabins in austere environments.

The Department of the Interior acknowledges the issues that the lack of consistent guidance for trapping cabins has caused. That is why I am proud to tell you that I have made revisiting these policies a priority. Having spoken to my counterparts at the Department of Agriculture, I am confident that there is ample opportunity for our two Departments to work together to achieve an outcome where these policies are consistent and user-friendly. Together we can restore a treasured Alaskan tradition as directed by ANILCA.

I have asked the Bureau of Land Management to begin work cooperatively with the U.S. Fish and Wildlife Service, the U.S. Forest Service and the State of Alaska to develop the guidance that you have requested in a manner that is consistent with each agency's legal mandates. It is my intent to develop guidance that satisfies the direction of ANILCA and provides clarity and consistency for these traditional Alaskan communities.

I look forward to working with you on this important issue in Alaska. A similar reply is being sent to Representative Young.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Balash', written in a cursive style.

Joseph R. Balash, Assistant Secretary  
Land and Minerals Management

Cc: Jim Hubbard, Under Secretary for Natural Resources and Environment  
U.S. Department of Agriculture