

Southeast Alaska Subsistence Regional Advisory Council
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In Reply Refer To:
OSM.B25004

Anthony Christianson, Chair
Federal Subsistence Board
c/o Office of Subsistence Management
1011 E. Tudor Road, MS 121
Anchorage, Alaska 99503-6199

Dear Chairman Christianson:

The Southeast Alaska Subsistence Regional Advisory Council (Council) appreciates the opportunity to submit its FY-2024 annual report to the Federal Subsistence Board (Board) under the provisions of Section 805(a)(3)(D) of the Alaska National Interest Lands Conservation Act (ANILCA). At its public meetings held on October 22–24, 2024, the Council identified concerns and recommendations for this report. The Council approved this annual report at its March 18–20, 2025 meeting. The Council wishes to share information and raise a number of concerns dealing with implementation of Title VIII of ANILCA and the continuation of subsistence uses in the Southeast Alaska Region.

1. Conflicts in scheduling Federal Subsistence Board meetings with other meetings

The Council was made aware of significant conflicts in the scheduling of several important upcoming meetings of organizations that make decisions affecting subsistence users. Specifically, the February 4–8, 2025, Board meeting was scheduled during the same time as the Alaska Board of Fisheries (BOF) meeting (January 28–February 9) and North Pacific Fishery Management Council (NPFMC) meeting (February 3–11).

At its October 2024 meeting, a public testifier noted that the dates for the Board meeting were set **after** the BOF and NPFMC meetings were scheduled. The testifier opined that this was perhaps deliberate and that this will prevent some subsistence users from attending all of these meetings to give public testimonies. The testifier stated that this also unnecessarily complicates planning for the communities and organizations, as they will have to make decisions as to which individuals should attend which of these meetings happening simultaneously. For instance, members of the Ketchikan Indian Community (KIC) will have to choose whether to attend the Board meeting, where their proposal to rescind the nonrural designation for Ketchikan will be acted upon or the equally important Southeast and Yakutat Finfish and Shellfish BOF meeting. The BOF meetings are on a three-year meeting cycle, so if members of the public are not able to

comment at this meeting, they will have to wait three more years for the next opportunity. Both the Board and the BOF meetings are extremely important to subsistence users, as both entities make substantial regulatory decisions that govern the take of fish and wildlife resources, which impact this user group.

One of the most important tools subsistence users possess to protect their subsistence way of life are their voices. Federal and State regulatory processes include important opportunities for public participation. Encouraging the public to engage is not enough; the Board must ensure that efforts are made to safeguard the public comment opportunity for those who wish to participate. If the meeting schedules of the most important decision-making bodies are not considered when choosing the Board meeting dates, then the Federal Subsistence Management Program (Program) is not operating in the spirit of public involvement, the cornerstone of the Program.

Request to the Board:

The Council asks the Board to require staff to research major meeting schedules before offering possible dates of Board meetings to its members for choice. The meeting schedules should include the Alaska Board of Fisheries, Alaska Board of Game, and Joint Board of Fisheries and Game meetings, NPFMC meetings, Alaska Federation of Natives meetings, and those of any other significant decision-making meetings that are of interest to subsistence users.

2. Definition and Guidelines for 'rural' community

The Council recently completed a multi-year process of deliberation and delivering a recommendation on a proposal to rescind nonrural designation status of Ketchikan. This was a long and complicated process that required significant engagement by the Council.

The Council struggled with making a recommendation on the proposal, in part because: 1) the Office of Subsistence Management (OSM) preliminary conclusion only offered a neutral position; 2) the Council felt Title VIII of ANILCA does not adequately define the term 'rural;' and 3) the history of how nonrural determinations were made in the past was confusing. Many Council members expressed their discomforts and difficulties with their decisions to support or oppose this proposal and some mentioned that it felt like this process was pitting Tribe against Tribe.

The policy and implementation of the nonrural determination process has changed over the years. The burden has been placed on the Councils to essentially define 'rural' as it sees it, taking into consideration a number of factors that residents are supposed to be familiar with. During its fall 2023 meeting, the Council offered suggestions to OSM staff regarding important factors to consider as 'rural characteristics' and items that the Council would like to see emphasized in the factfinding effort for the analysis.

At the fall 2024 meeting, a substantial analysis was provided, and the Council heard a record amount of testimony on the nonrural determination proposal. The Council asked questions about the definition of 'rural' during its deliberations. In seeking more guidance, they even questioned

whether the proposed area was considered rural by the Department of Housing and Urban Development. Without an authoritative definition for ‘rural,’ it was challenging for the Council to complete this task.

The Council also considered the reasons for KIC’s nonrural determination proposal. They reflected on the many comments from KIC members that supported the proposal claims, namely, that traditional wild foods of the area are critical to their health and survival. The Council would like to help the KIC tribal community steward its resources so that they can continue to hunt or fish in their area and have access to their resources. Under the current processes and regulations, the Council was unsure how best to do that.

During deliberations, the Council discussed what other means might be available to meet KIC’s concerns to achieve adequate protection and provision for the physical, economic, traditional, and cultural existence as enshrined in ANILCA. One Council member pointed to a portion of the congressional history of ANILCA and wondered if a solution may be available through analyzing original intent.

Title VIII was originally added to ANILCA to protect the rights of Native Alaskans to continue their customary and traditional way of life. The final law provided a subsistence priority for rural residents, Native and non-Native alike.

801. The Congress finds and declares that—(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Native and non-Native, on the public lands and by Alaska Native on native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence.

If Title VIII was created with the purpose to essentially make amends for what the Indigenous populations of Alaska gave up and the shortcomings in the Alaska Native Claims Settlement Act, then a review may be helpful at this time, especially as it pertains to how Indigenous rights are protected. Was Title VIII originally added to the land conservation bill that came into existence to protect the rights of Alaska Natives to continue their customary and traditional way of life?

Perhaps this can be explored to see if a subsistence priority can be provided to Tribal citizens outside of making an entire area ‘rural’ for that purpose. Would the Secretary of the Interior be able to take action to protect the subsistence needs of Alaska Natives, acknowledging language in ANILCA’s congressional history? Specifically, from the 1971 House Conference Report, Joint Statement of the Committee of Conference, which states in part:

The Senate amendment to the House bill provided for the protection of the Native peoples’ interest in and use of subsistence resources on the public lands. The conference committee, after careful consideration, believes that all Native interests in subsistence resource lands can and will be protected by the Secretary through the exercise of his existing withdrawal authority. **The Secretary could, for example, withdraw appropriate lands and classify them in a manner which would protect Native subsistence needs and requirements** by closing appropriate lands to entry by

non-residents when the subsistence resources of these lands are in short supply or otherwise threatened. The Conference Committee expects both the Secretary and the State to take any action necessary to protect the subsistence needs of the Natives.¹

The Council realizes this guarantee of Indigenous access to traditional areas could change the way subsistence is practiced throughout the State; however, it sees that this process would be a continuation of the evolution of the law and implementation of Title VIII. ANILCA is remedial legislation and as such it should be given a broad sweep and liberal interpretation in favor of continuing the subsistence priority. This may be an adequate resolution to meet the motivation behind KIC's proposal to rescind the nonrural determination of Ketchikan.

Request to the Board:

- 1) The Council requests that the Board clarify the distinction between 'rural' and 'nonrural' as it pertains to nonrural determination proposal requests. A better definition of 'rural community' to aid Councils in determining rural characteristics is needed in the Program's Nonrural Determination Policy. The Council understands that all communities are rural unless designated nonrural, but additional, more definitive direction is necessary for Councils to sufficiently consider 'rural characteristics.' The Council would appreciate the Board's focused attention on this request for a definition and specific guidelines for the evaluation of communities when future requests to rescind nonrural determinations are submitted and processed.
- 2) The Council requests that the Board advocate for a process to be undertaken to define 'rural' in Title VIII and take whatever appropriate actions are necessary to officially make this change.
- 3) Additionally, the Council requests the Board to consider whether a rule change request would be necessary to meet the intent of ANILCA and protect the subsistence needs of Alaska Natives. It should also contemplate the intent reflected in the Congressional Record in its exploration of remedies. In particular, the Council would like to see: (1) the Secretary of Interior review the original purpose and intent of Title VIII; and (2) explore actions that could provide Tribal citizens access to their traditional subsistence resource lands without changing the nonrural designation status of that area.

3. Unit 4 Deer Monitoring

During the last regulatory cycle, the Board approved three wildlife proposals that closed three areas in Unit 4 for ten days to the harvest of deer by non-federally qualified users. These proposals were submitted to provide a meaningful priority to federally qualified subsistence users and to ensure the continuation of subsistence uses of deer.

¹ H.R. Conf. Rep. 92-746 (1971) House Conference Report, Joint Statement of the Committee of Conference, *see C(2) on page 4*

During the vote on WP24-04 (Angoon), the Bureau of Land Management (BLM) Acting Board member noted that this closure would be subject to the Board's closure policy, which states that when a closure is no longer needed, the Board will reopen the affected Federal public lands and waters as soon as practical (FSB 4/4/2024, p. 241).

During the vote on WP24-05 (Hoonah), the Bureau of Indian Affairs Board member requested that the effects of the closure be monitored following its implementation to evaluate the benefits it will have on the affected Federally qualified subsistence users (FSB 4/4/2024, p. 269) and the BLM Acting Board member reiterated his general comments from WP24-04.

During the vote on WP24-06 (Pelican), the Forest Service Board member recognized from the votes on the two previous proposals that there was a desire, once regulations were put in place, to monitor metrics to understand how to move forward on this issue (FSB 4/4/2024, p. 295). The BLM Acting Board member reiterated that the closure review process will serve as a means to evaluate the effectiveness of this closure and whether or not those closures continue to be needed (FSB 4/4/2024, p. 296).

Request to the Board:

The Council would like to know if any surveys or other monitoring will be done in addition to the closure reviews to assess the effectiveness of these closures and determine the benefits to local Unit 4 subsistence users. The Council requests the Board to explore ways to adequately fund any monitoring efforts.

4. Use of Data for Southeast Alaska Fish and Wildlife Status Reports:

The Council routinely shares the regional reports it receives on the status of fish and wildlife populations in its Annual Report so that the Board can understand current populations and harvests in Southeast Alaska. You will find the latest reports attached (*will be available at March 2025 meeting*).

The Council believes it would be beneficial to incorporate additional information for the status reports it receives, including proportions of harvest by federally qualified subsistence users versus harvest by non-federally qualified users. Additionally, it would be helpful if this information was broken down by geographic area where possible. This would assist the Council in identifying important trends so that they can make regulatory decisions based on federal or state data specific to user groups.

Request to Board:

The Council understands that these reports can only include the information that the creator receives, and that the data received may not be categorized as referenced above. The Council asks the Board to encourage the State of Alaska to respond to requests for information submitted by Federal staff in a timely and complete manner and to entertain requests for data under specific parameters (such as by user group and geographic area), if such data is available in that way. The

Council would appreciate this extra effort as it is important to have as much information as possible for the Council to make comprehensive recommendations to the Board.

5. Funding for Unit 4 Deer Surveys:

Currently, the Hoonah Indian Association is doing subsistence surveys in Unit 4 communities. This was originally funded by the Forest Service under the Southeast Alaska Sustainability Strategy. The group has reported data and information back to the Council and the Council found the information useful, especially when acting on the Unit 4 Deer proposals mentioned above.

Request to Board:

If this project does not receive future funding, the Council would like to see the Board support efforts to secure funding. This could be either through a Wildlife Resource Monitoring Project or through other means. It is important to ensure the data can continue to be collected and shared with the Council for consideration should there be issues with Unit 4 deer in the future.

6. Need for Moose Survey in Yakutat:

The Council member from Yakutat informed the Council that it has been approximately six years since a survey for moose in the Yakutat area was conducted. Due to the limited aircraft pilot resources in the area, it has not been possible to get an accurate count of moose in the area.

Request to Board:

If a Wildlife Resource Monitoring Program is established, the Council would like for the Board to support a Yakutat moose survey as one of the projects. If there are solutions to address the limited air carrier/pilot issue, other than funding an airplane or helicopter at great expense from another part of Alaska, the Council would appreciate knowing of such options.

The remainder of this report is for informational purposes only and the Council does not require a response; however, the issues are significant, and the Board may benefit from this knowledge.

7. Tongass National Forest Plan Revision:

The Council will continue to monitor the Tongass National Forest Plan (Plan) Revision process, including the assessment phase, and prioritize its participation in public engagement and comment opportunities as appropriate. This Plan, being revised to protect resources, support sustainable economies, maintain healthy ecosystems, and meet community needs, is important to Southeast Alaska federally qualified subsistence users, as it will direct how these users may utilize the local Federal public lands.

At its fall 2024 meeting, the Council was informed that the Plan Revision was in the assessment phase and that assessments were expected to be released in January 2025, and a public comment period on these assessments will open. Since there were no documents for review/comment at the time of the fall meeting, the Council formed a workgroup to capture some initial thoughts in anticipation of the assessments document release. The Council was advised that it could submit comments on the assessments outside of the formal comment period because it is a FACA committee, and the Forest Service will honor the comments and sentiments of this Council moving forward. The Council anticipates that the Plan Revision will be a rolling topic on its Annual Reports until the process is complete.

The Southeast Alaska Subsistence Regional Advisory Council appreciates the Board's attention to these matters and the opportunity to assist the Federal Subsistence Management Program in meeting its charge of protecting subsistence resources and uses of these resources on Federal public lands and waters. The Council looks forward to continuing discussions about the issues and concerns of subsistence users in the Southeast Alaska Region. If you have any questions regarding this report, please contact me via DeAnna Perry, Subsistence Council Coordinator, Office of Subsistence Management, at deanna.perry@usda.gov, or 907-209-7817, or 1-800-478-1456.

Sincerely,

Don Hernandez
Chair

Enclosure:

Southeast Alaska Fish and Wildlife Status Reports (Mar. 2025)

cc: Federal Subsistence Board

Southeast Alaska Subsistence Regional Advisory Council

Interagency Staff Committee

Office of Subsistence Management

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

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

Administrative Record