



***Southeast Alaska  
Subsistence Regional  
Advisory Council***

**Don Hernandez, Chair  
c/o Office of Subsistence Management  
1011 E. Tudor Rd., MS 121  
Anchorage, AK 99503-6199**

RAC/SE21018.DP

**MAY 24 2021**

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

Dear Chairman Christianson:

The Southeast Alaska Subsistence Regional Advisory Council (Council) submits this FY 2020 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 meeting via tele/video conference on October 20-22, 2020, the Council identified concerns and recommendations for this report. The Council approved this annual report at its virtual winter 2021 meeting (March 16-18, 2021). The Council wishes to share information and voice concerns dealing with the implementation of Title VIII of ANILCA and the continuation of subsistence uses in the Southeast Alaska Region.

**1. Information Sharing**

**a. Public participation provided for in ANILCA**

The Council has been concerned with certain public processes over the last few years. Specifically, during the Alaska Roadless Rulemaking (AKRR), the Council has spent a substantial amount of time advocating for the requirements set forth in the National Environmental Protection Act (NEPA) process and ANILCA and requesting that they be followed. The Council wrote several letters to the USDA Forest Service (Forest Service) providing public comment on various stages of AKRR (with copies sent to Board members) and would like to take this opportunity to remind the Board of its attempts to ensure opportunities for public participation during this rulemaking process. The Council addressed these concerns:

- Timing of public comment periods
- The conduct of subsistence (810) hearings
- The obstacles during the rulemaking process that prevent optimum public participation
- Participation by local Tribes offering expertise and knowledge of impacts within their traditional territories being disregarded

The Council appreciates that the Board helped convey these concerns to the Secretary of Agriculture. In addition to letters, three Council members also requested a hearing on this matter before the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). At this hearing they provided testimony and presented copies of the Council's public comment letters as supporting materials. A copy of that testimony to OMB is attached for the Board's reference. The Council is dedicated to supporting subsistence users in Southeast by expressing concerns when appropriate and helping the public voice be heard.

#### **b. Restrictions on Federally Qualified Subsistence Users**

The Council is concerned about Federal fishing proposals that suggest more restrictions than those that exist under State regulations. The Council appreciates this Board follows the requirements in ANILCA that provide a preference for harvest opportunity to the Federally qualified subsistence user and that the Board acknowledges that subsistence regulations cannot be more restrictive than other regulated uses of the resource. The Council continues to support the Board in its decisions on the taking of fish and wildlife and is confident that the Board will continue to preserve the Federally qualified subsistence user's priority and protect those users in the future from being the sole group burdened with sacrificing any harvest to conserve fish or wildlife species.

#### **c. Lack of Current Data**

The Council must receive relevant and current information to make appropriate recommendations to the Board. Without current data, the Council is handicapped in making educated decisions. The Council is concerned that some recent analyses feature years-old data and it would like reassurance that the most up-to-date research is being explored for these analyses. The Council requests that all agencies involved in preparing analyses for proposals ensure that the latest scientific data and studies available are being used.

#### **d. Individual National Park Service (NPS) Customary and Traditional Use Process**

The Council appreciated that the Board deferred its action on the proposed delegation of authority to NPS in determining Individual Customary and Traditional (C&T) uses to allow the Regional Advisory Council the opportunity to provide input on this matter. The Council received the information on this proposed process at its fall 2020 meeting.

The Council felt that the existing process for determining Individual C&T use is working and does not need to be changed. The area available for individual C&T permits in the Southeast is limited; however, the Council is concerned that the initial proposed changes may enable the NPS to take land use out of the jurisdiction of the Board. Under the

existing process, the Regional Advisory Councils and the Board play a role for the approval of C&T use in national parks. If the delegation of authority is granted to the NPS Alaska Regional Director, the Council is concerned that this would narrow authority and reduce advisory capacity. The Council does not wish to see access to subsistence areas denied and subsistence activities further limited or eliminated in national park areas for Federally qualified subsistence users.

The Council is pleased to learn that the Board considered the comments received from the Regional Advisory Councils and took action to retain final decision making authority on these determinations and to include a formal recommendation from both the affected Regional Advisory Councils and the affected Subsistence Resource Commissions in this process.

## **2. Council supports the community of Hoonah's ability to access Glacier Bay**

During the Council's discussion on the proposed delegation of authority to NPS (Individual C&T uses) issue, additional discussion took place on the concerns for land management in Glacier Bay. Access to the Glacier Bay National Park (NP) resources for subsistence purposes has been prevented. The local residents are denied the ability to individually harvest gull eggs or gumboots in Glacier Bay NP. In addition, there are no longer any goat or seal subsistence harvests allowed. Many cannot partake in these activities because they cannot produce the required documents showing their historical use of the land, even though many have done so for their entire lives. These activities are a cultural and traditional use of the resources and the Council would like to explore options available to provide access to subsistence users so that they may continue these practices. The Council would like to know what mechanisms are in place or that could be initiated to provide a subsistence opportunity to harvest resources in Glacier Bay NP.

Additionally, some subsistence gathering opportunities are prevented by the current regulations that restrict firearms in the NP. Firearms are necessary for subsistence users to harvest and gather in bear-dense areas. Subsistence users no longer utilize some of the most productive areas in Glacier Bay because they are prohibited from carrying firearms for their safety and protection.

The Council supports the community of Hoonah's ability to access Glacier Bay NP to harvest subsistence resources. Denying the Huna Tlingit people the ability to practice customary and traditional activities in their traditional territory diminishes or removes their identity. The Council would like to assist the Hoonah community in retaining their cultural identity and asks the Board to identify options for the Council to pursue or share with the Hoonah community. The Council would also like a comprehensive presentation on the permitted subsistence activities in Glacier Bay NP at a future meeting.

## **3. Council Vacancies**

The Council remains extremely disappointed that there are vacant seats on the Council in recent years. These vacancies have detracted from the Council's ability to perform its work effectively.

During the 2020 appointment cycle, the Council received appointments approximately one week

before its winter 2021 meeting (these appointments should have been made prior to the expiration of terms on December 2, 2020). By the time appointments were received a substantial amount of preparatory work and effort had already gone into mitigating the difficulties created by the lack of Council appointments. An Acting Chair needed to be acclimated to leading a meeting with complex and sensitive issues. A lot of strategizing needed to be done to ensure that a group of five Council members could do the work of a 13-member Council.

The Council is now almost fully seated (12 of 13 seats filled); however, based on the last few years' appointment process experiences, the Council is concerned that this vacancy trend could continue. The Council also continues to be concerned with the June 14, 2019 Executive Order *Evaluating and Improving the Utility of Federal Advisory Committees*, and its impacts on the Federal Subsistence Management Program (Program) and Regional Advisory Councils. For these reasons, the Council reiterates its concern for the loss of crucial representation in past years across the Southeast Alaska Region as noted in its FY 2019 Annual Report. The lack of appropriate diversity on the Council created significant challenges for the Council members who were asked to make decisions affecting areas and groups in the absence of a local member who can best represent the citizenry of their community.

All vacant seats must be filled, every year, for the Council to function properly and efficiently. Applicants to Regional Advisory Councils are screened and vetted with specific criteria to ensure that well-informed residents of the regions are appointed. Individuals selected have significant knowledge of ANILCA, regional experiences with a wide range of subsistence resources, and share their traditional ecological knowledge about fish and wildlife resources. Experienced members have institutional knowledge of subsistence uses in their local area, which is vital to fully comprehend issues that arise. The lack of Council member appointments and the resulting loss of useful and historical knowledge have detrimentally affected the Program and vacant seats on any Regional Advisory Council are contrary to the Program's objectives.

In the Board's FY 2019 Annual Report reply regarding Council vacancies subject, the Board encouraged the Council to "expand its outreach effort in its communities and throughout the Region to attract a wider pool of applicants, if the Council wishes to see all seats filled." The Council does not believe that outreach is the issue. Twelve applications were received to fill 7 vacancies for the December 2019 appointments yet four seats remained unfilled. Ten applications were received to fill 8 vacant seats for the December 2020 appointments yet no appointments were made for months, leaving only four members and an Acting Chair to cover the Council's business (including the January 2021 Board regulatory meeting).

The Council respectfully makes a second request that the Board send a letter to the newly appointed Secretaries of Interior and Agriculture advising them of the substantial impacts these Council membership reductions have had on the work of the Councils; that these Councils are provided for under ANILCA; and that a lack of representation on the Councils is detrimental to the intent of ANILCA.

Lastly, the Council requests a legal analysis of the failure to appoint Council members to the Subsistence Regional Advisory Councils for the last three years and whether provisions of the Federal Advisory Committee Act or ANILCA have been violated. The Council wants to be

prepared. It appreciates the recent appointments to its Council; however, the Council does not want to be complacent and assume that this issue will not be suffered for yet another appointment cycle.

#### **4. Staff Support for Regional Advisory Council Meetings**

This Council has expressed its concern regarding the limited participation by staff in its annual report to the Board for the last two years. The Council has routinely experienced negative impacts on its ability to effectively conduct its business because of the absence of in-person participation by staff (pre-COVID-19). The Council would like a commitment to have its previous level of staff support restored. Due to the complexity of land management in Southeast, especially given the amount of Forest Service projects that have the propensity to substantially impact subsistence resources, it is imperative that the biologists situated in these geographic areas of interest, be permitted to attend meetings and fully engage with Council members.

The Council understands the need for virtual meetings at present, due to COVID-19, but would like to express its frustration for the lack of in-person support these past few years. Some area biologists have not been able to participate or even listen to the Council meetings. The Council has customarily relied on local biologists in the past for their insight and knowledge of fish and wildlife species and land uses. During the meetings and through individual conversations with these biologists, Council members receive important, detailed information. The Council finds this expert information invaluable when recommending effective solutions to problems facing subsistence users. The strength of the program's support is how the staff understand the people, places, and animals of their local areas and share that knowledge with the Council.

This Council tackles a large volume of information at each meeting and the Council was most effective when it received **in-person** assistance. When all staff are in the room, they can quickly delegate crucial tasks to one another while the Council discusses issues. For instance, it is key to have someone help navigate regulations while another staff member presents information to the Council and another staff member is capturing notes and follow-up requests, and maybe yet another is looking at State regulations for comparison purposes. This coordination of real-time support is invaluable to the Council and this level of service is very important to efficiently conduct business. Therefore, when conditions allow, the Council respectfully asks that the quantity of in-person staff support at its meetings be restored to at or near a level experienced prior to 2017 to ensure that the Council timely meets its obligations to provide well-informed recommendations.

#### **5. Reasonable Access to Resources in an Emergency**

The Council would like to be advised on the status of the current 'food security special action request' protocol which was developed in 2020 to process requests from communities attempting to secure local food resources in difficult times. It is understood that the steps previously used to process these requests are, or have been, modified. It is important to know what options are available for relief, should another food security emergency take place in the future.

In addition, the Council would like to receive the information on the following:

- a. **What options are available for allowing access to resources in a reasonable manner in times of emergency?** When an emergency is declared, reasonable access should be granted to local subsistence resources to make food security a priority. Needs must be met during a time where the availability of food is uncertain.
- b. **Is there a mechanism available or that can be created that would be implemented when an emergency is declared for subsistence users who do not have access to substantial food resources?** A defined method should be in place that would provide timely access to resources in rural communities where the population does not have access to grocery store food sources. In Southeast Alaska, if ferries stop running between islands, the communities are plunged into a dire situation to obtain food. There should be a quicker procedure than the current special action request process to provide emergency nourishment relief.

## **6. Status of Fish and Wildlife Resources in Southeast**

Pursuant to ANILCA Title VIII Section 805, this Council recognizes the importance of providing the Board with regional information so that it can make informed regulatory decisions. This Council hereby continues to routinely report on the status of fish and wildlife populations and the harvests within the region by enclosing the reported harvest of subsistence resources in southeast Alaska. (Please see attached population and harvest information on fish and wildlife resources.)

The Southeast Alaska Subsistence Regional Advisory Council appreciates the Board's attention to these matters. The Council spends a significant amount of time identifying and discussing matters affecting subsistence resources and values the opportunity to share its knowledge and observations with the Board. The Council looks forward to continuing discussions about the issues and concerns of subsistence users of the Southeast Alaska Region. If you have questions about this report, please contact me via DeAnna Perry, Subsistence Council Coordinator with the Forest Service, at 907-209-7817, or [deanna.perry@usda.gov](mailto:deanna.perry@usda.gov).

Sincerely,



Don Hernandez  
Chair

### Enclosures

- cc: Federal Subsistence Board  
Southeast Alaska Subsistence Regional Advisory Council Members  
Sue Detwiler, Assistant Regional Director, Office of Subsistence Management  
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Interagency Staff Committee  
Administrative Record