

Testimony
of
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Before the House Subcommittee on Indian and Alaska Native Affairs
Alaska Native Subsistence Co-Management Demonstration Act of 2014
March 14, 2014 Washington, D.C.

Chairman Young and Ranking Member Hanabusa; thank you for the opportunity to provide comments on the Alaska Native Subsistence Co-Management Demonstration Act of 2014. I am Tara Sweeney, Co-Chair for the Alaska Federation of Natives, the largest statewide Native organization in Alaska. Our membership includes 178 villages (both federally-recognized tribes and village corporations), 13 regional Native corporations and 12 regional nonprofit and tribal consortiums.

I am also an Iñupiat Eskimo from Barrow, Alaska; tribal member of the Native Village of Barrow; and, a shareholder of Arctic Slope Regional Corporation. Iñupiat have survived thousands of years in the Alaskan Arctic by practicing our customary and traditional hunting, fishing and gathering. There are other terms for this, such as subsistence or food security. To Alaska Natives subsistence is our way of life and the foundation of our cultures. It defines why we are who we are as Alaska Natives.

A vast majority of Alaska's 120,000 Native people (nearly 20% of the population of Alaska) still participate in hunting, fishing and gathering for food during much of the year. The average harvest of subsistence resources in pounds per person in rural Alaska is estimated at 544 pounds annually, equivalent to 50% of the average daily caloric requirement.

The proposed co-management demonstration project is new for this area of Alaska, but similar models are thriving in other parts of our state. The proposed area is located on the interior side of southcentral Alaska, approximately 1.77 million acres, also commonly known in Alaska as the "Ahtna region". Alaska Native groups continue to find innovative ways manage subsistence resources by working with the federal and local governments. We have a vested interest in managing a sustainable resource because of our dependence on game as a food source and to preserve our cultures and traditions. We have a long history of monitoring fish and game, and that information has proven invaluable in the co-management relationships we currently have. We are also growing our scientific knowledge about fish and game as we learn how to collect and analyze that type of data.

AFN Support

The Alaska Native community is united behind this bill. This legislation would create the Ahtna Wildlife Co-Management Group which aims to bring together federal, state and local entities to exclusively manage the taking of wildlife for subsistence and public uses by unifying

management of those lands within the Ahtna region. This proposed co-management structure for wildlife is a pioneering approach grounded in finding a solution to a long standing debate about food security in Alaska.

Under this bill, Ahtna Incorporated, tribes and allotment owners would have the option to include their lands in the project and participate in the Ahtna Inter-Tribal Wildlife Commission. The language of the bill also leaves the door open to the State if it wants to participate in the co-management project.

We have seen that other types of co-management agreements within Alaska have worked, and this bill allows for a similar structure to be implemented within a relatively small area of the state. The Alaska Federation of Natives stands firmly behind the Ahtna region in support of this bill.

History

In the 1960s, the Alaska Federation of Natives and Alaska Native leaders sought federal protections for hunting and fishing rights as part of a settlement of Alaska Native aboriginal land claims. Instead, Section 4(b) of the Alaska Native Claims Settlement Act of 1971, also known as ANCSA, extinguished those rights.

Congress expected the State of Alaska and the Secretary of the Interior “to take any action necessary to protect the subsistence needs of Alaska Natives.”¹ Neither the Secretary of the Interior nor the State of Alaska fulfilled that expectation, so Congress enacted Title VIII of the Alaska National Interest Lands Conservation Act, or ANILCA, in 1980. ANILCA’s Title VIII envisioned State implementation of the federal priority on all lands and waters in Alaska through State law. Again, the Alaska Federation of Natives and Alaska Native leaders sought explicit protections for “Native” hunting and fishing rights, but the State objected.

ANILCA was crafted to provide a subsistence priority for “rural residents”. To comply with this law, the State of Alaska enacted State laws that conformed to federal requirements to manage subsistence on state and federal lands in Alaska.

That system operated for less than a decade before the Alaska Supreme Court ruled that the State Constitution precluded State participation in the program. In 1989, the Alaska Supreme Court held, in *McDowell v. State*² that the Alaska Constitution’s equal access clauses, which guarantee that all Alaskans have equal access to fish and wildlife, preclude the State from implementing a rural subsistence priority consistent with ANILCA.

After the 1989 *McDowell* decision, Alaska Native leaders and leaders in the Alaska Legislature attempted to amend the State constitution to enable the State to reassume responsibility for managing subsistence hunting and fishing on federal lands. The Alaska Legislature (through 20 regular sessions and six special sessions) was not able to accomplish this goal, falling just short

¹ S. REP. NO. 92-581, at 37 (1971) (Conf. Rep.).

² 785 P.2d 1 (Alaska 1989).

of required number of votes. Today, State law generally prioritizes subsistence uses of fish and game but provides no preference for rural or Alaska Native residents.

Today, the Federal Government manages subsistence on federal lands, as well as “reserved waters” which run adjacent to or through federal lands in Alaska. The State of Alaska has jurisdiction over state and private lands in Alaska. This dual federal and state management system is highly complex and confusing, and has led to further erosion of protections for subsistence.

After more than 20 years of dual management, it has become clear that the State is not inclined to regain subsistence management authority on federal lands and waters. Moreover, State subsistence laws have effectively been gutted—large areas of the state have been classified as “non-subsistence use areas” where subsistence users receive no priority, and “all Alaskans” have been declared eligible for the subsistence priority on all remaining state and private lands. This change is completely inconsistent with ANILCA’s rural preference. This inconsistency is getting worse rather than better and the purpose, intent, and “letter of the law” in both ANCSA and ANILCA are not being met.

Pursuant to ANCSA, 12 regional and more than 200 village Alaska Native Corporations were formed. They were given money and title to some of their traditional lands to manage for the benefit of their shareholders who, at the time of the settlement, were all Alaska Natives. Because private land in Alaska is governed by state law, Alaska Native subsistence users are not assured of hunting and fishing protection even on the 44 million acres they retained as part of the settlement for their aboriginal claims.

Our goal with projects like the one proposed in this bill is to have a meaningful seat at the management table where fish and game are concerned. Our traditional knowledge and modern science are proving invaluable in managing these resources in other situations.

Current Co-Management Structures

ALASKA ESKIMO WHALING COMMISSION (AEWC)

The structure that this bill is proposing is not new. I grew up in Barrow where an integral part of our lives is harvesting bowhead whales. Without these massive animals giving themselves to us each year, we would be hard-pressed to survive in the Arctic.

The International Whaling Commission was established by the International Convention for the Regulation of Whaling in 1946. Since the Yankee and British whaling operations of the late 19th and early 20th centuries had substantially reduced the size of the stock, the IWC initially focused only on the regulation of commercial whaling activities.

In the early 1970’s, as opposition to commercial whaling operations grew, some countries raised concerns about the status of the Bering Sea stock of bowhead whales and the Iñupiat subsistence harvest of this stock. Reacting to a report that erroneously estimated the Bering Sea stock of bowheads to have between 600 and 2,000 whales, in 1977 the IWC extended its regulation to aboriginal subsistence takes of bowhead whales and imposed a ban on the harvest of bowhead

whales by Alaska Eskimos. Iñupiat hunters learned of this action after the fact. Had they been asked, the Iñupiat would have informed the IWC that there were at least 4,000 bowhead whales in the population.

As a result of the ban, Eskimo whalers established the Alaska Eskimo Whaling Commission (AEWC) to represent the whaling communities in an effort to convince the United States Government and the IWC to take action to preserve the Iñupiat subsistence hunt of bowhead whales. Since 1977, representatives of the AEWC have attended every annual meeting of the IWC, providing scientific research on the bowhead whale conducted through the efforts of the AEWC, the North Slope Borough and the National Oceanic and Atmospheric Administration (NOAA).

State-of-the-art research methods are the foundation for management of the Inupiat subsistence hunt. The hunters have devoted many years of research and development to upgrades of their traditional hand-held weapons to ensure the safest, most efficient, and most humane hunt possible. The IWC has accepted the quantitative method used for establishing and updating the Alaska Native subsistence need for bowhead whales.

Since 1981, the Alaska Eskimo Whaling Commission has managed the bowhead whale subsistence hunt locally through a Cooperative Agreement with the United States Department of Commerce/NOAA. The AEWC works closely with NOAA throughout the year, and reports to NOAA on the results of each spring and fall whaling season. Key research efforts include ice-based census, aerial surveys, photo identification, age estimation, stock structure and genetics, and tracking movements via satellite tagging.

In this cooperative management arrangement, the AEWC conducts its own research, develops whaling regulations, allocates the whale quota among villages, and enforces both the quota and the regulations. These Native and federal groups working together have developed incredible scientific capacity, and have combined it with traditional knowledge in a way that is invaluable to all federal and international agencies involved in whale conservation and management.

More importantly to us, entire communities still participate in the activities surrounding the subsistence bowhead whale hunt, ensuring that the traditions and skills of our culture will be carried on by future generations. Each whale provides thousands of pounds of meat and maktak, which is shared by all the people in the community. Portions of each whale are saved for celebration at Nalukataq (annual whaling feast for successful crews), Thanksgiving, Christmas, and potlucks held throughout the year.

IPCoMM

The Indigenous People's Council for Marine Mammals (IPCoMM) was formed in 1992 to address the Marine Mammal Protection Act (MMPA) reauthorization, co-management, and to incorporate traditional knowledge into the subsistence issue. IPCoMM, is an organization of 17 marine mammal commissions, councils and other Alaska Native organizations. IPCoMM, the

National Marine Fisheries Service (NMFS) and the US Fish and Wildlife Service (USFWS) entered into an umbrella agreement in 2006 to “provide a common foundation for negotiation of separate marine mammal management agreements under section 119 of the Marine Mammal Protection Act.”³

ALASKA NANUUQ COMMISSION

The Alaska Nanuuq Commission was formed in 1994 by Charlie Johnson who was adamant that Alaska's Native people be able to have an active and meaningful role in the conservation and management of Alaska's polar bear populations. The Alaska Nanuuq Commission represents 15 coastal villages from Kaktovik to the villages of Gambell and Savoonga on St. Lawrence Island. The Alaska Nanuuq Commission is active in most polar bear matters both national and international. The Commission is recognized in federal legislation as the co-management authority, along with the USFWS, in the management of America's shared polar bear populations.

ESKIMO WALRUS COMMISSION

Established in 1978, the Eskimo Walrus Commission represents 19 Alaska Native coastal communities in Bristol Bay, the Bering Straits, and the Chukchi and Beaufort Seas to advocate for and represent Alaska Native concerns regarding federal management of the Pacific walrus. EWC is authorized to co-manage subsistence uses of the Pacific walrus population in Alaska's coastal communities in cooperation with USFWS.

The cooperative agreements between these groups I've just mentioned have funded a wide variety of management issues, including:

- commission co-management operations
- biological sampling programs
- harvest monitoring
- collection of Native knowledge in management
- international coordination on management issues
- cooperative enforcement of the MMPA
- development of local conservation plans

These and other groups and agencies regularly hold workshops to discuss future expectations and outline a shared vision of co-management. Co-management projects have:

1. prompted environmental education and marine mammal conservation in Alaska Native communities
2. promoted the education of people outside the Native communities in the traditional ecological knowledge of marine mammals.

³ Memorandum of Agreement for Negotiation of Marine Mammal Protection Act section 119 agreements (October 30, 2000). Available at <http://www.ipcommalaska.org/pdfs/Umbrella%20Agreement.pdf> (consulted February 19, 2014).

Self-Determination

Alaska Natives have been exercising self-determination for decades and we want to continue building on that. Since the Indian Self-Determination and Education Assistance Act of 1975, (“The Act”) we have negotiated contracts and compacts to manage health care, social services, education, housing, roads, and tribal operations such as enrollment in Alaska.

The Act allows tribes themselves to assume administrative responsibility for federally funded programs designed for their benefit, primarily services which are administered by the Bureau of Indian Affairs and by the Indian Health Service. This means that the tribes can negotiate contracts and compacts directly with the federal government to run their own programs and deliver their own services rather than the federal government doing it for them.

These kinds of arrangements serve the needs of all involved. The federal and state governments get to focus on the big picture and their administrative duties. Alaska Natives get culturally sensitive services administered by our own people and a chance to exercise their management skills.

Conclusion

As Alaska Natives we continue to struggle for right for food security at the State level even though provisions through ANILCA afford us that right. The Alaska Native Subsistence Co-Management Demonstration Act of 2014 is a step in the right direction and helps the Federal Government fulfill a slice of its obligation to Alaska Natives. This bill gives life to a pilot project in a small area of the state. If successful, this opens the door for a more productive dialogue at all levels of government for the Alaska Native community. The Alaska Federation of Natives respectfully urges Congress to support this bill.

Quyanaq, Thank you.