1. INTRODUCTION AND PURPOSE

This Alaska Native Relations policy is supplemental to the U.S. Fish and Wildlife Service (Service) Native American Policy. The Native American Policy is the foundational policy that guides the relationship between the Service and all federally recognized tribes, including those in Alaska. The Native American Policy provides a framework for government-to-government relationships, which furthers the United States’ trust responsibility to federally recognized tribes.

The Service recognizes that Alaska Native people are spiritually, physically, culturally, and historically connected to the land, the wildlife and waters. Their customary and traditional way of life has sustained their health, life, safety, and cultures since time immemorial. As people of the land, wildlife and waters, their way of life is more than mere survival, it sustains a spiritual and subsistence connection to the land that are intertwined with indigenous ceremonies and through oral histories, songs, dances and potlatches. Bound by strict codes of respect towards nature, they have been the land’s stewards and caretakers from time beyond memory.

The Service, together with Tribal and Alaska Native Corporation (ANC) leaders, recognized the need for special consideration in the Native American Policy for Alaska. The Service maintains a relationship with tribes, Alaska Native Organizations (ANOs), tribal consortia, and ANCs. These relationships are guided in part by the Congressional mandates found in numerous statutes such as the Marine Mammal Protection Act (MMPA), Migratory Bird Treaty Act (MBTA), Alaska Native Claims Settlement Act (ANCSA), Alaska National Interest Lands Conservation Act (ANILCA), and the 2001 Appropriations Act.

Congress acknowledged the importance of subsistence uses on federal public land in ANILCA, stating that “subsistence uses by rural residents of Alaska...is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional and social existence”. Subsistence uses as a modern legal construct applies to the Alaska Native indigenous peoples way of life that is as vital today as it has been in the past.

ANILCA augments and supplements other specific Alaska Native subsistence laws and policies, such as the MMPA, MBTA and Secretarial Order 3225 regarding the *Endangered Species Act and Subsistence Uses*. ANILCA provides a priority for rural residents and is not specific to only Alaska Natives; however, it was Congress’ intent when it adopted Title VIII to
address certain unresolved issues in ANCSA regarding the continued opportunity for customary and traditional uses, or subsistence uses, by Alaska Natives of wild renewable resources on federal public lands in Alaska.

The Regional Director of the Service is a sitting member of the Federal Subsistence Board for the purposes of the management of subsistence wildlife and fisheries on Federal lands and waters in Alaska, and as such, works closely with Alaska Native subsistence users in the development of regulation proposals and other management projects. The Service is one of eight voting members on the Federal Subsistence Board, and cannot make decisions autonomously with regard to Federal subsistence priority under Title VIII.

Congress enacted the MMPA in 1972. Under section 101(b), it recognized the importance of Alaska Native peoples’ reliance on and connection to marine mammals when it prohibited take and use of marine mammals to all but Alaska Native people with certain qualifications and for certain purposes.

The Service as a Federal trustee supports the customary and traditional way of life by Alaska Natives. As such, the Service welcomes the opportunity for collaboration, cooperation and statutorily permissible co-management with Federally recognized Tribes and ANOs, and ANCs as appropriate, to enhance the conservation and management of healthy populations of fish, wildlife and their habitats.

The Service recognizes that there is a difference between our relationship with ANCs and the government-to-government relationship with federally recognized tribes in Alaska. This policy will not diminish the Service’s relationship with and the consultation obligations towards federally recognized tribes.

ANCs are the largest group of private landowners in the state, with 44 million acres of land. Given the size and nature of ANC lands, including those within and adjacent to National Wildlife Refuges in Alaska, there is opportunity for collaboration to work on issues of mutual interest.

The Service’s engagement with and responsibilities to tribes and ANOs, and ANCs as appropriate, is guided primarily by doctrines of reserved rights, statutes, judicial mandates, case law, Executive Orders and Secretarial Orders. This policy provides clarification of the application of those legal authorities to guide the Service’s efforts in Alaska.

The policy establishes a consistent framework for the Service in Alaska, yet remains flexible to reflect regional and local variations in history, knowledge systems, applicable laws, and Service-tribal relationships. All Service employees who have official duties that may affect tribal and
ANO interests, and ANC interests as appropriate, are responsible for implementation of this policy.

2. SOVEREIGNTY AND GOVERNMENT-TO-GOVERNMENT RELATIONS

Refer to the Native American Policy (Chapter 1, Section 2). In addition, the following applies.

Federal Indian law and policy recognizes the right of tribal governments, including Alaska tribal governments and their ANOs, to self-governance that allows for tribal sovereignty and self-determination through the exercise of inherent sovereign powers over their members, territory and trust resources.

Tribal governments in Alaska have the same governmental status as other federally recognized Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States, and are entitled to the same protections, immunities, and privileges as other federally recognized tribes.

The Service recognizes that tribal governments in Alaska may designate ANOs as official representatives in their interests, including, but not limited to, for conservation, protection, restoration, and enhancement of fish, wildlife, environmental, and cultural resources, in government-to-government relations. The Service will work with tribal governments to ensure adequate documentation is obtained before consulting with ANOs who are acting on a tribe’s behalf.

In compliance with Congressional direction and the Department of the Interior’s policy for consulting with ANCs on the same basis as Indian tribes for certain Service actions that may have a substantial direct effect on an ANC as described in Executive Order No. 13175, the Service will consult with ANCs when appropriate. When concerns expressed by Indian Tribes and ANCs substantively differ, the Service shall be mindful of Tribes’ right to self-governance and Tribal sovereignty.

3. COMMUNICATIONS AND RELATIONSHIPS

Responsibilities in Chapter 1, Section 3 of the Native American Policy apply to tribes and ANOs, and to ANCs with adjustments as appropriate given their unique status, structure, and interests. In addition, the following applies.
The Service recognizes the challenges in Alaska of communicating effectively across large distances, with limited media sources in some rural areas, and in different community and village settings. Service representatives will visit the villages and communities as often as reasonably possible and when resources allow to build rapport and maintain meaningful communications and trusting relationships. The Service’s relationship with ANOs may be defined through memoranda of understanding, memoranda of agreement, or other formal statements of relationship. In addition, the Service will work with ANOs informally as appropriate. The Service may develop agreements with ANOs to work together to exchange personnel, expertise, and information.

The Service works cooperatively with Alaska Native allotment owners on various types of conservation projects for fish, wildlife or habitat. Native Allotments are restricted lands that cannot be sold, leased or otherwise conveyed without the approval of the Bureau of Indian Affairs. The Service will continue to work to understand and consider the desires of both allotment owners and Alaska Native groups prior to the acquisition of a Native allotment.

The Service consults with ANCs as outlined in the Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations. The DOI policy directs the bureaus to consult with ANCs on “any Departmental regulation, rulemaking, policy, guidance, legislative proposal, grant funding formula changes, or operational activity that may have a substantial direct effect on an ANCSA corporation, including: 1) any activity that may substantially affect ANCSA corporation land, water areas, or resources, and 2) any activity that may impact the ability of an ANCSA corporation to participate in Departmental programs for which it qualifies.”

Information sharing

Guidance on information sharing in the Native American Policy will apply to tribes and ANOs, and to ANCs with adjustments as appropriate given their unique status, structure, and interests, concerning actions or activities that may have a substantial direct effect on ANCs.

It is the Service’s intention that information sharing between Tribes and ANOs, and ANCs as appropriate, will occur early and often. Information sharing includes, but is not limited to, sharing of traditional knowledge, research and scientific data. Whenever reasonably possible, communication between the Service and Tribes, ANOs, and ANCs as appropriate will occur in a timely manner to maximize opportunities to provide input to the Service decisions. Prior to initiation of major projects, if applicable and when resources allow, the Service will take extra time to visit villages, tribes, ANOs, and ANCs as appropriate to establish critical relationships. For applicable urgent Service management decisions when formal consultation is not possible, every reasonable effort will be made to establish two-way communication before decisions are
implemented. When Tribes and ANOs, and ANCs as appropriate, bring up issues over which the Service does not have jurisdiction, to the extent practicable, the Service will provide contact information for the state or Federal agency that can address the issue.

4. RESOURCE MANAGEMENT

Chapter 1, Section 4 applies to tribes and ANOs, and ANCs with adjustments as appropriate given the unique status, structure, and interests of ANCs. In addition, the following applies.

In addition to Secretary’s Order 3206 on Indian Lands and S.O. 3225 Endangered Species Act and Subsistence Uses in Alaska (Supplement to S.O. 3206), the Service will coordinate and consult with Alaska tribes and ANOs, and with ANCs as appropriate, to ensure the participation of tribes to maximum extent practicable in all aspects of the management of subsistence species over which the Service has management authority that are candidate, proposed, or listed.

The Service is committed to carrying out the purposes that Congress established in ANILCA on Alaska Refuges: (i) to conserve fish and wildlife populations and habitats in their natural diversity; (ii) to fulfill the international fish and wildlife treaty obligations of the United States; (iii) to provide the opportunity for continued subsistence uses by local residents, consistent with (i) and (ii), and (iv) to ensure water quality and necessary water quantity within the Refuges. Some Refuges have additional purposes for recreation, education, and research. While the Kenai National Wildlife Refuge does not expressly include subsistence as one of its mandated purposes, subsistence hunting and fishing is permitted and the Title VIII subsistence priority nevertheless applies.

The Service is committed to working closely with the Alaska Migratory Bird Co-Management Council (AMBCC) to ensure an effective and meaningful role for Alaska’s indigenous inhabitants, including Alaska Natives, in the conservation of migratory birds. These management actions on subsistence migratory birds may include, but are not limited to; emergency closures, addressing high mortality events, endangered species actions, or policy decisions that affect the subsistence harvest of migratory birds. In addition, the Service commits to incorporating traditional ecological knowledge in migratory bird research projects and public outreach.
Meaningful Role for Subsistence Users in Management of Fish and Wildlife

Congress prefaced Title VIII of ANILCA with a declaration that “the continuation of the opportunity for subsistence uses by rural residents of Alaska … is essential to Native physical, economic, traditional, and cultural existence ….” 16 U.S.C. § 3111(1)

In ANILCA Section 801(5) Congress further declared its finding “…that the national interest in the proper regulation, protection and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by residents of rural Alaska require that an administrative structure be established for the purpose of enabling rural residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.” The meaningful role is provided for under Section 805 of ANILCA.

The Protocol amendment to the Migratory Bird Protection Treaty with Canada, Article II, Section 4 (b) (ii), articulates that there will be a meaningful role provided for subsistence users in the management of migratory birds through the establishment of regional management bodies.

This policy sets out the Service’s responsibility to engage in regular and meaningful consultation and collaboration with federally recognized Indian Tribes, ANOs, and ANCs.

Distinguishing between the Federal Subsistence Board and U.S. Fish and Wildlife Service Policies

U.S. Congress has expressed its commitment to implementing Title VIII of the ANILCA and involving rural Alaskan subsistence users in the management of fish and wildlife under the Federal Subsistence Management Program. Congressional intent is reflected in the Federal Subsistence Board Tribal and ANCSA Corporation Consultation Policies and implementation documents. This Alaska Native Relations Policy covers issues related to resource management within the jurisdiction of the Service, which is outside the jurisdiction of the Federal Subsistence Management Program. The Service’s efforts include capacity building, technical assistance, communications, and workforce development.

Co-management and Collaborative Management

The Service supports and encourages efforts to work with tribes and ANOs, and ANCs as appropriate, through many creative methods to protect, conserve, use, enhance, or restore natural and cultural resources.
The Service is committed to working with its co-management partners, such as the AMBCC and Alaska Native marine mammal commissions, for the conservation of migratory birds and marine mammals with the goal of ensuring opportunities for continued subsistence for those affected species.

The Service may enter into a cooperative management agreement with the Alaska Nanuuq Commission or its successor organization for the management of the Alaska/Chukotka polar bear population to meaningfully work together to implement Title V of the MMPA.

In its role on the Federal Subsistence Board, the Service commits to collaborating with subsistence users and the Federal Subsistence Regional Advisory Councils in the management of wildlife and fish on Federal lands and waters.

The Service strives to understand how cultural differences between Service managers and Alaska Native peoples impact meaningful participation in collaborative management.

The Service may enter into cooperative management agreements under ANILCA Section 304 (f) and 809 with tribes, ANOs, ANCs and private landowners with land within, adjacent to, or near National Wildlife Refuges to manage such lands in a manner compatible to the major purposes of the Refuge and for the purposes of continuing subsistence uses. We recognize the importance of working across land ownerships within and adjacent to National Wildlife Refuges to conserve and protect wildlife and their habitats.

Easements and Allotments

ANCSA Section 17(b)(1) authorized the Secretary of the Interior to reserve easements on lands conveyed to Native corporations to guarantee access to Federal public lands and waters. Easements across Native lands include roads, trails and site easements. Site easements are reserved for use as temporary campsites to change modes of transportation. The Service is responsible for administering those public easements inside and outside of Refuge boundaries that provide access to Refuge lands. Service authority for administering these easements is restricted to the lands in the easement.

The Service also cooperates with Alaska Native Allotment owners within or adjacent to National Wildlife Refuges on various types of conservation projects for fish, wildlife or habitat where there is a mutual agreed upon interest. There are approximately 1,900 Native Allotments within Refuge lands that were acquired under either the 1906 Native Allotment Act or the Alaska Native Veterans Allotment Act of 1998 as amended by the Alaska Native Veterans Allotment Equity Act of 2015.
5. CULTURE/RELIGION

Chapter 1, Section 5 applies to tribes and ANOs, and ANCs with adjustments as appropriate given the unique status, structure, and interests of ANCs. In addition, the following applies.

The Service supports protection of Alaska Natives’ traditional and spiritual way of life. This includes obligations derived from treaties, Executive Orders, Presidential Memoranda, statutes, regulations and court precedent. The Service upholds its obligations to tribes and ANCs for sacred site protection where there is religious or historical significance as well as places of archeological interest.

The Service also supports the development of regulations for the subsistence harvest of migratory birds that reflect the culture and traditions of Alaska Native people, and is committed to working closely together with its AMBCC partners in revising proposals, when necessary, to prepare for consideration by the Service Regulations Committee.

The Service acknowledges and embraces Congress’ intent for the continuance of customary and traditional uses of Alaska Natives under ANILCA by providing meaningful opportunities to practice the subsistence way of life on Federal public lands while protecting the viability of fish and wildlife populations to ensure the continuation of subsistence uses into the future.

6. LAW ENFORCEMENT

Chapter 1, Section 6 applies to ANOs, and ANCs with adjustments as appropriate given the unique status, structure, and interests of ANCs. In addition, the following applies.

The Service will work closely with tribes, ANOs, AMBCC, and ANCs as appropriate, to the extent practicable, to assist in reviewing proposals and providing law enforcement technical assistance when developing regulatory language.

7. TRIBAL CAPACITY BUILDING, ASSISTANCE, AND FUNDING

Chapter 1, Section 7 applies to tribes and ANOs, and ANCs with adjustments as appropriate given the unique status, structure, and interests of ANCs. In addition, the following applies.

Under Section 119 of the MMPA, the Service may enter into cooperative agreements with ANOs addressing marine mammal population data, subsistence harvest monitoring, research, and
development of co-management structures. Under section 109 (i), the Service will make every reasonable effort to hire local residents of coastal villages as its representative to tag sea otter and polar bear hides and skulls and walrus tusks as required. The same personnel may also assist in harvest monitoring programs.

The Service may enter into partner/cooperative agreements under Section 50 CFR 92.1(b) including funding to regional migratory bird management bodies. The Service also commits to providing administrative and technical support under Section 50 CFR 92.10 (e), to the AMBCC, including the management of a migratory bird subsistence harvest monitoring program.

Indian Self-Determination and Education Assistance Act

The Service supports negotiating contracts and compacts with tribes and ANOs, and ANCs when applicable and appropriate, as well as considering discretionary requests for annual and multi-year funding agreements where resources are available and the agreements meet the mutual needs of tribes and the Service.

8. IMPLEMENTATION AND MONITORING

Chapter 1, Section 8 applies to tribes and ANOs, and ANC as appropriate given the unique status, structure, and interests of ANCs. In addition, the following applies.

The Service, in collaboration with tribes and ANOs, and ANC as appropriate, will develop a regional implementation plan to guide the application of this policy, including an Alaska regional advisory committee representative of tribes and ANOs, and ANC as appropriate.

Employee Training and Education

Region 7 of the Service has developed a training program on Alaska Native relations to cultivate respect and understanding for the diverse indigenous cultures in Alaska, their history, the laws that impact them, traditional knowledge, cross cultural communication, and our partnership with tribes, ANOs, and ANC. The Alaska Native Relations training is mandatory for all Region 7 employees.

Workforce Diversification

We may collaborate with ANC to assist in recruiting Alaska Natives for all Service positions, especially where Service-managed public lands are within traditional territories or adjoining ANC land.
9. SCOPE AND LIMITATIONS

Chapter 1, Section 9 applies to tribes and ANOs, and ANCs with adjustments as appropriate given the unique status, structure, and interests of ANCs.
Exhibit 1

DEFINITIONS

In addition to definitions in the Native American Policy, the following definitions help to clarify this policy:

Alaska Migratory Bird Co-Management Council – The Alaska Migratory Bird Co-Management Council is a state-wide body established in 2000 to develop, implement, and promote a co-management program between Alaska Native, Federal, and the State governments for the subsistence use and conservation of migratory birds in Alaska. The Council was formed to ensure the recognition of subsistence hunting and the conservation of migratory birds, promote the co-management of migratory birds, and develop regulatory recommendations for spring and summer subsistence seasons.

Alaska Native Claims Settlement Act of 1971 (ANCSA) – Alaska Native land settlement act through which indigenous Native peoples released title to their aboriginal use and occupancy land claims and aboriginal hunting and fishing rights that may exist in exchange for 44 million acres of land held in fee simple title and a monetary settlement of $962 million. Public Law 92-203, approved December 18, 1971, (43 USC 1601 et seq.)

Alaska Native Village – Any tribe, band, clan, group, village, community, or association in Alaska listed in sections 11(b)(1) and 11(b)(2) of ANCSA, or which meets the requirements of this ANCSA, and which the Secretary determines was, on the 1970 census enumeration date (as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance), composed of twenty-five or more Natives. 43 U.S.C. § 1602(c)

Alaska Native Corporations – Any Alaska Native village corporation, urban corporation, or regional corporation as defined in, or established under the Alaska Native Claims Settlement Act. 43 U.S.C. § 1602

Alaska Native Claims Settlement Act Corporation lands – Lands conveyed to Alaska Native village corporation, urban corporation, or regional corporation pursuant to the Alaska Native Claims Settlement Act of 1971. 43 U.S.C. § 1611

ANILCA Federal Public Lands – Lands, waters and interests therein, including all navigable and inland non-navigable waters in which the United States has reserved water rights, that are defined by. 16 U.S.C. §§ 3102(1) and 3102(3)
ANILCA Subsistence Priority – The priority for the taking of fish and wildlife by rural residents of Alaska on public lands (including inland waters where there exists a federally reserved water right) for subsistence uses. 16 U.S.C. § 3124


Regional Corporation – An Alaska Native Regional Corporation established under the laws of the State of Alaska in accordance with the provisions of this ANCSA. 43 U.S.C. § 1602(g)

ANCSA Section 17(B) Easements – easements reserved on lands conveyed to Native corporations to provide public access across privately owned Native lands to reach federal public lands and waters. Reserved easements could be roads, trails or site easements. 43 U.S.C. § 1616(b)

Village Corporation – An Alaska Native Village Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of a Native village in accordance with the terms of this chapter. 43 U.S.C. § 1602(j)

Alaska Native Allotment – A parcel or parcels of land, totaling up to 160 acres, conveyed by restricted deed to an Alaska Native under the terms and conditions of the Alaska Native Allotment Act of 1906 and 1956 amendment; and the Alaska Native Veteran Allotment Act of 1998. 43 U.S.C. §§ 357, 357a, 357b

Marine Mammal Co-Management – Cooperative agreements entered into between the Secretary and Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives. 16 U.S.C. § 1388

Subsistence Uses – For the purposes of ANILCA, the customary and traditional uses by rural Alaska residents of wild renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption, for barter, or sharing for personal or family consumption; and for customary trade, barter, or sharing for personal or family consumption. 16 U.S.C. § 3113

Subsistence - For the purposes of MBTA, the customary and traditional harvest or use of migratory birds and their eggs by eligible indigenous inhabitants for their own nutritional and other essential needs. 50 CFR 92.3
Subsistence - For the purposes of MMPA, the use by Alaskan Natives of marine mammals taken by Alaskan Natives for food, clothing, shelter, heating, transportation, and other uses necessary to maintain the life of the taker or for those who depend upon the taker to provide them with such subsistence. 50 CFR 18.3
Exhibit 2

AUTHORITIES

Refer to the Native American Policy (Exhibit 2). In addition:


Native Townsite Act of 1926 (44 Stat. 629), repealed as part of Federal Land Policy and

U.S.C. 1629g)

Federal Subsistence Board Government to Government Tribal Consultation Policy

Federal Subsistence Board Policy on Consultation with Alaska Native Claims Settlement Act
(ANCSA) Corporations
OVERALL RESPONSIBILITIES

Table 2-1 below describes the responsibilities of Service officials for implementing this policy in addition to the responsibilities listed in the Native American Policy. All responsibilities in Table 1-1 apply to ANCs and ANOs, with adjustments as appropriate given their unique status, structure, and interests. Sections 2 to 9 provide details about how we achieve these responsibilities.

Table 2-1: Responsibilities for the Service’s Alaska Native Relations Policy

<table>
<thead>
<tr>
<th>These officials…</th>
<th>In addition to responsibilities for working with tribes in the Native American Policy, when working with ANCs and ANOs, are responsible for…</th>
</tr>
</thead>
</table>
| **A. The Director** | (1) Refer to Native American Policy, Table 1-1, A.;  
(2) Ensuring implementation of the Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations |
| **B. National Native American Programs Coordinator** | (1) Refer to Native American Policy Table 1-1, B. |
| **C. Directorate members at Headquarters** | (1) Refer to Native American Policy Table 1-1, C.;  
(2) Ensuring implementation of the Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations |
| **D. Chief – Office of Law Enforcement (OLE), through Special Agents in Charge** | (1) Refer to Native American Policy Table 1-1, D. |
| **E. Regional Director (RD)** | (1) Refer to Native American Policy Table 1-1, E.;  
(2) Ensure the Service consults with ANCs, following the Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations  
(3) Ensuring participation in ANO programs and projects that have an established role for the Service |
<table>
<thead>
<tr>
<th>F. Regional Alaska Native Affairs Specialist</th>
<th>(1) Refer to Native American Policy Table 1-1, F.;</th>
</tr>
</thead>
<tbody>
<tr>
<td>G. Regional Directorate Team Members</td>
<td>(1) Refer to Native American Policy Table 1-1, G.; (2) Ensuring implementation of the Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations</td>
</tr>
<tr>
<td>H. Project Leaders, Managers, and Supervisors</td>
<td>(1) Refer to Native American Policy Table 1-1, H.; (2) Ensuring implementation of the Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations</td>
</tr>
<tr>
<td>I. Employees</td>
<td>(1) Refer to Native American Policy Table 1-1, I.;</td>
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</tbody>
</table>