

January 9, 2017

Hilary Cooley
Polar Bear Project Leader
Marine Mammals Management Office
U.S. Fish and Wildlife Service
1011 East Tudor Road
Anchorage, Alaska 99503

Via: www.regulations.gov and email hilary_cooley@fws.gov

**RE: Co-Management of Subsistence Use of Polar Bears by Alaska Natives;
Conservation of the Alaska-Chukotka Polar Bear Populations.
Docket FWS-R7-ES-2016-0056**

Dear Ms. Cooley,

This letter provides comments from Voice of the Arctic Iñupiat (VOAI) to the Fish and Wildlife Service (FWS) regarding the Advanced Notice of Proposed Rulemaking (ANPR) for the co-management of subsistence use of polar bears by Alaska Natives.¹ VOA I appreciates the opportunity to comment on this advanced rulemaking as it will significantly affect Alaska Natives and VOA I. We encourage FWS to closely consider comments received from VOA I and other Alaska Native entities, and remain committed to co-manage polar bears with Alaska Natives.

I. About Voice of the Arctic Iñupiat

VOAI is a 501(c)4 non-profit corporation whose twenty members include representatives from North Slope tribal councils, municipal governments, Alaska Native Corporations, a regional non-profit and the tribal college from the North Slope of Alaska. VOA I was formed to provide a unified, local voice of the Iñupiat people from the Arctic Slope region. VOA I was established in 2015 with the purpose of providing local advocacy and engagement of the Iñupiat people to state, federal and international forums addressing Arctic issues.

VOAI is intended to articulate local content and responses with respect to activities within our region that allow for the protection of our land, waters and subsistence resources

¹ 81 Fed. Reg. 78560. November 8, 2016.

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based on our knowledge and experience; this includes the Chukchi Sea and Beaufort Sea Polar Bears which Alaska Natives subsist from. We are acting to protect the interests of the Arctic Slope Iñupiat utilizing our strong ties to our culture and community. VOAI is represented by the elected leadership of twenty North Slope organizations. It is through our member organizations that we can speak with a unified voice for the people of the Arctic.

VOAI has been officially engaged in the co-management efforts of the FWS since our inception, and unofficially for generations as the Iñupiat have been and remain the stewards of our region and are the natural conservationists of the Nanuuq. As we communicated during the June 9th Summit on this issue hosted by Senator Sullivan, we have struggled to navigate the regulation and policy initiatives of the FWS regarding the U.S-Russia Bilateral Polar Bear Treaty (Treaty). We are encouraged FWS is attempting to fix this complicated process and ***expect FWS will take earnest steps to better include the local people and allow Alaska Natives to shape any policy or regulation affecting our subsistence way of life.***

The Iñupiat people have the most interest in the sustainability of the polar bear—after all, it is our food source—and should be prioritized throughout this process. FWS efforts to enforce the Treaty could have very real impacts on the Iñupiat people’s ability to conduct our subsistence way of life on the North Slope. For this reason, Alaska Natives and VOAI are eager to collaborate with the FWS and be a meaningful partner to FWS in the management of the Chukchi Sea polar bear. While we provide these initial comments on co-management and the specific questions FWS asks in their ANPR, we understand that a rulemaking of this magnitude to our subsistence and cultural way of life requires an iterative process and continued dialogue. Therefore, we may provide additional comments and expect FWS will continue to solicit our opinion through comments, in-person meetings, summits, and other engagements throughout this process.

II. General Comments on the Co-Management of Polar Bears by Alaska Natives and FWS

It is critically important for the success of this rulemaking and co-management that the FWS maximize the local influence over this process and all parties utilize reliable scientific data and Traditional Knowledge when co-managing the Nanuuq. The Indigenous People’s Council for Marine Mammals, Kawerak Inc, the North Slope Borough, Iñupiat Community of

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the North Slope, VOAI, and other regional, local, and tribal organizations plan to meet at the end of January 2017 to continue to discuss a successor organization, their responsibilities, and the requirements of the Treaty. This meeting, which includes broad representation from indigenous peoples across Alaska, will address some of the questions which FWS has outlined. FWS should encourage local, Alaska Native stakeholders to drive this policy and be influential in the shaping of any regulations impacting our way of life.

VOAI considers transparency, collaboration, and consultation between FWS and Alaska Natives essential to this policy. With proper consultation and collaboration, Traditional Knowledge would be better realized and local hunters could shape this policy. In the past, the Treaty has not meaningfully included the local people, Traditional Knowledge, or reliable data. VOAI recognizes FWS willingness to work with Alaska Natives to establish a valid and reasonable enforcement of the Treaty; while we have not been included up until this year in the shaping of this policy, VOAI is committed to being a meaningful partner with FWS. By collaborating with Alaska Natives, FWS will avoid producing an inaccurate and ineffective conservation requirement which could interfere with Alaska Natives' subsistence rights.

Monitoring and Managing Subsistence Harvest

VOAI supports FWS' efforts to enter into a cooperative and co-management agreement with an Alaska Native Organization in order to create a framework for polar bear management and conservation. Consultation and co-management is the responsibility of the FWS under the Marine Mammal Protection Act (MMPA) and with respect to the recent Secretarial Order describing cooperative and collaborative partnerships with Alaska Natives². As we have communicated, there are varying degrees of understanding across the North Slope community on the quota and other requirements under the Treaty. Any quota enforced by the FWS must be scientifically defensible and include Traditional Knowledge. We do not feel it would be appropriate or justifiable for FWS to begin management of subsistence without sufficient local support and the establishment of a successor co-management entity. Once an entity is established, the entity and FWS should then enter into a cooperative agreement and work together to inform the community of the

² Secretarial Order 3342: Identifying Opportunities for Cooperative and Collaborative Partnerships with Federally Recognized Indian Tribes in the Management of Federal Lands and Resources. October 2016. https://www.doi.gov/sites/doi.gov/files/uploads/so3342_partnerships.pdf

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requirements of the treaty. VOAI and the collective Alaska Native community plan to discuss this in greater detail later this month.

Alaska Natives and the successor co-manager should be primarily responsible in managing polar bear harvests. Alaska Natives have the most insight into the needs of our community and the balance our environment requires—after all, we are the residents which have simultaneously hunted and preserved the Nanuuq for generations, not the FWS. A great example of Alaska Native self-management can be seen with the Alaska Eskimo Whaling Commission which manages the bowhead whale harvest in a sustainable and responsible manner. Alaska Natives have the most experience and are saturated with Traditional Knowledge which guides our *sustainable* subsistence way of life in a responsible and conscientious manner. FWS should recognize the value of an Alaska Native co-management agreement and work to establish this entity prior to promulgating any regulations or enforcing any requirements of the Treaty.

Southern Beaufort Sea Polar Bear Population

To VOAI’s knowledge, the Treaty was established to manage the Chukotka-Chukchi polar bears, not the Beaufort Sea polar bears. We do not support the inclusion of the Beaufort Sea polar bear population in this ANPR or in any subsequent rulemaking from the FWS with respect to the Treaty. The Beaufort Sea polar bears are already managed through a voluntary agreement between the Inuvialuit in northwest Canada and the Iñupiat people. FWS’ decision to move the boundary from Icy Cape to Point Barrow without any Alaska Native input or consultation will also impact the existing Inuvialut-Iñupiat Polar Bear Management Agreement in the Southern Beaufort Sea. Why the FWS is making this change and interfering with this existing agreement is unclear to VOAI.

Moreover, while the U.S.-Russia Bilateral Polar Bear Treaty sets the eastern boundary at Point Barrow, all parties have been using Icy Cape as the management boundary since it is more fitting to the habitat of Chukotka-Chukchi polar bears and supported by Traditional Knowledge. The current agreement between the Inuvialut and Iñupiat also uses Icy Cape for this reason. We do not support this unreasonable and scientifically irrelevant change. Further, FWS proposes this change without any adjustment to the existing quota. FWS should not interfere with Native to Native agreements in the Southern Beaufort Sea. Instead, FWS should maintain their practice of utilizing Icy Cape as the eastern boundary to

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avoid interfering with existing agreement and to be consistent with available scientific information and Traditional Knowledge.

III. Specific Questions within the ANPR

VOAI appreciates FWS’ effort to add clarity to the regulatory process by soliciting specific questions on this issue. While we will try to address these questions, VOA I would like to reiterate that many of these lingering questions the FWS hopes to answer through this comment period would be better addressed through frequent and collaborative consultations with Alaska Natives. Many of these questions require further conversations locally and cannot be answered until after the January meeting amongst North Slope stakeholders on this very issue. Nonetheless, VOA I offers our initial answers below

1. *Should the Service enter into a cooperative agreement with a new Alaska Native Organization for polar bear conservation and management?*

Absolutely. Both the Treaty and the MMPA require co-management and collaboration between Alaska Natives and FWS. FWS cannot neglect this obligation. Additionally, numerous Executive and Secretarial Orders require co-management with Alaska Natives³, consultation with Tribal entities⁴ and Alaska Native Corporations⁵, and transparency⁶. Without co-management the enforcement of any requirement on our subsistence way of life would interfere with Native sovereignty, be culturally insensitive, be scientifically inaccurate, and lack Traditional Knowledge.

2. *What functions and roles should a polar bear co-management entity perform?*

A co-management entity should be an equal partner to the FWS in all ways and participate meaningfully in all areas of management and conservation of the Nanuuq. While VOA I needs more time to consider the specific functions and roles of a co-management entity, we support the FWS ideas that the entity could assist in collaborating to collect information on

³ Secretarial Order 3342, October 2016

⁴ Executive Order 13175: Consultation and Coordination with Indian Tribal Governments, November 2000

⁵ Department of the Interior Policy on Consultation with Indian Tribes.

<https://www.doi.gov/sites/doi.gov/files/migrated/cobell/upload/FINAL-Departmental-tribal-consultation-policy.pdf>

Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act (ANCSA)

Corporations, 2012. https://www.fws.gov/alaska/external/native_american/doi_ancsa_policy.pdf

⁶ Presidential Memorandum on Transparency and Open Government.

https://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment

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the distribution, abundance, and health of polar bears; manage human and polar bear conflicts; assess and protect important habitats; and monitor and manage subsistence harvest. VOAI and other Alaska Natives plan to discuss this in greater detail during our meeting at the end of January and respond to FWS with more detail later.

3. How should polar bear co-management entity be formed?

A co-management entity should be formed at the direction of Alaska Natives, supported by the FWS, and managed as the collective Alaska Native community sees fit. A co-management entity would likely need support from FWS for independent and separate legal counsel, research capabilities, and other technical support. Again, VOAI and other Alaska Native entities plan to discuss this in our upcoming meeting.

4. Are there existing organization or entities that are capable of and interested in serving the role of the polar bear co-management entity?

VOAI needs more time to consider this question and develop a response in alignment with affected hunters and the Alaska Native community. The Alaska Native community has been working on a plan since September 2016 on future co-management and will address this in our upcoming meeting.

5. What methods are most effective for the exchange of information between the Federal Government and Alaska Natives?

VOAI needs more time to consider the best methods to exchange information between the Federal Government and the Alaska Native community. In general, we feel FWS needs to remain committed to the spirit of co-management, consultation, and collaboration. Comment periods alone are not a sufficient means of communication or an appropriate exchange of information. The FWS should meaningfully engage in a continuous and iterative dialogue with Alaska Natives, Alaska Native Organizations, and affected hunters on this policy and any policy that would affect our way of life or community. FWS should work to build a relationship of trust and encourage maximum local control over the shaping of policies which will **only** affect Alaska Natives way of life.

6. Should harvest regulations for polar bears in the Alaska-Chukotka population be promulgated only at the Federal level or issued by the polar bear co-management entity and then adopted by Federal regulations?

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We strongly object to the option that regulations would only be implemented at the Federal level, or, in other words, essentially nullify the need for a co-management entity. Alaska Natives should have maximum local control over a harvest quota and the enforcement of that quota and FWS should avoid usurping control over this process. To do so would cause serious hardships in the community and directly interfere with our aboriginal subsistence rights. Removing the local people from the regulatory process would not only produce ineffective policies which do not have local buy in, but would also be inappropriate and not in line with the Treaty or numerous Executive Orders which require consultation, collaboration, and co-management. Any regulations must be reflective of Alaska Native input and have the support of an Alaska Native co-management entity. Subsistence is a primary food source for many Alaska Natives; FWS should not jeopardize our source of sustenance and the cultural significance subsistence brings to our community. Rather, we feel that any harvest regulations should be developed through an Alaska Native co-management entity as an equal partner with the FWS.

7. What is the appropriate timing for reporting harvested bears?

VOAI needs more time to consider this question and collaborate with affected hunters and other Alaska Natives. FWS and Alaska Natives should work together to establish an appropriate timeframe for reporting harvested bears which includes Traditional Knowledge and reliable science. We look forward to participating more in this conversation.

8. What is the most effective method for reporting harvested bears in a timely manner?

VOAI needs more time to consider this question with affected hunters and other Alaska Natives. FWS should commit to only promulgating rulemaking and policies after close collaboration with VOA and other Alaska Native entities and with the support of the Alaska Native community. These conversations need to occur at the local level before FWS determines specific provisions of the rulemaking.

IV. Conclusion

VOAI appreciates FWS efforts to solicit our feedback on this very important matter. We are committed to collaborating with FWS and will remain engaged on this important issue. Currently, there is little understanding in the broader community about this impending requirement and how it will be enforced. The FWS must have local buy-in and local

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support before promulgating any regulation; this support is currently not available. The FWS should remain cognizant that their regulations will absolutely affect our subsistence culture and aboriginal rights and must proceed with the sensitivity this action requires.

VOAI supports the establishment of an Alaska Native co-management entity to help in the shaping of policies, research, enforcement, and other responsibilities. Alaska Natives are the natural stewards and conservationists of the Nanuuq. We have subsisted from the Nanuuq for generations without jeopardizing its existence. The FWS should recognize the value of our experience and Traditional Knowledge and work to fully incorporate us into this process, not enforce harvest requirements which have many unintended consequences the FWS does not understand. VOA I hopes to provide additional clarity to FWS after our meeting with the North Slope leadership and various Alaska Native entities. We expect that FWS will reserve any decision-making until this meeting occurs and Alaska Natives can be better included in this process.

Taikuu,



Sayers Tuzroyluk, Sr.
President

CC: Senator Lisa Murkowski
Senator Dan Sullivan
Director Dan Ashe, US FWS
Taqilik Helpa, Director, NSB Wildlife Department
John Hopson, Jr., President of NSB Assembly and Mayor of Wainwright

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