

Subsistence

Priority Issues

There were nine members of the Subsistence working group. We were asked to identify five priorities for the unresolved issues and challenges for subsistence management in Alaska. The working group was in close agreement in identifying the 5 priorities for addressing Subsistence issues in Alaska.

1. Dual Management, including federal eco-system management, is ineffective and inefficient for the resources, subsistence users, and all uses of fish and wildlife in Alaska.
2. We need an Alaskan solution that addresses State and Native Sovereignty.
3. It is necessary to incorporate tribes and Alaska Natives into State and Federal subsistence management systems.
4. We need to recognize the subsistence way of life and define what subsistence uses are, who is engaged in subsistence uses, and distinguish subsistence uses from other uses.
5. We need to ensure that subsistence users have proper access to resources and there needs to be a means to control and provide access to non-subsistence users to avoid disruption of subsistence use and subsistence opportunity.

Other Issues Considered

- User representation:
 - Commercial Fisheries interests are over represented on the Alaska Board of Fisheries.
 - There is very little representation on the Alaska Board of Game and Board of Fisheries from subsistence users.
 - It is difficult to keep up with all the changes made by the Board of Game and Board of Fisheries.
 - The Federal Subsistence Board needs to be reformed to better represent subsistence users rather than federal agencies.

Background on Process:

Committee members were asked to identify those whose viewpoints need to be considered to move the identified priorities forward – the “Stakeholders”. As noted below, the Committee was unanimous in identifying the stakeholders for each priority (the Stakeholders were the same for each priority).

After identifying the 5 priorities, committee members were asked to identify “Success Elements” - what success/resolution of the issue for the good of all Alaskans would look like for each identified priority. As noted below, the Committee was unanimous in identifying the Success Elements for each priority.

Committee members were next asked to identify “Recommended Actions to Achieve Success” for each Success Element. After an Action to Achieve Success was identified by a member of the Committee, the Committee as a whole addressed each Action item and took a vote on whether “most Alaskans would/could support” the identified Action.

The Committee vote, either unanimous, by a majority, or a vote not to support an issue, is identified for each Success Element and Action to Achieve Success identified by the Committee. The letters (A, B or C) noted with Actions to Achieve Success items, represent the Committee’s view on the how long it may take to implement the recommended Action. It was the Committee’s view, however, that a recommendation identified as a “C” may take more time to implement, but in some cases may be more important to begin work on as soon as possible even though it may take longer to accomplish. A “+” sign after a letter, for example B+, expresses the Committee opinion that the action may not take as long to accomplish with a concentrated effort.

- A - Implementation could begin immediately
- B - Implementation could begin in near future
- C - Implementation is farther out/could take more time

The Committee also noted in some cases whether an identified Action would result in a potential savings or spending of additional State money

Several acronyms are used in the report:

“ANCSA” is the Alaska Native Claims Settlement Act; Act of December 18, 1971, 43 U.S.C. §§ 1601 *et seq.*;

“ANILCA” is the Alaska National Interest Lands Conservation Act. Title VIII of the Act provides for subsistence uses of fish and wildlife on the public lands by rural residents of Alaska. Act of December 2, 1980, 16 U.S.C. §§ 3111 *et seq.*

1. Dual Management, including federal eco-system management, is ineffective and inefficient for the resources, subsistence users, and all uses of fish and wildlife in Alaska

Stakeholders (the Committee agreed unanimously with identification of stakeholders)

- Tribes and ANCSA Corporations
- Commercial operators, transporters, guides, air taxis
- Subsistence users, both state and federally qualified
- Sport users, recognizing that there is a diversity of interests to be represented among sport users
- Federal and state agency representatives ensuring that a proper role in discussions is defined for the agencies
- Commercial fisheries, recognizing that there is a diversity of interests to be represented among commercial fishery users

Success Elements Considered to be Agreeable to Most Alaskans (Committee members agreed unanimously with Success Elements)

- Management on all lands would be abundance based.
- A unified subsistence management system for state, federal and Native lands in Alaska would be established
- Tribes and other subsistence users are meaningfully empowered in management
- Sustainability of the resource comes first

Recommended Actions to Achieve Success Elements

- Management on all lands would be abundance based
(Unanimous/C+)
 - Clarify federal law such that abundance based management for subsistence, and other allowable uses, is the mandate for public lands
 - Clarify that Alaska Native tribes and corporations are empowered for abundance based management on Native lands
- A unified subsistence management system for state, federal and Native lands in Alaska would be established
(Unanimous/A)
 - Establish a team of experts including lawyers, anthropologists and fish and wildlife biologists to assess federal and state legislation, the state constitution and recent federal and state subsistence court decisions to identify a course of action including statutory and administrative remedies to establish a unified management system that provides for a subsistence priority and participation by subsistence users in the management of wildlife and fisheries resources
 - Amend ANILCA (deferred to later issues – see below)

- US Supreme Court litigation to assert state sovereignty (not supported by committee – no vote taken)

(Unanimous/B)

- Enact statutory changes to the state subsistence law defining subsistence use and users

(Majority/B)

- Enact a State constitutional amendment that provides for subsistence as the priority use of fish and wildlife in Alaska

- Tribes and other subsistence users are meaningfully empowered in management

(Unanimous/A)

- Increase representation of subsistence users in the Alaska Board process
- Establish cooperative management agreements to authorize federal, state, tribal co-management

(Majority/B)

- Amend state and federal laws to allow tribes and Alaska Native entities to co-manage on tribal and ANCSA lands

(Majority/C)

- Amend state and federal laws to authorize federal, state, tribal co-management

(Addressed above in Priority 1, Unified Management)(Majority/B)

- Amend the state constitution to recognize the political and legal status of Alaska Natives

(No Vote – not supported by committee)

- Form a state subsistence board

- Sustainability of the resource comes first

(Unanimous/A)

- Appointment of qualified individuals to the State Boards of Fish and Game
- Appointment of qualified professionals to the Alaska Department of Fish and Game
- Incorporation of traditional knowledge in subsistence management
- Develop performance measures and accountability evaluations for fish and wildlife management actions and programs
- Provide the resources necessary to successfully implement management programs; (implementing this action could cost the State money)

(Addressed below in Priority 5, See “Management that provides for non-subsistence users”)

- Enforcement of Fish and Game regulations

2. We Need an Alaskan solution that addresses State and Native Sovereignty

Stakeholders (Committee members agreed unanimously with identification of stakeholders)

- Tribes and ANCSA Corporations
- Commercial operators; transporters, guides, air taxis
- Subsistence users, both state and federally qualified
- Sport users, recognizing that there is a diversity of interests to be represented among sport users
- Federal and state representatives ensuring that a proper role in discussions is defined for the agencies
- Commercial fisheries, recognizing that there is a diversity of interests to be represented among commercial fishery users

Success Elements Considered to be Agreeable to Most Alaskans (Committee members agreed unanimously with Success Elements)

- Alaska Native subsistence uses and subsistence uses by other Alaskans are recognized as distinct subsistence uses that are important to Alaska and both patterns of subsistence uses are protected by law
- Subsistence use as the priority use of wild renewable resources in Alaska is recognized in state and federal law
- The State's sovereignty for managing fish and wildlife is recognized

Recommended Actions to Achieve Success Elements

- Alaska Native subsistence uses and other subsistence uses are recognized
(Unanimous/A)
 - Educate Alaskans on tribal and subsistence issues to improve understanding and address concerns
- (Majority/A)**
 - Issue a State Executive order that recognizes Alaska's tribes
 - Conduct a poll to determine the public opinion on amending the State constitution establishing subsistence as the priority use of fish and wildlife in Alaska
- (Addressed in Priority 1, Unified management & Action above)(Majority/B)**
 - State constitutional amendment that recognizes the federally recognized tribes in Alaska
 - State constitutional amendment that provides for a subsistence priority use
- Subsistence use as a priority use is recognized
(Majority/B)

- Amend federal law for tribal subsistence priority and management by Tribal/Alaska Native entities on Native lands
- Amend ANILCA to include Native subsistence priority on ANCSA lands and federal lands

(Addressed in Priority 1, Unified management)(Majority/B)

- State constitutional amendment that provides for subsistence as the priority use of fish and wildlife in Alaska
- The state's sovereignty for managing fish and wildlife is recognized **(Unanimous/C)**
 - Recognizing the state's sovereignty to manage fish and wildlife on state and federal land requires
 - Amending ANILCA, (see Committee majority approval of specific ANILCA amendments in actions for priorities 1 and 2 above); or
 - Amending the State Constitution, (see Committee majority approval of state constitutional amendment in priority 1, above) or
 - Litigation in the Supreme Court, (rejected by Committee, no vote taken, see above in priority 1); or
 - Under a new system of unified management that reverses federal pre-emption (A "Grand Package" that may include elements such as amending Title VIII of ANILCA, ANCSA, State subsistence laws and the State Constitution) (approved as a possible Action to Achieve Success by the Committee – unanimous/C)

3. It is Necessary to incorporate tribes and Alaska Natives into State and Federal subsistence management systems

Stakeholders (Committee agreed unanimously with identification of stakeholders)

- Tribes and ANCSA Corporations
- Commercial operators; transporters, guides, air taxis
- Subsistence users both state and federally qualified
- Sport users, recognizing that there is a diversity of interests to be represented among sport users
- Federal and state representatives ensuring that a proper role in discussions is defined for the agencies
- Commercial fisheries, recognizing that there is a diversity of interests to be represented among commercial fishery users

Success Elements Considered to be Agreeable to Most Alaskans (Committee agreed unanimously with Success Elements)

- Traditional knowledge would be included in subsistence management
- Laws enacted, including a State constitutional amendment, that authorizes co-management and other elements
- A state constitutional amendment that provides for subsistence as the priority use of fish and wildlife in Alaska
- State, Federal, Tribal Cooperative management agreements

Recommended Actions to Achieve Success Elements

- Traditional knowledge is included in subsistence management
(Majority/A)
 - Issue a State Executive order directing the Alaska Department of Fish and Game to develop a process and/or programs incorporating traditional knowledge into management
- Laws, including a State constitutional amendment that authorizes co-management and other elements
(Unanimous/A)
 - The State should participate with the U.S. Department of the Interior in developing a demonstration project for tribal co-management of subsistence fisheries for the Kuskokwim and Yukon River Drainages
(Majority/B)
 - Encouraging the state and federal fish and wildlife management agencies to enter into contracts and compacts with tribes (implementing this action could save the State money)
(Addressed in Priority 1, See “Unified management” above)(Unanimous support)
 - Recommend an expert working group to provide information and advice regarding co-management and cooperative management
(Addressed in Priority 1 above, Unified management & Tribes and other subsistence users are meaningfully empowered in management)
 - State constitutional amendment that provides a subsistence priority (Majority/B)
 - Establish Tribal/State/Federal Cooperative management (Unanimous/A)

4. We need to recognize the subsistence way of life and define what subsistence uses are, who is engaged in subsistence uses, and distinguish subsistence uses from other uses

Stakeholders (Committee members agreed unanimously with identification of stakeholders)

- Tribes and ANCSA Corporations
- Commercial operators; transporters, guides, air taxis
- Subsistence users both state and federally qualified
- Sport users, recognizing that there is a diversity of interests to be represented among sport users
- Federal and state representatives ensuring that a proper role in discussions is defined for the agencies
- Commercial fisheries, recognizing that there is a diversity of interests to be represented among commercial fishery users

Success Elements Considered to be Agreeable to Most Alaskans (the Committee members agreed unanimously with the Success Elements)

- Recognizing subsistence use as customary and traditional use
- Clarify the definition of subsistence users and subsistence uses, including the element that subsistence is a mainstay of livelihood, to include recognition of the physical and cultural elements of the subsistence way of life

Recommended Actions to Achieve Success Elements

- Recognizing subsistence use as a customary and traditional use
(Unanimous/A)
 - Take state and federal administrative actions to clarify this issue
(Addressed in Priority 1, Unified management above)(Unanimous/B)
 - Establish statutory definitions that establish subsistence uses as customary and traditional uses
- Clarify the definition of subsistence users and subsistence uses, including the element that subsistence is a mainstay of livelihood, to include recognition of the physical and cultural elements of the subsistence way of life
(Addressed in action above and in Priority 1 above)
 - Take administrative actions to clarify the definition of subsistence users and uses
(Unanimous/A)
 - Establish statutory definitions to clarify the definition of subsistence users and uses
(Unanimous/B)

5. We need to ensure that subsistence users have proper access to resources and there needs to be a means to control and provide access to non-subsistence users to avoid disruption of subsistence uses and opportunity

Stakeholders (Committee members agreed unanimously with identification of stakeholders)

- Tribes and ANCSA Corporations
- Commercial operators; transporters, guides, air taxis
- Subsistence users both state and federally qualified
- Sport users, recognizing that there is a diversity of interests to be represented among sport users
- Federal and state representatives ensuring that a proper role in discussions is defined for the agencies
- Commercial fisheries, recognizing that there is a diversity of interests to be represented among commercial fishery users

Success Elements Considered to be Agreeable to Most Alaskans (Committee members agreed unanimously with the Success Elements)

- Subsistence use and opportunity is sufficient to fulfill economic, cultural, social, and spiritual needs
- Management that provides for non-subsistence users

Recommended Actions to Achieve Success Elements

- Subsistence use and opportunity is sufficient to fulfill economic, cultural, social, and spiritual needs
 - (Unanimous/A)**
 - Establish regulatory measures, including time and area regulations, to ensure access for subsistence uses
 - (Majority/A)**
 - Invite federal agencies (Bureau of Land Management, National Park Service, and the U.S. Fish & Wildlife Service) to consider closing certain migration corridors of Caribou in the Northwest Arctic Borough and to rotate the closed areas
 - Initiate scientific research that includes traditional knowledge to assess the impact of transporters and fly-in hunters on disruption of Caribou migration corridors
 - (Unanimous/B+)**
 - Federal (including Federal Aviation Administration action) and state administrative or statutory action to regulate transporters and air taxi operators

- Management that provides for non-subsistence users
 - (Unanimous/A)**
 - Bolster and improve enforcement of fish and wildlife regulations, including: transferring Wildlife Conservation Officers back to the Alaska Department of Fish & Game; and providing training for State Troopers and Conservation Officers on basic public relations and cultural orientation, (implementing this action could cost the State money)
 - Establish a means of mapping where trespass occurs, and better enforcement of private property rights
 - Consider using registration of off road vehicles as means to control and enforce trespass (implementing this action could cost the State money)
 - (Unanimous/B)**
 - Consider cooperative agreements with tribes (including elders) Native organizations, tribal courts, and VPSO's for enforcement of fish and wildlife regulations (implementing this action could save the State money)
 - (Addressed in Priority 1, Unified management above)**
 - Statutory action that provides for non-subsistence uses
 - (Addressed in Priority 1, Management on all lands would be abundance based)**
 - Management for abundant populations of fish and wildlife that provides harvestable surplus to meet subsistence and non-subsistence needs

Additional Action Items to Consider

- Establishment of a subsistence Round Table, funded by private sector funds, to continue the dialogue
- Consider using a Regional approach by Native tribes and other Alaska Native entities for management of Native lands and cooperative and co-management.