

## **Memo RE: Enacting Ivory Ban Legislation**

### **Summary:**

In order to protect the declining African Elephant population and in an effort to curb the illegal sales of elephant ivory, individual states in the United States are enacting 'Ivory Ban' laws. Many of the enacted laws have encompassed all ivory types and do not clarify which ivory is legal and illegal. This lack of distinction has inadvertently affected Alaska Native sales of walrus, mammoth and mastodon ivory. This economic impact contradicts the Marine Mammal Protection Act. Confusion of ivory legality has alarmed potential buyers of Alaska Native ivory artwork thus gravely impacting the livelihood of Alaska Native families.

### **Recommendation:**

**States considering ivory ban laws** should ensure the language distinguishes the type of ivory that is illegal and should avoid banning all ivory. Ivory that does not contribute to the decline of any species and is traditionally used by Alaska Natives come from harvested walrus, and prehistoric mammoth and mastodon Ivory.

**States who have enacted ivory ban laws** should check the language used in the legislation and ensure it distinguishes between the ivory types and does not inadvertently ban walrus, mammoth or mastodon Ivory. Laws should be consistent with the Marine Mammal Protection Act because Alaska Natives have the right to sell their legally harvested ivory anywhere in the United States.

### **Attachments:**

- Alaska Native Ivory Talking Points
- Ivory Brochure: Indian Arts and Crafts Board, Alaska State Council of the Arts, Alaska Department of Fish and Game, Eskimo Walrus Commission
- Kawerak Letter to tribes re: Ivory Issue
- Eskimo Walrus Commission Resolution: Opposing the Inclusion of Walrus, Mammoth and Mastodon Ivory in African Elephant Ivory Ban Laws in the United States
- Kawerak Resolution in Support for Eskimo Walrus Commission's Opposition of Including Walrus, Mammoth and Mastodon Ivory in African Elephant Ivory Ban Laws in the United States
- Inuit Circumpolar Council Resolution: A Resolution of Support for Eskimo Walrus Commission's Opposition of Including Walrus, Mammoth, and Mastodon Ivory in African
- Alaska Federation of Natives A Resolution of Support for Eskimo Walrus Commission's Opposition of Including Walrus, Mammoth, and Mastodon Ivory in African
- Sivuqaq Inc. Resolution 03-2016
- Dan Sullivan Letter of US Senate to Etsy re: prohibiting sales of AK Native handicraft
- Etsy Sales Policy
- US Fish and Wildlife Informational Sheet Ivory Trade: Distinctions between African elephant and walrus, mastodon, mammoth

## **Ivory Talking Points**

- Various U.S. states including California, Hawaii, New Jersey, and New York have passed laws banning the sale, use, or possession of all ivory. Additional states (Massachusetts, Illinois, and Oregon for instance) are considering and will possibly pass similar laws.
- These “bans” are inconsistent with the Marine Mammal Protection Act. These domestic ivory ban laws may cause residents to face prosecution for buying, owning, or bringing home legally acquired ivory from Alaska. Walrus, mammoth and mastodon ivory must be excluded from domestic ivory ban legislation.
- State governments may not be familiar with the Marine Mammal Protection Act and its provisions that allows for traditional and customary practices and economies to continue using ivory from marine mammals.
- We support measures to protect the African elephant however these adopted state laws are having a detrimental impact to those who utilize walrus ivory and those who may sell legally acquired walrus and mastodon ivory within gift shops.
- Walrus provides meat, hides, blubber and ivory, all of which are used in traditional ways for food, construction, tools, arts and crafts. The entire walrus including the ivory tusks are used and does not go to waste; the ivory is turned into carved figures, ulu handles and jewelry. Walrus ivory is a highly valued economic resource and art medium.
- Walrus ivory has a positive economic influence for communities and hunters who harvest and use the resource. In turn, the business of making and selling ivory products benefits Alaska Native artists, crafts people, gift shops and buyers who treasure walrus ivory products.
- Alaska Native residents and artists utilizing ivory should not be affected and/or adversely restricted from using ivory legitimately and legally obtained. If additional state laws continue to be passed, intentionally or not, it could have an enormous negative economic impact and cultural impact on Alaska Native communities.
- Recommend states with ivory bans amend their legislation to exclude walrus, mammoth and mastodon ivory.
- Recommend the US Fish and Wildlife Service and other appropriate federal agencies work collaboratively with the Eskimo Walrus Commission (EWC represents the 19 coastal subsistence walrus hunting communities in Alaska) to address issues and concerns resulting from ivory bans.
- Encourage your State's government to further promote and protect the rights of indigenous peoples to pursue their economic, social and cultural traditions and customs.
- Legislation SJR4, Urging the United States Congress to pass legislation providing for the exemption of legally acquired walrus, mammoth, and mastodon ivory from laws that ban the sale, use, and possession of ivory passed the Senate and was referred to the Secretary for engrossment.
- Etsy online marketplace recently enacted a policy prohibiting the sales of all ivory products, including the legal walrus ivory handiwork of Alaska Natives despite it having been called to their attention.
- Mammoth and mastodon are extinct; banning their ivory has no detrimental effect on the population of the species.

**We need your support to ensure our customary and traditional use of legally acquired walrus, mammoth and mastodon ivory continues without restrictions.**

## SHOP WISELY...TIPS FOR BUYING

- When purchasing ivory artwork from a shop or gallery, choose one with a good reputation.
- Request a written guarantee or written verification of authenticity. Authentic Alaska Native artwork may carry a state certified tag or Silver Hand symbol which features the words, "Authentic Alaska Native Art from Alaska." Items may also carry a "Made in Alaska" emblem which certifies it was made in Alaska, but not necessarily by an Alaska Native.
- Get a receipt that includes all the vital information about your purchase, including price, materials, maker, and maker's tribal village.
- Familiarize yourself with the characteristics of walrus, mastodon, and mammoth ivory, as well as indicators of a well-made piece.
- Realize that authentic Alaska Native artwork may be expensive. If the price seems too good to be true, make sure to ask more questions about the item and its maker.



## ALASKA NATIVE ARTISTS

- Alaska Silver Hand Artists  
[www.education.alaska.gov/aksca/native.html](http://www.education.alaska.gov/aksca/native.html)
- IACB Source Directory  
[www.doi.gov/iacb/source-directory](http://www.doi.gov/iacb/source-directory)



## CO-MANAGEMENT OF WALRUS RESOURCES

The **Eskimo Walrus Commission (EWC)** was established in 1978 by Kawerak, Inc., an Alaska Native regional non-profit corporation, to represent 19 remote Alaska Native coastal communities. EWC oversees walrus co-management issues essential to these communities' food sources, which also provide the traditional materials, ivory and bone, used for artwork in support of their culture and economies. Collaborating with other organizations, particularly the FWS, EWC encourages subsistence hunters' participation in conserving and managing walrus stocks. To contact the EWC, please call 1-877-277-4392.

## Take Home a Treasure from Alaska - Buy Authentic Alaska Native Art

## INDIAN ARTS AND CRAFTS ACT

The U.S. Department of the Interior's Indian Arts and Crafts Board and the FWS's Office of Law Enforcement jointly enforce the Indian Arts and Crafts Act (Act), P.L. 101-644, a truth in marketing law, which carries criminal and civil penalties. Under the Act, it is illegal to offer or display for sale, or sell, any art or craft product in a manner that falsely suggests it is Alaska Native or American Indian produced or an Alaska Native or American Indian product. Complaints of potential Act violations can be submitted online, [www.doi.gov/iacb/act](http://www.doi.gov/iacb/act), or by calling 1-888-ART-FAKE (toll free).

## ESKIMO WALRUS COMMISSION



**Kawerak, Inc.**  
P.O. Box 948  
Nome, AK 99762  
1-907-443-4380 or 1-877-277-4392  
1-907-443-4484 (fax)  
[www.kawerak.org/ewc.html](http://www.kawerak.org/ewc.html)  
[ewc@kawerak.org](mailto:ewc@kawerak.org)

## INDIAN ARTS AND CRAFTS BOARD



**U.S. Department of the Interior**  
1849 C Street, NW, MS 2528-MIB  
Washington, D.C. 20240  
1-888-278-3253  
1-202-208-5196 (fax)  
[www.doi.gov/iacb](http://www.doi.gov/iacb)  
[iacb@ios.doi.gov](mailto:iacb@ios.doi.gov)

## U.S. FISH & WILDLIFE SERVICE



**U.S. Department of the Interior**  
5275 Leesburg Pike  
Falls Church, VA 22041  
1-703-358-2220  
1-703-358-1930 (fax)  
[www.fws.gov](http://www.fws.gov)  
[www.fws.gov/duspit/contactus.htm](http://www.fws.gov/duspit/contactus.htm)

## ALASKA STATE COUNCIL ON THE ARTS



161 Klewin Street, Suite 102  
Anchorage, AK 99508-1506  
1-888-278-7424  
1-907-269-6601 (fax)  
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[aksca.info@alaska.gov](mailto:aksca.info@alaska.gov)

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Indian Arts and Crafts Board, in collaboration with  
Alaska State Council on the Arts, May 2017

# ALASKA NATIVE IVORY

U.S. DEPARTMENT OF THE INTERIOR • INDIAN ARTS AND CRAFTS BOARD  
in collaboration with Alaska State Council on the Arts



*"In accordance with our cultural value of no waste, we've made our boats, tools, clothing, spiritual items, and artwork from the inedible parts of the gift of the walrus. They are inextricably a part of our ancient and sustainable relationship with the land and sea, and provide critical food and an important economic resource for hunters and artists in rural Alaska."* Susie Silook, St. Lawrence Island Yupik artist.

**ALASKA NATIVE ARTISTS** are well known for their distinctive artwork. Walrus, mammoth, and mastodon ivory are often used by Alaska Natives to create a wide range of carvings and other artworks. For example, carvings of animals, hunters, and ceremonial masks, as well as other contemporary and traditional artwork, incorporate ivory to enhance their beauty and value.

Alaska Native ivory art has a universal appeal, but it is important to be an educated consumer.

## WALRUS IVORY

Pacific walrus are protected by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.)<sup>\*</sup> and may only be harvested by coastal dwelling Alaska Natives. Walrus ivory offered for sale that was harvested after 1972 may only be carved by Alaska Natives. Once carved and sold, anyone may resell Alaska Native art and craftwork made of walrus ivory.

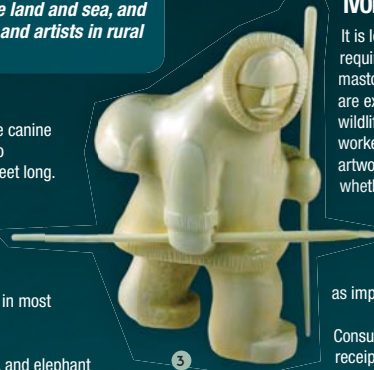


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## IVORY FACTS

- Walrus tusks are large canine teeth that can grow to approximately three feet long.
- Although ivory from different species is similar in appearance, it can be properly identified in most situations.
- Mammoth, mastodon, and elephant ivories are most similar. It is easy, however, to distinguish walrus ivory as outlined at [www.fws.gov/lab/ivory.php](http://www.fws.gov/lab/ivory.php).
- Walrus ivory is normally white, but may darken through age or exposure to environmental factors.
- The color of mammoth and mastodon ivory may range from creamy white to mottled dark brown, depending on the mineral content of the surrounding soil deposit.
- Walrus harvests are crucial to coastal communities which rely heavily on subsistence hunting for food, clothing, and cultural traditions, as well as on ivory for the production and sale of artwork for key supplemental income.

<sup>\*</sup> [www.fws.gov/international/pdf/legislation-marine-mammal-protection-act.pdf](http://www.fws.gov/international/pdf/legislation-marine-mammal-protection-act.pdf)

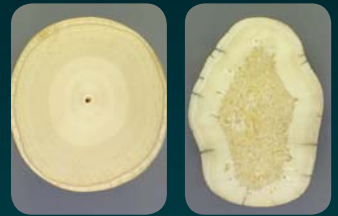


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## TRANSPORTING ALASKA NATIVE IVORY ART & CRAFTWORK

It is legal, and no documentation is required, to export mammoth and mastodon ivory because these species are extinct and not protected by federal wildlife law. Walrus ivory that has been worked into authentic Alaska Native artwork may be exported. To determine whether a U.S. Fish and Wildlife (FWS) export permit is required to do so, you may call the FWS at 907-271-6198. Check with the country you wish to import to, as import permits may also be required.

Consumers are advised to keep the receipt for the item(s) purchased with the name and address of the vendor clearly indicating the item was purchased in the United States (U.S.). The receipt will be necessary if you need to apply for an export permit or it can be used in place of a permit if you are hand carrying your authentic Alaska Native ivory artwork to Canada, Macau, Japan, or Hong Kong. Other foreign countries may require import permits. The purchase receipt from a U.S. vendor is also required for U.S. citizens traveling through Canada before re-entering the U.S., since walrus ivory purchased in Canada cannot be imported into the U.S. For more information regarding Alaska Native ivory artwork transportation requirements for other foreign countries, please call the FWS at 907-271-6198.



Cross sections of elephant ivory (left) and walrus ivory (right). Courtesy National Forensic Fish & Wildlife Lab.

## ELEPHANT IVORY BAN

A near-total ban on commercial trade in African elephant ivory in the U.S. was implemented in July 2016 (EO 13648). Ivory from marine species, such as walrus, is regulated separately under the Marine Mammal Protection Act and is not affected by the African elephant regulations.



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**CREDITS:** Cover, Susie Silook, St. Lawrence Island Yupik, "Identities," 2015, Photography by Jimmy Froehlich. 2. Gertrude Svamy, Unangan, "The Gatherer," 1990, Collection of the Southern Plains Indian Museum (SPIM), USDOI, IACB. 3. Justin Tiulana, King Island Inupiaq, "Hunter," 1984, Courtesy of University of Alaska Museum of the North (UAMN), UA 84-3-52AC. 4. Lane Iyakitan, St. Lawrence Island Yupik, "Land vs. Sea," 1982, Collection of SPIM, USDOI, IACB. 5. Teddy Mayac, Sr., King Island Inupiaq, "Loon," 1989, Courtesy of UAMN, UA 2009-019-0058. 6. Ron Apangalook, St. Lawrence Island Yupik, "Polar Bear Mother and Cubs," 2003, Courtesy of UAMN, UA 2015-19-15AC.





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TELLER  
UNALAKLEET  
WALES  
WHITE MOUNTAIN

Date: September 26, 2016

To: Respected Leaders

From: Melanie Bahnke, Kawerak President *MBahnke*

RE: Domestic ivory ban laws impact on the customary and traditional use of legally acquired walrus, mastodon and mammoth ivory.

In an effort to stem the horrendous ongoing poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of ALL ivory. Additional states are considering and will probably pass similar laws. These domestic ivory ban laws may cause residents to face prosecution for buying, owning, or bringing home legally acquired ivory from Alaska.

We do support the effort to stop poaching of elephants. However there are misconceptions and a general lack of knowledge about the difference between walrus and elephant ivory. For as long as our history, we who live in the Arctic and subarctic, live near the sea and have harvested walrus. Walrus provides meat, hides, blubber and ivory, all of which are put to use in traditional ways for food, home construction, tools, arts and crafts.

Walrus hunters and hunting communities from Barrow to Dillingham are represented by the Eskimo Walrus Commission, formed by Kawerak in 1978. The EWC represents 19 coastal subsistence walrus hunting communities in Alaska. The traditional and customary use and harvest of walrus has never been the reason for a decline of the species and walrus continues to be a source of pride, traditions, stories and dance. Attached is a copy of a resolution passed by the EWC on this issue. Kawerak has submitted a similar resolution to AFN, and it will be co-sponsored by the other 11 regional tribal consortia.

Walrus ivory has a positive economic impact to communities who harvest and use the resource. In turn the business of making and selling ivory products benefits Alaska Native artists, crafts people, gift shops and buyers who treasure walrus ivory products. We need your support to ensure our customary and traditional use of legally acquired walrus, mammoth and mastodon ivory continues. Kawerak staff met several times to plan an educational campaign and strategy on how we can address this issue and avoid potential negative implications of the domestic ban on ivory.

We are in the early stages of planning, however we hope to shed light on the issue at the 2016 AFN Conference. During AFN, Kawerak, Inc. with Bering Straits Native Corporation and Norton Sound Economic Development Corporation will share a booth. Please stop by our booth to learn more about this issue. As we continue to develop our strategy, please email Vera Metcalf at [vmetcalf@kawerak.org](mailto:vmetcalf@kawerak.org) to share ideas or to request a copy of our plan and educational materials or to lend your support to our efforts. Your help and support is needed to spread the word, as this ban on ivory has negative implications nationally and internationally if additional domestic ivory bans are put in place.

Please support our efforts by:

1. Wearing your ivory jewelry with pride.
2. Continue to support local artists and continue to purchase ivory products.
3. Contact your congressional delegation and Governor Walker to elevate this issue and to let them know you support excluding legally acquired walrus, mammoth and mastodon ivory from the domestic ivory ban. Your community may not customarily and traditionally use ivory, but the ban may negatively impact local gift shops in your community.
4. Support all efforts to include language that states: "Walrus ivory must be excluded from the domestic ivory ban." This message must be expressed to U.S. states considering an ivory ban law.
5. Contact Kawerak and let us know of your willingness to help spread the word and educate others about this issue. Although our work is still in progress, we'd be happy to share any information/materials we develop with you.
6. Voting "yes" on the resolution that will be presented at the Annual AFN Convention in Fairbanks regarding the stance to oppose the inclusion of walrus, mammoth, and mastodon ivory in domestic ivory ban laws.

Quyanna.

Attachment: EWC and Kawerak Resolution

Alaska Congressional Delegation:

Senator Dan Sullivan  
Washington DC Office - (202) 224-3004; Fax: (202)224-6501  
B40A Dirksen  
Senate Office Building  
Washington, DC 20510

Senator Lisa Murkowski  
Washington DC Office - (202)224-6665; Fax: (202)224-5301  
709 Hart Building  
Washington DC 20510-0202

Congressman Donald E. Young  
Washington DC Office - (202)225-5765; Fax: (202)225-0425  
2314 Rayburn House Office Building  
Washington DC 20515-0201

Governor Walker  
Office of the Governor  
PO Box 110001  
Juneau, AK 99811-0001

Phone: (907)465-3500  
Lt. Governor's Office: (907)465-3520  
Lt. Governor Byron Mallott

Kawerak, Inc.

P.O. Box 948 Nome, AK 99762

Telephone: (907)-443-4380 or (907)-638-6402

Toll Free: 1-877-277-4392

Fax: (907)-443-4484



Eskimo Walrus Commission  
"To protect the Pacific walrus population."

## Eskimo Walrus Commission Executive Committee

### Resolution 2016-01

#### A Resolution Opposing the Inclusion of Walrus, Mammoth, and Mastodon Ivory in African Elephant Ivory Ban Laws in the United States

WHEREAS, the Eskimo Walrus Commission was formed in 1978 by Kawerak, Inc. and represents 19 coastal subsistence walrus hunting communities in Alaska; and

WHEREAS, the use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Alaska Native culture today; and

WHEREAS, the Marine Mammal Protection Act (MMPA) explicitly protects the right of coastal Alaska Natives to harvest marine mammals and utilize their byproducts in handicrafts for sale in the United States; and

WHEREAS, the sale of walrus, mammoth, and mastodon ivory tools, handicrafts, jewelry, and artwork by Alaska Natives is an important source of income in the cash-limited economies of rural Alaska; and

WHEREAS, in efforts to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

WHEREAS, these ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and

WHEREAS, these state ivory ban laws may cause residents of those states to face prosecution for buying, owning, or bringing home legally acquired ivory from Alaska; and

WHEREAS, these state ivory ban laws will negatively impact Alaska Native artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy;

NOW THEREFORE BE IT RESOLVED THAT the Eskimo Walrus Commission opposes the inclusion of walrus, mammoth, and mastodon ivory in ivory ban laws; and

BE IT FURTHER RESOLVED THAT the Eskimo Walrus Commission requests that walrus, mammoth, and mastodon ivory be exempted from current and future ivory ban laws in the United States.

EWC Member  
Communities;

Barrow

Brevig Mission

Gambell

King Island

Kivalina

Kotzebue

Kwigillingok

Little Diomed

Manokotak

Mekoryuk

Nome

Point Hope

Point Lay

Savoonga

Shishmaref

Stebbins

Unalakleet

Wainwright

Wales

Charles D.N. Brower  
Charles D.N. Brower, Chair

**CERTIFICATION:**

I, the undersigned Vice Chair of the Eskimo Walrus Commission hereby certify that the foregoing resolution 2016-01 was adopted by a majority vote of the Eskimo Walrus Commission Executive Committee. Passed this 16th day of June 2016 through a telephone poll vote.

Elmer Peetot Jr.





**KAWERAK, INC. • P.O. Box 948 • Nome, AK 99762**



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SOLOMON  
STEBBINS  
ST. MICHAEL  
TELLER  
UNALAKLEET  
WALES  
WHITE MOUNTAIN

**KAWERAK, INC.  
RESOLUTION 2016-03**

**A RESOLUTION OF SUPPORT FOR ESKIMO WALRUS COMMISSION'S  
OPPOSITION OF INCLUDING WALRUS, MAMMOTH, AND MASTODON  
IVORY IN AFRICAN ELEPHANT IVORY BAN LAWS IN THE UNITED  
STATES**

**WHEREAS**, Kawerak, Inc. is the regional tribal consortium in the Bering Strait region of Alaska; and

**WHEREAS**, the Eskimo Walrus Commission was formed in 1978 by Kawerak, Inc. and represents 19 coastal subsistence walrus hunting communities in Alaska; and

**WHEREAS**, the use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Alaska Native culture today; and

**WHEREAS**, the Marine Mammal Protection Act (MMPA) explicitly protects the right of coastal Alaska Natives to harvest marine mammals and utilize their byproducts in handicrafts for sale in the United States; and

**WHEREAS**, the sale of walrus, mammoth, and mastodon ivory tools, handicrafts, jewelry, and artwork by Alaska Natives is an important source of income in the cash-limited economies of rural Alaska; and

**WHEREAS**, in efforts to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

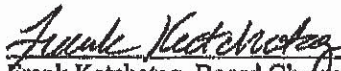
**WHEREAS**, these ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and

**WHEREAS**, these state ivory ban laws may cause residents of those states to face prosecution for buying, owning, or bringing home legally acquired ivory from Alaska; and

**WHEREAS**, these state ivory ban laws will negatively impact Alaska Native artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy;

**NOW THEREFORE BE IT RESOLVED**, that Kawerak, Inc. supports EWC Resolution 2016-01 opposing the inclusion of walrus, mammoth, and mastodon ivory in ivory ban laws; and

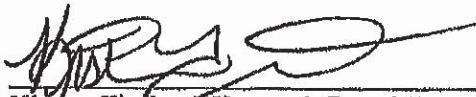
**BE IT FURTHER RESOLVED** that Kawerak, Inc. requests that walrus, mammoth, and mastodon ivory be exempted from current and future ivory ban laws in the United States.



Frank Katchatag, Board Chairman

#### **CERTIFICATION**

I, the undersigned Secretary of the Kawerak, Inc. Board of Directors, hereby certify that the foregoing resolution was adopted by majority vote of the Board Executive Committee of Kawerak, Inc. during a duly called meeting on June 30th, 2016 with 1 for, ~~0~~ against, and ~~0~~ abstentions.



Kirsten Timbers, Kawerak Board Secretary



**Inuit Circumpolar Council  
Executive Council Resolution 16-01**

**A Resolution of Support for Eskimo Walrus Commission's Opposition of Including  
Walrus, Mammoth, and Mastodon Ivory in African Elephant Ivory Ban Laws in the  
United States**

WHEREAS, the Inuit Circumpolar Council (ICC) was founded in 1977 to represent the interests of the Inuit of Greenland, Canada, Russia, and Alaska; and

WHEREAS, the ICC works to protect and promote Inuit culture and society; and

WHEREAS, the 2010 Nuuk Declaration instructs ICC to “Support Inuit hunters in their struggle to adapt to the new Arctic, and Ask ICC to fight unethical and unfair trade restrictions placed on our own products”; and

WHEREAS, 2010 Nuuk Declaration further states to “Instruct ICC to promote the redefinition of hunting activities and use of renewable resources by Inuit as a profession within all international human rights fora”; and

WHEREAS, the use of legally acquired walrus, mammoth, mastodon or other marine mammal ivory by Inuit carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Inuit culture today; and

WHEREAS, the sale of walrus, mammoth, and mastodon ivory tools, handicrafts, jewelry, and artwork by Inuit is an important source of income in the cash-limited economies of Arctic communities; and

WHEREAS, in efforts to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and

WHEREAS, these ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Inuit artists; and

WHEREAS, these state laws will negatively impact Inuit artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy.

THEREFORE BE IT RESOLVED, that ICC insists that walrus, mammoth, and mastodon ivory be exempted from current and future ivory bans at regional, national and international levels.

BE IT FURTHER RESOLVED that the ICC Executive Council expresses support to the Eskimo Walrus Commission's Resolution 2016-01 *A Resolution Opposing the Inclusion of Walrus, Mammoth, and Mastodon Ivory in African Elephant Ivory Ban Laws in the United States*.

UNANIMOUSLY PASSED AND ADOPTED by the ICC Executive Council in a regular meeting on this 27<sup>th</sup> day of August, 2016.



Okalik Egeesiak, Chair  
Inuit Circumpolar Council





ALASKA FEDERATION OF NATIVES  
2017 ANNUAL CONVENTION  
RESOLUTION 17-25

- TITLE: A RESOLUTION OF SUPPORT FOR ESKIMO WALRUS COMMISSION'S OPPOSITION OF INCLUDING LEGALLY OBTAINED WALRUS, MAMMOTH, AND MASTODON IVORY IN AFRICAN ELEPHANT IVORY BAN LAWS IN THE UNITED STATES
- WHEREAS: The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska and its membership includes 185 federally recognized tribes, 177 village corporations, 12 regional corporations and 11 regional nonprofit and tribal consortiums that contract and compact to run federal and state programs; and
- WHEREAS: the mission of AFN is to enhance and promote the cultural, economic, and political voice of the entire Alaska Native community; and
- WHEREAS: the use of legally acquired walrus, mammoth, and mastodon ivory by Alaska Native carvers to create tools, handicrafts, jewelry, and artwork is a longstanding cultural tradition that continues to be a vital component of Alaska Native culture today; and
- WHEREAS: the Marine Mammal Protection Act (MMPA) explicitly protects the right of coastal Alaska Natives to harvest marine mammals and utilize their by-products in handicrafts for sale in the United States; and
- WHEREAS: the sale of walrus, mammoth, and mastodon ivory tools, handicrafts, jewelry, and artwork by Alaska Natives is an important source of income in the cash-limited economies of rural Alaska; and
- WHEREAS: in an effort to stem the poaching of African elephants, various U.S. states have passed laws banning the sale, use, or possession of all ivory, and additional states are considering such laws; and
- WHEREAS: these ivory ban laws fail to acknowledge the difference between African elephant ivory and legally acquired walrus, mammoth, and mastodon ivory used by Alaska Native artists; and
- WHEREAS: these ivory ban state laws may cause residents of those states to face prosecution for buying, owning, or bringing home legally acquired ivory from Alaska; and
- WHEREAS: these ivory ban state laws are negatively impacting Alaska Native artists who depend on the sale of their handicrafts as a source of important income in a cash-limited economy.
- NOW, THEREFORE, BE IT RESOLVED by the delegates of the 2017 Annual Convention of the Alaska Federation of Natives that AFN opposes the inclusion of legally obtained walrus, mammoth, and mastodon ivory in ivory ban laws; and
- BE IT FURTHER RESOLVED that AFN requests that walrus, mammoth, and mastodon ivory be exempted from current and future ivory ban laws in the United States.



**SIVUQAQ, INCORPORATED**

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**Resolution 03-2016**

A resolution of Sivuqaq, Incorporated, requesting that the serious issue of the mass confusion generated by Executive Order 13648, which ends the African elephant ivory market in America, be included as an agenda item in the White House Tribal Nations Conference.

**WHEREAS**, the Board of Directors of Sivuqaq, Inc. are concerned about the health and economic welfare of our residents, and,

**WHEREAS**, Executive Order 13648 of July 1, 2013, which ends the African elephant ivory market in America and provides an exemption for items already permitted under existing federal legislation, which includes the protections set forth under the Marine Mammal Protection Act (MMPA) of our hunting rights for walrus and other sea mammals, and, importantly, the use of inedible portions in the production of arts and crafts, and,

**WHEREAS**, states are crafting and passing laws banning elephant ivory and are erroneously including walrus ivory in their description of ivory, even with an inclusion of the federal exemption noted in the Executive Order for items permitted under existing federal law, and,

**WHEREAS**, Alaska Native peoples use of walrus ivory is not explicitly mentioned in the federal or state laws, along with whale, polar bear and sea otter, all of which are included in the state laws, and are mammals we legally continue to hunt and create arts and crafts from, and,

**WHEREAS**, the ensuing confusion is creating a de facto ban of our walrus ivory products, with sales reported as decreased by the businesses our artists and craftspeople depend on, and,

**WHEREAS**, our subsistence based community depends substantially upon the walruses, bowhead whales and seals for our nutritional needs, with the inedible portions used to create our arts and crafts, and,

**WHEREAS**, this income is vital to our residents because our unemployment rates are at approximately 75% and,

**WHEREAS**, prices for food from our stores are astronomically expensive due to the high shipping costs in rural Alaska, and most residents cannot sustain themselves through purchases from these outlets, and,

**WHEREAS**, our pre-capitalist culture of hunting in a non-wasteful manner and only to fulfill our nutritional needs remains one of sharing with our entire community, and,

**WHEREAS**, we have no alternative food sources, and the small income derived from our sales of ivory arts and crafts is necessary for the financing of further hunting, and,

**WHEREAS**, the fuel, boats, ammunition, and other technology necessary for hunting in our modern world is expensive, and,

**WHEREAS**, the emotionally charged and highly graphic photographs of headless, rotting elephant carcasses, directed towards the American and worldwide public by powerful wildlife organizations, as they actively pursue a stated goal to eliminate all ivory markets worldwide, is turning ivory into an unsavory word, and is ultimately going to destroy our market and our only means of self-sufficiency, and,

**WHEREAS**, we can do little to counter the efforts of these wildlife organizations because we are not as well funded, and they are not duly concerned with our dire dilemma, and,

**WHEREAS**, we were not invited to dialogue and address our concerns in the crafting of the Executive Order by the Department of the Interior and U.S. Fish and Wildlife Service, as they've stated in a press release on this issue that upon review of their legal obligation to inform and involve tribes in matters affecting them, they determined that this issue did not involve any Native American Tribes, and,

**WHEREAS**, we are invisible in this matter of vital importance to the our food security, and USFWS has not responded to Vera Metcalf, the Eskimo Walrus Commission Director and a tribal member of our island community, and,

**WHEREAS**, we are not poachers or sports hunters, nor involved in terrorism or organized crime, and a ban on walrus ivory does not work towards the elimination of the poaching of African elephant ivory, which is the explicitly stated goal of the Executive Order, and,

**WHEREAS**, additionally, old walrus ivory is entirely distinguishable from both mammoth ivory and old elephant ivory, and we depend on the sales of that resource, and,

**WHEREAS**, the European Union's ban on seal products destroyed the subsistence based seal product market of the Greenlandic Inuit before the Prime Minister of Denmark resolved the law in their favor, and it has yet to be determined if the Inuit nation of Greenland can fully recover,

**NOW, THEREFORE BE IT RESOLVED** that all efforts be set forth to provide us with an opportunity to address this grave matter with President Barack Obama through inclusion of our issue in the agenda for the final White House Tribal Nations Conference in Washington, D.C, September 26-27, 2016. President Obama created this law, but we are certain he did not mean to do us harm, and instead has demonstrated sincere concerns for our communities. We are heartened by that, for the welfare of our residents and our artists.

BY:   
Secretary, Sivuqaq, Incorporated

# United States Senate

February 2, 2018

COMMITTEES

ARMED SERVICES  
COMMERCE, SCIENCE, AND  
TRANSPORTATION  
ENVIRONMENT AND  
PUBLIC WORKS  
VETERANS' AFFAIRS

Josh Silverman  
CEO, Etsy, Inc.  
117 Adams Street  
Brooklyn, NY 11201

Dear Mr. Silverman:

I write to make you aware that Etsy has been unfairly terminating some of my Alaska Native (i.e., indigenous Alaskans) constituents' accounts. Your company's action—due to your well-meaning, but frankly misguided policies and terms of service—are having unintended consequences that are harming Alaska Natives and their communities in my state. The Alaska Native Community has for thousands of years used animal products for survival and subsistence, as well as a key source of cultural expression. Alaska Natives living in remote villages and throughout our state not only rely on subsistence hunting and fishing as a critical source of nutrition, they also rely heavily on sales of authentic native articles of handicraft and clothing to bring money into communities that have few, if any, other sources of generating a cash economy.

Unfortunately, I have been made aware that some of my constituents have had their Etsy accounts terminated. These are Alaska Natives who are legally selling sustainably harvested sealskin, sea otter, and ivory based art and clothing products. I understand your company has taken the position through your policy that these are “prohibited items.”<sup>1</sup> This policy seems to lack awareness and recognition that Alaska Natives have historically and legally created and sold these products as a key source of income in rural economies. This policy also discriminates against my constituents, denies them a prime forum to sell their sustainably produced goods, and falls short of your company's stated mission. You claim “Etsy is the global marketplace for *unique and creative goods* ... [and your] mission is to Keep Commerce Human.”<sup>2</sup> By banning these products and denying Alaska Natives' ability to exercise their statutory right to produce and sell authentic articles of handicrafts and clothing,<sup>3</sup> your company is failing to live up to this mission by inadvertently discriminating against Alaska Natives' age-old traditions and denying a market and financial development to remote Alaskans practicing their legal and cultural heritage.

<sup>1</sup> Etsy, Inc., *Prohibited Items Policy*, <https://www.etsy.com/legal/prohibited/?ref=list#Q2> (last updated Jan. 22, 2018).

<sup>2</sup> Etsy, Inc., *About Etsy*, <https://www.etsy.com/about?ref=fr> (last visited Jan. 25, 2018).

<sup>3</sup> Marine Mammal Protection Act 16 USC § 1371(b) (2012), *see also*, 50 CFR 216.23 (implementing the Alaska native exemptions for taking, creating and selling authentic native articles of handicraft and clothing in a non-wasteful manner).



Your policies in your terms of service also shed light on an important issue to Alaska Natives regarding the traditional use and sale of legal ivory. Your company prohibits the sale of “ivory or bones from ivory-producing animals, including tusks, elk ivory, fossilized ivory, and woolly mammoth ivory.”<sup>4</sup> I support efforts by the U.S. Fish and Wildlife Service and others to combat the illegal sale and trade of ivory, as well as the significant work being done to combat elephant poaching in Africa and India—which I assume is the basis for your policy. However, your policy fails to recognize that Alaska Natives are explicitly authorized under federal laws, the Marine Mammal Protection Act, to work with and sell walrus ivory, whale tooth and bone, and other non-elephant ivory.<sup>5</sup> Additionally, Mammoth ivory is not currently regulated under any federal law and since the animals have been extinct for millennia, there is little conservation benefit to limiting the sale of their ivory. Alaska Natives use this fossilized ivory as a primary medium of cultural expression and financial opportunity. Your prohibition without recognizing the legal production and sale of these items by Alaskan Natives is disheartening and shortsighted. Worse yet, Etsy explicitly allows the sale of items made from human teeth and hair.<sup>6</sup> To recognize a market for these “human remains” on your site while failing to account for unique and centuries old cultural practices of Alaska Natives seems to be an odd way to “Keep Commerce Human.”

I am also concerned that your choice of law provisions highlight the lack of clarity regarding legal Alaska ivory products due to certain state ivory bans conflicting with federal law. Etsy’s Terms of Service list New York law and the laws of the United States of America as controlling disputes with sellers. Five states, including New York, have enacted overbroad bans on walrus and mammoth ivory sales. However, federal law explicitly allows the sale of these products when legally produced by Alaska Natives. Recent reports have shown that these broader state ivory bans are in fact negatively impacting the market for Alaska Native handicrafts. Additionally, some producers have had to give up selling their products at events in the Lower 48 states due to the difficulty in explaining that their products are or should be legal to sell, buy, and transport.

In October of 2016, at a Congressional hearing on the issue, at the annual Alaska Federation of Natives convention, Dr. Rosita Worl of the Sealaska Heritage Institute outlined the problem with these bans. “The differing ... bans are confusing and, collectively, may serve as a deterrent to those who might be inclined to buy Alaska ivory art, and will only serve to seriously undermine the ivory art market. Suppression of the ivory market will be devastating to Alaska Native hunters, craftspeople, and artisans....”<sup>7</sup> Unfortunately your terms of service and policies are exacerbating

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<sup>4</sup> Etsy, Inc., *Prohibited Items Policy*, <https://www.etsy.com/legal/prohibited/?ref=list#Q2> (last updated Jan. 22, 2018).

<sup>5</sup> 16 USC § 1371(b).

<sup>6</sup> Etsy, Inc., *Prohibited Items Policy*, <https://www.etsy.com/legal/prohibited/?ref=list#Q2> (last updated Jan. 22, 2018), *See also* [https://www.etsy.com/listing/533361402/25-real-human-teeth?ref=shop\\_home\\_active\\_1](https://www.etsy.com/listing/533361402/25-real-human-teeth?ref=shop_home_active_1) (offering 25 human teeth for sale.)

<sup>7</sup> Testimony of Dr. Rosita Worl, President, Sealaska Heritage Institute 8 (Oct 20 2016) (Field Hearing of the Fisheries, Water, and Wildlife Subcommittee of the Senate Committee on Environment and Public Works; *see also id.* at 6 (“Rural villages are characterized by high energy and transportation costs, and lack of infrastructure to support economic development. The production and exchange of arts and crafts is an ancient tradition that supported vibrant and sustainable indigenous communities throughout Alaska. It was expanded to include the sale of arts and

this confusion in the market place and choking off avenues for the sale of legal ivory products crafted by Alaskans, including Alaska Natives practicing centuries-old traditions.

To address the confusion and problems caused by these state walrus and mammoth ivory bans, I introduced S. 1965, the Allowing Alaska IVORY Act. The bill would preempt these confusing and disparate state bans and ensure that existing federal authorizations for Alaska Natives are preserved and clear. Until this bill is signed into law, I hope business leaders like you will see the wisdom of following existing federal law and protecting Alaska Natives' culture and economic opportunity.

In conclusion, while we can all agree that measures must be taken to combat elephant poaching and protect various species of marine mammals, harming Alaska's rich cultural traditions and rural economies will do little to achieve additional conservation benefits. Alaska Native artists should not be the victims of these well-intended efforts. I urge you to consider the impacts that your policies—including your decision to terminate my constituents' accounts—are having on Alaskans, in particular Alaska Natives. Finally, I ask that you reconsider your policies to recognize sales of Alaska Natives' legal and tradition cultural and art. Doing so will allow the world to connect to remote areas of Alaska and Alaska Natives in ways once only a dream before sites like yours connected people and their creativity across miles and borders.

I welcome the opportunity to speak with you and to facilitate meetings between you and my constituents to discuss this issue in further detail.

Sincerely,



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Dan Sullivan  
Chairman, Subcommittee on Oceans, Atmosphere,  
Fisheries, and Coast Guard,  
U.S. Senate Committee on Commerce, Science, and  
Transportation

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crafts with the arrival of Westerners. Today, arts and crafts still play an even greater role in village economies. Walrus ivory, including mammoth and mastodon ivory, are also used as creative high art expressions that are widely coveted in the art world. Arts and craft production and sale, including ivory, is one means of providing modest, but critically financial benefits to Natives who otherwise lack economic opportunities. While we lack hard data on the value of ivory production, we know that ivory plays a significant role in Alaska's small-scale subsistence economies, and the annual arts and crafts tourist market that is well over \$32 million. We know that village artisans can make up to 35,000 to 50,000 dollars annually, and that those earnings are widely shared among family and community members.”)



# Etsy Prohibited Items Policy

## 2. Animal Products and Human Remains

Certain animal products are highly regulated and not in the spirit of Etsy due to the risk of harm to live, companion, or endangered animals.

### **More Details:**

The following are examples of animal products that may not be sold on Etsy:

1. Live animals.
2. Items created using any animal species designated as threatened or endangered by the [US Endangered Species Act](#) or listed in [Appendix I](#) of the Convention on International Trade in Endangered Species (CITES). [Click here](#) for more information.
3. Items made from cat and dog parts or pelts as defined by [US Federal Law](#).
4. Ivory or bones from ivory-producing animals, including tusks, elk ivory, fossilized ivory, and woolly mammoth ivory.
5. Items made from human remains, except for teeth and hair.



# Ivory Trade: Distinctions between African elephant and walrus, mastodon, mammoth

## 1. What has changed with regard to the regulation of ivory in the United States?

On July 6, 2016, Executive Order 13648 was signed implementing a near-total ban on commercial trade in African elephant ivory in the United States. Recent changes to regulations only impact African elephants and African elephant ivory. Asian elephants and parts or products from Asian elephants, including ivory, are regulated separately under the Endangered Species Act.

Ivory from marine species, such as walrus, is also regulated separately under the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.) and is not affected by the new regulations. Ivory from extinct species, such as mammoths, is not regulated under statutes implemented by the Service. It is important for sellers to know the species involved so that they can determine what regulatory requirements apply.

It is also important to note that the new regulations do not restrict personal possession of African elephant ivory. If you already own African elephant ivory—an heirloom carving that's been passed down in your family, or a vintage musical instrument with ivory components, those pieces are yours to keep.

## 2. Elephants aren't found here, so why does the U.S. have a role in restricting the trade of African elephant ivory?

African elephants are being poached at unprecedented levels to supply the illegal ivory trade, and the United States is among the largest markets. We have implemented this near-total ban to ensure that U.S. domestic markets do not contribute to the decline of elephants in the wild.

Each year, more than 30,000 African elephants are killed for their ivory. The dramatic increase in elephant poaching and illegal ivory trade threatens elephant

populations. According to a 2014 report from the International Union for Conservation of Nature (IUCN), about 1,000 park rangers tasked with protecting elephants were killed between 2004 to 2014. These rangers stand on the front lines of a war being lost. With elephants and humans as casualties, a new solution must be found. The cause and effect are clear: If we can reduce demand, we will reduce poaching.

## 3. How do these new efforts designed to combat wildlife trafficking impact trade in walrus, mammoth, and mastodon ivory in the U.S?

No new federal laws or regulations have been created or changed to limit the take of walrus or sale of walrus ivory in the United States. Because mammoth and mastodon species are extinct, there are no federal laws or regulations that protect their remains. However, to prevent damage to resources, there are existing regulations enforced by federal land management agencies that prohibit collection, excavation, and transportation of these items on specific federal areas.

Some states have passed laws, or are considering new legislation that may limit sales of ivory, which may include walrus, mammoth and mastodon, within their borders. However, many state laws specifically exempt activity provided for by federal law, such as the Alaska Native exemption to the Marine Mammal Protection Act.

## 4. What is the U.S. Government doing to inform the public about legal sources and sales of ivory products?

Although ivory from the different species is similar in appearance, it can be properly identified in most situations. Mammoth, mastodon and elephant ivories are most similar to each other; however, it is easier to distinguish walrus ivory from other species.

The U.S. Fish and Wildlife Service has developed educational materials that will help inform the public of the harm buying

and selling illegal African elephant ivory can have on this iconic species. We are also working with our partners, including the Indian Arts and Crafts Board, the State of Alaska, the Eskimo Walrus Commission and Kawerak, Inc. to ensure that legal and legitimate wildlife commerce is recognized, and to increase awareness of the provisions of the Marine Mammal Protection Act, which allow Alaska Native peoples to take marine mammals, fashion their parts into handicrafts, and for those handicrafts to be sold in legal commerce.

## Learn more about:

**Executive Order 13648:** [www.gpo.gov/fdsys/pkg/FR-2013-07-05/pdf/2013-16387.pdf](http://www.gpo.gov/fdsys/pkg/FR-2013-07-05/pdf/2013-16387.pdf)

**African elephant ivory ban:** [www.fws.gov/international/pdf/questions-and-answers-african-ivory-ban-4d-final-rule.pdf](http://www.fws.gov/international/pdf/questions-and-answers-african-ivory-ban-4d-final-rule.pdf)

**Endangered Species Act:** [www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/endangered-species-act.html](http://www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/endangered-species-act.html)

**Marine Mammal Protection Act:** [www.fws.gov/International/laws-treaties-agreements/us-conservation-laws/marine-mammal-protection-act.html](http://www.fws.gov/International/laws-treaties-agreements/us-conservation-laws/marine-mammal-protection-act.html)

**Alaska Native exemption to the Marine Mammal Protection Act:** [www.fws.gov/international/travel-and-trade/traveling-to-alaska.html](http://www.fws.gov/international/travel-and-trade/traveling-to-alaska.html)

**How to distinguish walrus ivory:** [www.fws.gov/lab/ivory\\_natural.php#elephant](http://www.fws.gov/lab/ivory_natural.php#elephant)

**More information for the public:** [www.fws.gov/international/travel-and-trade/ivory-ban-questions-and-answers.html](http://www.fws.gov/international/travel-and-trade/ivory-ban-questions-and-answers.html)