



**KAWERAK, INC.**

REPRESENTING

**Brevig Mission**

*Sitaisaq*

**Council**

**Diomedea**

*Injaliq*

**Elim**

*Niviarcaurluq*

**Gambell**

*Sivuqaq*

**Golovin**

*Chinik*

**King Island**

*Ugiuvak*

**Koyuk**

*Kuuyuk*

**Mary's Igloo**

*Qawiaraq*

**Nome Eskimo**

*Sitnasuak Inuit*

**Savoonga**

*Sivungaq*

**Shaktoolik**

*Saktuliq*

**Shishmaref**

*Qikiqtaq*

**Solomon**

*Anjuutaq*

**St. Michael**

*Taciq*

**Stebbins**

*Tapraq*

**Teller**

*Tala*

**Unalakleet**

*Uḡalaqḡiq*

**Wales**

*Kinigin*

**White Mountain**

*Iḡaluik /*

*Nutchirviq*

March 12, 2024

Deb Haaland  
Secretary of Interior  
U.S. Department of Interior  
1849 C Street, NW  
Washington, D.C. 20240

Tom Vilsack  
Secretary of Agriculture  
U.S. Department of Agriculture  
1400 Independence Ave. SW  
Washington, D.C. 20250

**Re: Comments of Kawerak, Inc., Regarding the Proposed Rule Adding Three Public Seats on the Federal Subsistence Board**

Dear Secretary Haaland, and Secretary Vilsack,

As a Tribal consortium representing 20 Federally Recognized Tribes in the Kawerak and Bering Strait region of Alaska,<sup>1</sup> Kawerak, Inc. (Kawerak) submits this letter of comment in response to the Department of Interior and Department of Agriculture's Proposed Rule regarding membership on the Federal Subsistence Board (Docket No. FWS-R7-SM-2024-0017; FXRS12610700000-234-FF07J00000) RIN 1018–BH67; Amending 36 CFR 242 and 50 CFR 100; Subsistence Management Regulations for Public Lands in Alaska —Subpart B; Federal Subsistence Board Membership), adding three Tribally recommended and nominated public seats to the Federal Subsistence Board.

Kawerak expresses our deep appreciation to the Secretaries, for the proposed rule adding three Tribally nominated and recommended public seats to the Federal Subsistence Board. The proposed rule appropriately envisions decision

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<sup>1</sup> *Indian Entities Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs*, 86 Fed. Reg. 7554, 7557-58 (Jan. 29, 2021). A Tribal Consortium is an organization formally designated by two or more Tribes that have chosen to join together to address specific priorities across communities. Tribal consortia often serve as a voice for their member Tribes and a mechanism through which Tribes effectuate self-governance without incurring the heavy financial and administrative burden of each doing it by themselves. These consortia are generally formed along cultural, historical, regional, and ecological bonds, and allow Tribes to pool their resources and take advantage of efficiencies of scale when providing social services, healthcare services, and advocacy services for their members. Federal self-determination policy is flexible and allows Tribes to design and deliver services “appropriate to their diverse demographic, geographic, economic[,] and institutional needs.” S. Rep. No. 100-274 (Dec. 21, 1987) as reprinted in 1988 U.S.C.C.A.N. 2620, \*\*2625 (Select Committee on Indian Affairs Report).

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making, management, and policy making is done co-productively with those Alaska Native communities that are most affected. Kawerak strongly urges the prompt enactment of the proposed rule.

It was because aboriginal hunting and fishing rights were extinguished through passage of the Alaska Native Claims Settlement Act (ANCSA)<sup>2</sup>, that Congress looked to the Secretary of Interior to “exercise his existing withdrawal authority” to “protect Native subsistence needs and requirements.”<sup>3</sup> In 1980, Congress subsequently made clear the intent to protect an Alaska Native subsistence priority via passage of the Alaska National Interest Lands Conservation Act (ANILCA).<sup>4</sup> Within Title VIII of ANILCA, Congress specifically declared that because of the extinguishment of aboriginal hunting and fishing rights through passage of ANCSA, Congress had constitutional authority to “protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents.”<sup>5</sup> Congress found it necessary to do so, “in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity...”<sup>6</sup>

The addition of Tribally nominated or recommended seats works toward giving critically needed voice to Tribes who have the requisite “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” as Congress declared necessary under ANILCA.<sup>7</sup>

For thousands of years, Kawerak region Tribes have maintained stewardship over, and a reciprocal relationship with, the lands and waters that they are a part of. There are approximately 10,000 people in the Kawerak region that depend on foods which come from surrounding lands and waters. For most communities in the region, 80% or more of the local diet is subsistence foods.<sup>8</sup> It is critical and necessary for Tribes to have a meaningful and effective voice in management of subsistence resources on which they depend.

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<sup>2</sup> 43 U.S.C. 1603(b).

<sup>3</sup> H. Conf. Rep. No. 92-746 at 37 (1971).

<sup>4</sup> 16 U.S.C. 3111

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Ahmasuk, et al., Bering Strait Region Local and Traditional Knowledge Pilot Project – A Comprehensive Subsistence Use Study of the Bering Strait Region, North Pacific Research Board (January 2008) and also, Building Food Security in Alaska, State Commissioned Report. Ken Meter and Megan Phillips Goldenberg, 2014.

[https://static1.squarespace.com/static/584221c6725e25d0d2a19363/t/58b0e030ebbd1abb37f85817/1487986738928/14-09-17\\_building-food-security-in-ak\\_exec-summary-recommendations.pdf](https://static1.squarespace.com/static/584221c6725e25d0d2a19363/t/58b0e030ebbd1abb37f85817/1487986738928/14-09-17_building-food-security-in-ak_exec-summary-recommendations.pdf)

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There is currently a multi-decadal, multi-species ongoing salmon collapse in the Norton Sound/Seward Peninsula region, and an unprecedented salmon collapse on the Yukon and Kuskokwim Rivers.<sup>9</sup> Both salmon collapses make clear how critically important it is for those most impacted by the decreased availability and access to salmon food sources and other subsistence resources to be meaningfully involved in the effective management of those resources.

The Proposed Rule is consistent with Kawerak’s position on the fundamental importance of subsistence for both food security and the cultural, economic, and social wellbeing of communities. As Alaska Native people, the practice of harvesting foods from our homelands sustains us and makes it possible for us to continue to exist as distinct Indigenous communities, practice our cultures, maintain our languages, customs, traditions, and relationships to our lands and waters.

There are successful examples of co-management, which exemplify the “nothing about us without us” approach and are respectful of the deep knowledge Tribes contribute to sound management, conservation, and decision making. One such example is the Alaska Migratory Bird Co-Management Council, formed in 2000. Council seats are held by U.S. Fish and Wildlife Service, Alaska Department of Fish and Game, and the Alaska Native Caucus comprised of eleven regions of Alaska. Among successes of this body, is the return of the Emperor Goose to levels that would allow subsistence harvest.<sup>10</sup>

There are successes in moving toward co-management and there are also critical areas where co-management is still needed. According to the Joint

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<sup>9</sup> See e.g., Yereth Rosen, Western Alaska salmon crisis affects physical and mental health, residents say, ALASKA PUBLIC MEDIA (Nov. 14, 2023), <https://alaskapublic.org/2023/11/14/western-alaska-salmon-crisis-affects-physical-and-mental-health-residents-say/#:~:text=Western%20Alaska%20salmon%20crisis%20affects%20physical%20and%20mental%20health%2C%20residents%20say,-By&text=The%20salmon%20crisis%20in%20the,is%20also%20harming%20human%20health>. Liz Ruskin, Salmon are disappearing on the Yukon and Kuskokwim. Here’s what to know about the crisis this summer, ALASKA PUBLIC MEDIA (June 8, 2023), <https://www.ktoo.org/2023/06/08/salmon-are-disappearing-on-the-yukon-and-kuskokwim-heres-what-to-know-about-the-crisis-this-summer/>; Anna Rose MacArthur, Fishery Disasters Declared for Kuskokwim and Yukon Salmon Fisheries, KYUK (Jan. 21, 2022), <https://www.kyuk.org/hunting-fishing/2022-01-21/fishery-disaster-declarations-for-kuskokwim-and-yukon-salmon-fisheries>; Raymond-Yakoubian, B. and J. Raymond-Yakoubian, “Always taught not to waste”: Traditional Knowledge and Norton Sound/Bering Strait Salmon Populations, 2015 Arctic-Yukon-Kuskokwim Sustainable Salmon Initiative Project 1333 Final Product. Prepared by Kawerak, Incorporated. Nome, Alaska (2015), <https://kawerak.org/wp-content/uploads/2018/04/TK-of-Salmon-Final-Report.pdf>

<sup>10</sup> An important subsistence food for Alaska Native People, the emperor goose population nearly collapsed in the 1980’s. Through management by the Alaska Migratory Bird Co-Management Council, the emperor goose population grew slowly and was opened for subsistence harvest in 2017. <https://www.fws.gov/node/263386>

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Secretarial Order Number 3403, An Order Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters, implemented by the Secretaries of Interior, Agriculture, and Commerce, has the purpose of: “This Secretary’s Order is issued by the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Commerce (Secretaries) to ensure that the Department of Agriculture, the Department of the Interior, and the Department of Commerce (Departments) *and their component Bureaus and Offices* are managing Federal lands and waters in a manner that seeks to protect the treaty, religious, subsistence, and cultural interests of federally recognized Indian Tribes including the Native Hawaiian Community; that such management is consistent with the nation-to-nation relationship between the United States and federally recognized Indian Tribes; and that such management fulfills the United States’ unique trust obligation to federally recognized Indian Tribes and their citizens.”<sup>11</sup>

We are grateful the Joint Secretaries recognize that access to our food is fundamental to our very existence. We are also grateful that the Department of Commerce has been included in Joint Order 3403, as the federal fishery is managed through the Department of Commerce via the Magnusen-Stevens Fishery Conservation and Management Act. Under the Act, the North Pacific Fishery Management Council (NPFMC) has the primary responsibility to manage the federal fishery in Alaska. This body develops policy and regulations directly impacting Alaska Tribes and Tribal resources. All voting seats to the Council are current or former commercial fishing industry stakeholders, and no subsistence or Tribal seats exist on this body. All Alaskan seats on the Council are appointed by the Governor. It is unlikely the Governor will ever appoint a seat truly representative of subsistence or Tribal interests.

As sovereign governments that have a unique political relationship with the Federal Government, Kawerak region Tribes have requested Tribal Consultation with the NPFMC, pursuant to Executive Order 13175<sup>12</sup> which requires federal agencies accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. However, the NPFMC asserts it is not an agency subject to Tribal Consultation and Consultations with National Marine Fisheries Service on NPFMC issues have not been adequate, timely or meaningful.

Kawerak appreciates the Secretaries recognition of the critical importance of Tribal input into management decisions through their Proposed Rule. Tribal

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<sup>11</sup> Joint Secretarial Order 3403, Am. 1, 2022, <https://www.doi.gov/document-library/secretary-order/so-3403-a1-joint-secretarial-order-fulfilling-trust-responsibility>

<sup>12</sup> Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, 11/09/2000 <https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governments>

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voices bring Traditional Knowledge, Indigenous Knowledge, first-hand accounts and current observations to the decision-making space and would assure management decisions made based on the best science.

Kawerak strongly urges the Secretaries of Interior and Agriculture to promptly enact the proposed rule, adding three Tribally nominated and recommended seats to the Federal Subsistence Board.

Sincerely,

*Mary David on behalf of Melanie Bahnke*

Melanie Bahnke  
President, Kawerak, Inc.

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