ALASKA FEDERATION OF NATIVES

November 28, 2011

The Honorable Barack Obama
President of the United States of America
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

The Honorable Kenneth Salazar
Secretary of the Interior
1849 C Street
Washington, DC 20240

Dear President Obama and Secretary Salazar:

On the eve of the upcoming 2011 Tribal Nations Conference, I am writing to ask you to consider implementing a series of administrative and regulatory actions that can provide better protection for Alaska Native hunting, fishing and gathering. The ability of Alaska Natives to pursue their subsistence activities is closely linked to their food security.[1] Many studies have underscored the high cost of living in rural Alaska, including the cost of imported foods,[2] which must be flown in or barged into most Villages in rural Alaska. For this reason, subsistence hunting, fishing and gathering play a critical role in the economics of food security in village Alaska. The average harvest of subsistence resources in pounds per person in rural Alaska is estimated at 544 pounds, equivalent to 50% of the average daily caloric requirement. The economic significance of subsistence in rural Alaska is best appreciated in light of one study that suggested that replacing subsistence foods would range between $98 and $164 million, or about $2 to $3 thousand per person.[3]

[1] Food security is defined as the capacity of individuals to "have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs *and food preferences* for an active and healthy life." World Food Summit, Rome Declaration on World Food Security and World Food Summit Plan of Action 7 (1996).

[2] See Marian L. Campbell, Food Prices in the North: A Threat to Food Security, in ISSUES IN THE NORTH 2, 107-09 (Jill Oakes & Rick Riewe eds., 1997);

[3] Scott Goldsmith, The Remote Rural Economy of Alaska at 37-38, published by University of Alaska Anchorage, Institute of Social and Economic Research (April 12, 2007); Alaska Department of Fish and Game, Division of Subsistence, *Subsistence in Alaska: A Year 2000 Update.* Other estimates of food value

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Salmon and freshwater fish, which make up over 60% of the subsistence diet, have been critical to the survival of the people and wildlife in Alaska for thousands of years. Salmon returns to western Alaska have been in decline for more than a decade, creating numerous hardships for the people and communities that depend so heavily on this fishery resource. Poor returns of Chinook and chum salmon to the Yukon River, Kuskokwim River, and rivers draining into Norton Sound have led to severe restrictions on commercial and subsistence fisheries and to repeated disaster declarations by the state and federal governments.

Unfortunately, the legal framework governing subsistence in Alaska significantly hampers the ability of Alaska Natives to access their traditional foods. Since the Federal government took over management of subsistence on federal public lands in Alaska in 1990 (approximately 59% of Alaska's total land surface), subsistence hunting and fishing has been regulated by a highly complex and confusing jurisdictional system. The United States has jurisdiction over federal public lands as well as "reserved waters," which run adjacent to or through federal lands. The State has jurisdiction over its lands (approximately 28%) in addition to private lands (13%), most of which is owned by Native corporations. Federal law does not apply to Native owned lands, even though those lands often are the most important for subsistence hunting and fishing for Alaska Natives.

While we recognize that only Congress can amend federal law to provide the full and comprehensive changes needed, there are interim steps the Administration can take under the powers given the President -- without burdensome costs to taxpayers. We urge the Administration to consider implementation of the following regulatory and administrative actions:

1. Issue a Secretarial Order advising the federal agencies and the Federal Subsistence Board that Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA), is "Indian legislation," enacted under the plenary authority of Congress over Indian affairs, and direct the Office of Subsistence Management to implement the federal subsistence management program in accordance with the Secretarial Order.
2. Commence rulemaking to extend federal jurisdiction to Alaska Native allotments and reserved waters upstream and downstream from Conservation System Units. The recent federal district court decision in *Peratrovich v. US,* requiring the Secretary to identify submerged lands within the Tongass National Forest, offers the Administration an opportunity to revisit the jurisdictional issue statewide.
3. Expand contracting with Alaska's tribes and corporations for operation of significant aspects of the federal subsistence program, including the staffing and administration of the Regional Advisory Councils. Section 809 of

of subsistence produces are much higher. An out-of-court settlement after the Exxon Valdez oil spill valued subsistence foods at $12 per pound. See John Duffield, "Nonmarket Valuation and the Courts: The Case of the Exxon Valdez," Contemporary Economic Policy, 1997, no. 4, p. 98-109.

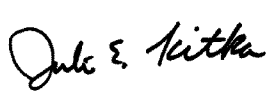
ANILCA provides authority for contracting Office of Subsistence Management and Federal Subsistence Board functions. Not only would this improve federal interactions within the Native community, it would engage more Alaska Natives in research, foster new Alaska Native scientists, and create real jobs for Alaska Natives.

4. Reconsider and adopt the "criterion-referenced" methodology developed by the University of Alaska's Institute of Social and Economic Research (ISER) for making rural/nonrural determinations. The method used in the last review resulted in the denial of rural status to the Native Village of Saxman, whose residents face the loss of access to their traditional subsistence foods when that decision goes into effect in May 2012.
5. Direct a comprehensive review of all subsistence regulations to ensure that no unnecessary restrictions have been imposed upon subsistence users unless necessary under Section 804 of ANILCA to protect the viability of the species and/or the continuation of subsistence uses.

The above changes to the current federal subsistence management system in Alaska are needed and are clearly within the discretionary power of the Executive Branch. We believe they would ensure greater protection for our food security, yet have a minimum impact on the federal budget. They would be consistent with the Secretary's responsibilities under Title VIII of ANILCA, as well as the United States trust responsibility to Alaska Natives, the United Nations Declaration on the Rights of Indigenous Peoples, and the International Covenant on Civil and Political Rights.

On behalf of the Native people of Alaska, I want to thank you for consideration of our recommendations. Please let us know if you would like additional information on any of these issues.

Sincerely,



Julie Kitka, President
Alaska Federation of Natives

Cc: Tom Vilsack, Secretary, U.S. Department of Agriculture
David Hayes, Deputy Secretary, U.S. Department of Interior
Larry Echohawk, Asst. Secretary for Indian Affair
Kimberly Teehee, Senior Policy Advisor for Native American Affairs
Alaska Congressional Delegation
U.S. Senate Indian Affairs Committee
U.S. House Resources Committee

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