

AGREEMENT
between the
NATIONAL MARINE FISHERIES SERVICE
and the
ALASKA BELUGA WHALE COMMITTEE
for
CO-MANAGEMENT OF THE WESTERN ALASKA BELUGA WHALE POPULATION

I. PARTIES

This document constitutes an agreement between the National Marine Fisheries Service (NMFS) and the Alaska Beluga Whale Committee (ABWC), otherwise referred to as the Parties.

The ABWC is an association which represents Alaska Native beluga whale subsistence hunters within the State of Alaska who hunt from the Western Alaska beluga whale population and who are registered with the ABWC through registration with their Management Regions. It also includes Federal, State and local government representatives, and charter members as set forth in the ABWC Bylaws. The Western Alaska beluga population includes beluga whale stocks occurring in the Bering (including Bristol Bay), Chukchi and Beaufort seas and is referred to in this agreement as “Western Alaska beluga whales” or “the Western Alaska population.”

II. AUTHORITIES

- A. NMFS has the authority to enter into this Agreement with the ABWC under Section 119 (16 U.S.C. 1388) of the Marine Mammal Protection Act of 1972, as amended (MMPA), and the Endangered Species Act of 1973, as amended (ESA) (16 U.S.C. 1531 *et seq.*). Additional guidance is provided by Executive Order #13084 of May 14, 1998 (“Consultation and Coordination with Indian Tribal Governments,” 63 FR 27655), Presidential Memorandum of April 29, 1994 (“Government-to-Government Relations with Native American Tribal Governments,” 59 FR No. 85). U.S. Department of Commerce Memorandum “American Indian and Alaska Native Policy of the U.S. Department of Commerce” of March 30, 1995, and the “Memorandum of Agreement for Negotiation of Marine Mammal Protection Act, Section 119 Agreements” of August, 1997.
- B. The ABWC has the authority to enter into this Agreement under authorizing resolutions from those tribes and tribally-authorized organizations listed in Appendix A.

III. PURPOSES

The purposes of this Agreement between NMFS and the ABWC are to conserve the Western Alaska beluga whale populations; protect Alaska Native beluga whale subsistence hunting traditions and culture; promote scientific research on beluga whales, whale stocks and their environment; and effectuate provisions of the Marine Mammal Protection Act that are relevant to aboriginal subsistence hunting of beluga whales.

To achieve these purposes, this Agreement provides for:

- A. Cooperation between members of the ABWC and NMFS in the conservation and management of Western Alaska beluga whales for the year 2000 and thereafter; and
- B. The development of Regional Beluga Whale Management Plans to be entered into under this Agreement between the ABWC and the ABWC Management Regions

IV. BACKGROUND

In 1972, the Marine Mammal Protection Act was passed by Congress and provided for an exemption on the taking of any marine mammal by Alaska Natives provided such taking is for subsistence purposes or done for purposes of creating and selling authentic Native articles of handicraft and clothing. Such taking may not be accomplished in a wasteful manner.

In 1988, the ABWC was established to facilitate cooperation and communication among beluga whale subsistence hunters, scientists, and the government regarding the conservation and management of beluga whales. The ABWC is composed of regional and village representatives from areas where hunting of the Western Alaska population of beluga whales takes place; beluga whale scientists; and members of Federal, State and local governments. On December 1, 1995, the ABWC adopted Bylaws and a Management Plan to conserve and manage the subsistence hunting of the Western Alaska beluga whale population. The Bylaws of the ABWC specify that only Alaska Native beluga hunters may vote on matters pertaining to hunting.

In April 1994, the Marine Mammal Protection Act was amended to include Section 119 "Marine Mammal Cooperative Agreements in Alaska." Section 119 formalizes the rights of Alaska Native Organizations to participate in conservation-related co-management of subsistence resources and their use. Section 119 also authorized the appropriation of funds to be transferred by NMFS to Alaska Native Organizations to accomplish these activities.

V. MANAGEMENT OF WESTERN ALASKA BELUGAS WHALES WITHIN THE STATE OF ALASKA

A. RESPONSIBILITIES OF THE ABWC

1. Management of the Western Alaska Beluga Whale Subsistence Hunt
The ABWC Management Plan sets forth principles governing conservation, subsistence harvesting, use, reporting and monitoring, research, public involvement, and enforcement as they relate to beluga whales. Under this Agreement, the ABWC, through the ABWC Management Regions and in cooperation with NMFS, will manage the beluga whale subsistence harvest conducted by all member beluga whale subsistence hunting villages within the State of Alaska who hunt from the Western Alaska population of beluga whales. Any necessary enforcement of ABWC or Regional Management Plans will be accomplished according to the provisions of these plans. The authority and responsibilities of the ABWC and of each ABWC Management Region are contained in and limited by this Agreement, the ABWC Management Plan and the Regional Management Plans, as amended from time to time, to the extent the ABWC Management Plan and the Regional Management Plans are not inconsistent with this Agreement.
2. Inspection and Reporting
The ABWC shall obtain accurate harvest information and biological samples from each Management Region in accordance with the Regional Management Plan and in overall agreement with the ABWC Management Plan. NMFS personnel may participate in such data collection. All information collected under this section shall be shared between the ABWC and NMFS.
3. Research
The ABWC, in consultation with NMFS, may conduct research on the biology, natural history and traditional knowledge of the Western Alaska population of beluga whales. NMFS personnel may participate in such data collection. All information collected under this section shall be shared between the ABWC and NMFS.
4. Funding
Pending the appropriation of Section 119 funds by Congress, the ABWC shall be responsible for costs incurred by its representatives participating in activities under this Agreement. Once Section 119 funds become available, ABWC may voluntarily, at its sole discretion, elect to support the goals of this Agreement by supplementing Section 119 funds with non-Section 119 funds that are available from other sources. No financial

commitment on the part of the ABWC is authorized or required by this Agreement.

B. RESPONSIBILITIES OF NMFS

1. Management of the Western Alaska Beluga Whale Subsistence Hunt
NMFS has primary responsibility within the United States Government for management and enforcement of programs concerning beluga whales. NMFS may assert its federal management authority to enforce any existing provisions of the Marine Mammal Protection Act that are applicable to the Native harvest of beluga whales. Such assertion of federal management authority will be preceded by consultation with the ABWC as specified in V.B.2 below.
2. Research
NMFS, in consultation with the ABWC, may conduct research on the biology, natural history and traditional knowledge of the Western Alaska population of beluga whales. ABWC personnel may participate in such data collection. All information collected under this section shall be shared between the ABWC and NMFS.
3. Funding
NMFS shall provide funding, as available, pursuant to Section 119 of the Marine Mammal Protection Act, or in-kind support, for the beluga whale Inspection and Reporting and Research responsibilities identified in sections V.A.2 and V.A.3, and other co-management responsibilities of the ABWC as set forth in this Agreement. Pending the appropriation of Section 119 funds by Congress, NMFS shall be responsible for costs incurred by its representatives participating in activities under this Agreement. Once Section 119 funds become available, NMFS may voluntarily, at its sole discretion, elect to support the goals of this Agreement by supplementing Section 119 funds with non-Section 119 funds that are available from other sources. No financial commitment on the part of the NMFS is authorized or required by this Agreement.

VI. CONSULTATION

The ABWC and NMFS shall consult on an as-needed basis concerning matters related to the management of Western Alaska beluga whales which either party believes are suitable for such consultation. This will include matters which have the potential to affect any Western Alaska beluga whale stock or the Native subsistence hunting of Western Alaska beluga whales. The Parties agree that they will consult on issues that may include

but are not limited to any possible change in designation or status of Western Alaska beluga whales under any provision of the MMPA or the ESA, or any changes in regulations or agreements that are applicable to Western Alaska beluga whales.

VII. REGIONAL MANAGEMENT PLANS

Each Management Region within the ABWC shall have responsibility for preparing, in consultation with the ABWC, a Regional Management Plan for the management of the beluga whale subsistence hunt within that region. The Regional Management Plans shall be consistent with the provisions of the ABWC Management Plan and shall be submitted to the ABWC for approval. Any individual Regional Management Plan will be consistent with the Memorandum of Agreement for Negotiation of Marine Mammal Protection Act Section 119 Agreements.

VIII. REGULATION AND ENFORCEMENT

NMFS recognizes the existing tribal authority to regulate tribal members during the conduct of the subsistence harvest of beluga whales. The ABWC recognizes the Secretary of Commerce's authority to enforce the existing provisions of the MMPA applicable to the Native harvest of beluga whales.

IX. OTHER PROVISIONS

- A. Nothing in this Agreement shall be construed to support or contradict an extension of the jurisdiction of the International Convention for the Regulation of Whaling, 1946, or the Whaling Convention Act of 1949 with respect to aboriginal subsistence beluga whale hunting by Alaska Natives.
- B. Nothing herein is intended to conflict with current NOAA or NMFS directives. If the terms of this Agreement are inconsistent with existing laws, regulations, or directives of either of the Parties entering into this Agreement, then those portions of this Agreement which are determined to be inconsistent shall be invalid, but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. At the first opportunity for review of the Agreement, all necessary changes will be accomplished by either an amendment to this Agreement or by a new Agreement, whichever is deemed expedient to the interest of both Parties.
- C. Should disagreements arise over the provisions of this Agreement, or amendments or revisions thereto, that cannot be resolved at the operating level, the area(s) of

disagreement shall be stated in writing by each Party and presented to the other Party for consideration. If agreement on interpretation cannot be reached within a reasonable time, a special meeting or teleconference shall be held to resolve the issues. This meeting shall include representatives of NMFS, the ABWC Executive Committee and the affected Region(s) as appropriate.

X. ADOPTION, DURATION, AND MODIFICATION

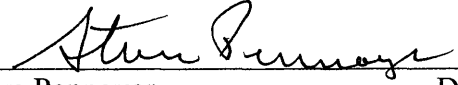
This Agreement will become effective when signed by both Parties, and may be amended at any time by written agreement of both Parties. Either Party may terminate this agreement by giving 45 days prior written Notice of Termination to the other Party.

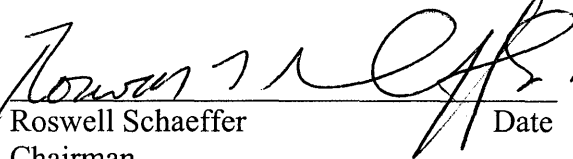
X. SIGNATORIES

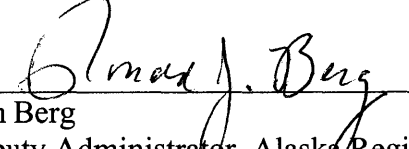
The Parties hereto have executed this Agreement as of the last written date below:


National Marine Fisheries Service


Alaska Beluga Whale Committee

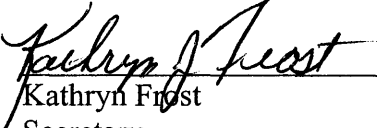

Steve Pennoyer Date 12/23/99
Administrator, Alaska Region
National Marine Fisheries Service
U. S. Department of Commerce
P. O. Box 21668
Juneau, Alaska 99801



Roswell Schaeffer Date 11/09/99
Chairman
Alaska Beluga Whale Committee
P. O. Box 293
Kotzebue, Alaska 99752


Ron Berg Date 11/19/99
Deputy Administrator, Alaska Region

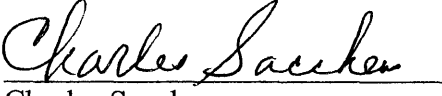

Marie Adams Carroll Date 11/09/99
Vice Chairman


Douglas DeMaster Date 11/9/99
Director, National Marine Mammal Lab


Kathryn Frost Date 11/9/99
Secretary


Barbara Mahoney Date 9 Nov 99
ABWC Representative, Alaska Region


Molly Chythlook Date 11/9/99
Treasurer


Charles Saccheus Date 11/9/99
Sergeant at Arms

Agreement between the Alaska Beluga Whale Committee and the National Marine Fisheries Service Entered into Pursuant to Section 119 of the Marine Mammal Protection Act of 1972, As Amended

Appendix A

List of Tribally-authorized Organizations Providing Authorizing Resolutions to the Alaska Beluga Whale Committee. This list may be amended from time to time if additional authorizing resolutions are received from tribally authorized organizations representing villages with a history of hunting Western Alaska beluga whales, and with ABWC approval.

<u>Tribally Authorized Organization</u>	<u>Resolution Date</u>
Alakanuk Traditional Council	20 October 1997
Native Village of Barrow	25 February 1997
Buckland I.R.A. Council	2 December 1996
Chevak Traditional Council	26 February 1997
Native Village of Clarks Point	14 January 1997
Dillingham Native Village Council	25 November 1996
Native Village of Elim IRA Council	27 November 1996
Emmonak Tribal Council	14 October 1997
Native Village of Hooper Bay	21 November 1996
Kivalina City Council	2 December 1996
Native Village of Kotlik	21 November 1996
Kotzebue IRA Council	25 November 1996
Native Village of Koyuk IRA Council	3 December 1996
Native Village of Levelock	18 November 1997
Native Village of Manokotak	26 November 1996
Native Village of Noatak IRA Council	29 November 1996
North Slope Borough Fish and Game Management Committee	14 July 1994
Native Village of Point Hope	17 October 1997
Native Village of Point Lay IRA Village Council	2 December 1996
Native Village of Scammon Bay	2 December 1996
Native Village of Shaktoolik	25 November 1996
Native Village of Stebbins	4 December 1996
Native Village of St. Michael	2 December 1996
Traditional Council of Togiak	10 February 1997
Native Village of Unalakleet	3 December 1996