

MEMORANDUM OF
UNDERSTANDING BETWEEN
UNITED STATES DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE ALASKA REGION

AND

KUSKOKWIM RIVER INTER-TRIBAL FISH COMMISSION

This Memorandum of Understanding (MOU) is entered into in order to formalize the fishery management partnership between the United States Department of the Interior (Department), U.S Fish and Wildlife Service (Service) and the Kuskokwim River Inter-Tribal Fish Commission (hereinafter referred to as "Commission").

ARTICLE I – BACKGROUND AND OBJECTIVES

In his address to the Alaska Federation of Natives Convention in October 2014, and to the National Congress of American Indians in February 2015, Deputy Secretary Mike Connor announced plans to develop a meaningful Partnership Project that could be implemented administratively, with the goal of more meaningfully integrating Kuskokwim Tribes and Federally qualified users into Federal fisheries management on the Kuskokwim River drainage. Development of this MOU is one component of the Kuskokwim River Partnership Project. It formalizes a management partnership that begins to address the long-standing desire of Alaska Native Tribes in the Kuskokwim Drainage to engage as co-managers of fish resources.

The Association of Village Council Presidents (AVCP) and Tanana Chiefs Conference (TCC) are regional Tribal organizations whose membership includes all of the federally recognized tribes in the Kuskokwim drainage. The AVCP and TCC were instrumental in the establishment of the Commission and in the development of this MOU. Both AVCP and TCC have adopted resolutions that support the Commission's participation in the Kuskokwim River Partnership Project through the signing of this MOU.

The Partnership Project sets forth a two-part structure to meaningfully integrate Kuskokwim Tribes and Federally qualified users into the decision-making process for fisheries management on Federal public waters of the Kuskokwim River drainage. The MOU represents one component of a two part structure that will implement the 2014 directive from the Deputy Secretary to establish a demonstration project for the Kuskokwim River Drainage that integrates Alaska Natives into Federal fishery management into the decision-making process. The MOU builds upon the experience and success gained from consultations between the Commission and the Yukon Delta National Wildlife Refuge Manager related to Federal in-season fishery management decisions for the 2015 season, and will provide an opportunity to advance issues that are critical to the Commission and Federally qualified users in future years. The second component of the Partnership Project is a proposal cooperatively developed by the Commission, the Office of Subsistence Management (OSM), and the Service which was submitted to the two Regional Advisory Councils (Councils) in the Kuskokwim River drainage for a subcommittee jointly chartered by the two Councils. The goals of the proposal include providing a meaningful role for the Commission in the Federal subsistence management process and developing unified recommendations for fishery management for the Kuskokwim River drainage.

The Department of the Interior and the Service also share a mutual concern with the Commission for the

conservation of fish resources and their habitats and ensuring the opportunity for the continuation of the subsistence way of life. Both are engaged in fish management strategies and programs and desire to develop and maintain a cooperative relationship which will be in the best interests of the Parties and the resource.

Additionally, the Department, Service, and Commission share the goal of meaningfully integrating the tribal governments located in Kuskokwim River drainage, through their membership and participation in the Commission, as broadly as possible, into the management of Federal public waters in the Kuskokwim River drainage fisheries.

The Parties share the goal of effective and timely communication of all information and consultation and collaboration for in-season fishery management actions;

ARTICLE II - AUTHORITY

The following authorities support the MOU:

- Alaska National Interest Lands Conservation Act (ANILCA) Title VIII
- Alaska Native Claims Settlement Act
- Executive Order 13175 “Consultation and Coordination with Indian Tribal Governments”
- Secretarial Order 3317, Department of Interior Policy on Consultation with Indian Tribes (December 2011)
- Secretarial Order 3335 “Reaffirmation of the Federal Trust Responsibility to Recognized Indian Tribes and Individual Indian Beneficiaries”
- U.S. Fish and Wildlife Service Native American Policy (1994)
- Federal Subsistence Board regulations 36 CFR 242 and 50 CFR 100

The Federal Subsistence Board (Board) is vested with authority delegated by the Secretaries of the Interior and Agriculture to manage subsistence uses and resources on the Federal public lands in Alaska. The Board may delegate specific regulatory authority related to the in-season management of fish species for the Federal public waters in the Kuskokwim Area. The manager of the Yukon Delta National Wildlife Refuge (Refuge) is currently delegated this authority. The Letter of Delegation from the Board to the Refuge manager is attached as an appendix.

The Department has a government-to-government relationship and trust responsibility with the Federally recognized tribes in the Kuskokwim River Drainage and is committed to implementing programs that further tribal self-determination. The Federally recognized Kuskokwim River Tribes are the governing bodies for the tribal members who are residents of these rural communities in the Kuskokwim River Drainage. The Kuskokwim River Tribes established the Commission for the purpose of engagement in the management of Kuskokwim River fisheries.

ARTICLE III - STATEMENT OF WORK

This MOU formalizes an agreement for substantive consultation between the Federal in-season manager and the Commission prior to in-season management decisions and actions. The MOU also acknowledges the collaborative development of a proposal by the Parties for a fisheries subcommittee jointly chartered by the Western Interior and Yukon-Kuskokwim Delta Regional Advisory Councils (Councils).

THE SERVICE AGREES:

1. The Federal in-season manager will consult with the Commission for the purpose of collaboratively making fisheries management decisions with the integration and application of Commission knowledge, information, and management strategies.
2. All relevant data and information will be provided by the Service to the Commission at the earliest practicable time before consultation.
3. The Federal in-season manager will serve as the primary point of contact for the agency.
4. To engage the Commission as partners in the development and implementation of fishery management projects for the Kuskokwim River drainage, such as research, monitoring, harvest surveys, subsistence studies, test fisheries, and other programs, and to enter into cooperative funding agreements with the Commission to support such capacity building to the degree funding is available from the Service or the Department.
5. To provide a timely written justification to the Commission when the Refuge manager is unable to reach consensus with the Commission regarding Kuskokwim Fisheries in-season management decisions. The justification will include an explanation of how the Commission's traditional and scientific information and position were integrated and considered in the management decision.

THE COMMISSION AGREES:

1. To maintain its status as a tribal organization with membership open to all of the Federally recognized Tribes in the Kuskokwim River drainage, that the Commission represents a significant majority Kuskokwim tribes representing all segments of the drainage, and that the Commission is authorized by its member tribes to engage in the management activities formalized through this MOU.
2. To recognize the Refuge Manager at Yukon Delta National Wildlife Refuge as the Federal in-season manager to the extent such authority has been delegated by the Board, including delegated authority to issue emergency special actions for the management of fish within the Federal public waters of the Kuskokwim River drainage. The scope of delegation set by the Board and limited by 36 CFR 242.10(d)(6) and 50 CFR 100.10(d)(6).
3. To provide all relevant data and information to the Service at the earliest practicable time before consultation, including local and traditional observations and knowledge and regional customary and traditional fishing practices.
4. To inform the Kuskokwim River Villages about in-season and other fishery management plans and actions.
5. To meaningfully engage in consultations with the Service to collaboratively manage fish in the Kuskokwim River drainage.
6. To designate an in-season consultation committee composed of the fewest number of Commissioners that can adequately represent the member tribes, understanding that the lower, middle, and upper regions of the watershed will be equitably represented.

7. To assist the Service with communication and outreach of critical biological and regulatory information to Commission members throughout the year.

THE PARTIES MUTUALLY AGREE:

1. To engage in consultation and collaboration throughout the year to coordinate planning for management actions regarding fish resources on Federal public waters of the Kuskokwim River, and to facilitate development of a unified management strategy that is informed by traditional ways of knowing and science that is biologically, environmentally and culturally sound.

2. Each party will engage in consultation and collaboration with an open mind and without committing to a special action before consultation occurs between the Parties. The Parties will notify each other, in a timely manner, of discussions with other management agencies and provide a summary of the information exchanged.

3. Both parties acknowledge the dynamics of in-season management and that in certain instances, due to the need for a timely decision, immediate consultation and collaboration may not be possible or will need to be abbreviated. Both parties will, in good faith, minimize the instances when abbreviated consultations occur and will meet soon thereafter to discuss the management action taken and modifications that may be necessary.

4. The Service and Commission will contribute to and support a Technical Advisory Body (TAB) that consists of fisheries biologists/scientists, social scientists, and traditional knowledge experts. The TAB will meet as requested by the Service or Commission, freely exchange information, and strive to cooperatively develop a unified presentation of information for consideration during negotiation, consultation and collaboration.

5. The Federal in-season manager and the Commission will negotiate for the purpose of striving to reach consensus on in-season management decisions. The parties expect that consensus will be reached for a large majority of issues. If consensus cannot be reached by negotiation, the Commission may take one or more of the actions below:

- A. The Commission may request that a conference call or meeting occur with the Service Regional Director/Deputy Regional Director, the Assistant Regional Director of OSM, the Federal in-season manager, and, at the request of the Commission, the Bureau of Indian Affairs Regional Director or Deputy Regional Director, in a timely fashion to engage knowledgeable experts and key decision makers in a discussion for the purpose of achieving a mutually beneficial compromise. This strategy is consistent with the *qasgiq* model, a Yup'ik problem-solving framework, similar to a collaborative decision-making framework widely practiced among Federal agencies known as operational leadership. The Federal in-season manager maintains delegated authority. Members of the TAB may be requested to attend the meeting.
- B. The Commission may submit a Special Action Request with urgency to the Board in an effort to address a concern. The Service agrees to request that the Commission's Special Action Request be addressed with urgency.
- C. The Commission may submit a request to the Board to reconsider an in-season management action.

6. To support the development and establishment of a joint subcommittee appointed by the Councils. The

goal for the Subcommittee is to develop recommendations to the Councils on the initiation, review, and evaluation of proposals for regulations, policies, management plans, special actions (in-season management), and other matters or potential impacts relating to management, conservation, and subsistence users of fish in the Kuskokwim River Area, or for fisheries which have impacts on Kuskokwim River Area stocks. Fishery proposals developed by the Subcommittee and forwarded to the Board by both Councils as recommendations will be entitled to deference in accordance with Section 805 of ANILCA and Board policy.

7. If the Councils choose not to establish a Subcommittee that incorporates the substance of the Parties' proposal, the Parties will jointly develop a proposal for the Department of the Interior under the authority of ANILCA Section 805(a) or other legal authority that incorporates the objectives of the Subcommittee.

8. To send the same representatives to attend consultations. The parties may send an alternate to consultations only when necessary, recognizing this should only occur on a very limited basis.

9. To develop supplemental memoranda of understanding between the Commission and the Refuge, as may be required to implement the objectives of the Partnership Project as it develops.

10. To attend and meaningfully participate in consultations during in-season fisheries management and at other times when requested by either Party, and to promote a professional, productive, and collaborative atmosphere, while avoiding confrontational speech or behaviors.

11. To actively encourage and seek the participation of the State of Alaska fishery managers in the consultation and collaboration process.

12. To jointly develop a proposal to the Board for an abbreviated process that will, to the degree practicable, provide an opportunity for timely relief when a request is submitted to reconsider an in-season management action.

ARTICLE IV - TERMS OF AGREEMENT

1. This MOU shall become effective upon the signature of the Service and the Commission.

2. This MOU shall continue until terminated by the Service or the Commission. A party may terminate this MOU by providing sixty (60) days advance written notice to the other party. Upon notice of termination, the Parties will meet promptly to discuss the reasons for the notice and to try to resolve their differences.

3. Amendments to this MOU may be proposed by the Service or the Commission and shall become effective upon the signature of the Parties.

4. If the Board changes the delegation of authority for the Kuskokwim River Federal in-season manager, this MOU will be carried forward and amended to reflect the new delegation.

5. Any significant change in the scope of Federal public lands or tribal lands in the Kuskokwim region will require a re-evaluation and possible amendment of this MOU.

6. This MOU shall be re-evaluated by the Parties after two (2) years from the date of execution.

ARTICLE V - KEY OFFICIALS

A. Key officials are essential to ensure maximum coordination and communication between the Parties and the work being performed. They are:

For the Commission:

Mike Williams, Chair KRITFC Bethel, AK 99559

Mwilliams19522004@yahoo.com

Telephone: 907-765-2061

For the Refuge:

Refuge Manager

Yukon Delta National Wildlife Refuge

State Highway

Box 346

Bethel, Alaska 99559

Telephone: 907-543-3151

Facsimile: 907-543-4413

ARTICLE XI - SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the date(s) set forth below.

FOR THE KUSKOKWIM RIVER INTER-TRIBAL FISH COMMISSION:

Executive Council:

_____. Date: _____
Unit 1, Nick Petruska: Nikolai, Telida, McGrath, Takotna

_____. Date: _____
Unit 2, Tim Zaukar: Stony River, Lime Village, Sleetmute, Red Devil, Georgetown, Crooked Creek

_____. Date: _____
Unit 3, Gerald Kameroff: Napaimute, Chuathbaluk, Aniak, Upper Kalskag, Lower Kalskag

_____. Date: _____
Unit 4, James Nicori: Tuluksak, Akiak, Kwethluk, Akiachak

_____. Date: _____
Unit 5, Greg Roczicka: Bethel

_____. Date: _____
Unit 6, Golga Frederick: Oscarville, Napaskiak, Napakiak, Atmauthluak, Kasigluk, Nunapitchuk

_____. Date: _____
Unit 7, James Charles: Tuntutuliak, Eek, Kongiganak, Kwigillingok, Cheforak, Kipnuk, Quinhagak

Officers:

_____. Date: _____
Mike Williams, KRITFC Chair

_____. Date: _____
Nick Kameroff, KRITFC Vice-Chair

_____. Date: _____
Charlene Erik, KRITFC Secretary

FOR THE U.S. DEPARTMENT OF INTERIOR U.S. FISH AND WILDLIFE SERVICE:

_____. Date: _____
Geoffrey Haskett, USFWS Director - Alaska Region

_____. Date: _____
Vernon Born, Manager - Yukon Delta National Wildlife Refuge

SUPPORTING AGENCIES/ORGANIZATIONS:

_____. Date: _____
Myron Naneng, President – Association of Village Council Presidents

_____. Date: _____
Victor Joseph, President – Tanana Chiefs Conference

WITNESSES:

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