

**DEPARTMENT OF THE INTERIOR AND UNITED STATES DEPARTMENT OF  
AGRICULTURE JOINT STATEMENT OF THE DEPARTMENT OF THE INTERIOR AND  
THE DEPARTMENT OF AGRICULTURE FOR THE RECORD FOR  
THE HOUSE NATURAL RESOURCES COMMITTEE  
SUBCOMMITTEE ON INDIAN, INSULAR AND NATIVE ALASKAN AFFAIRS HEARING  
ON H.R. 2388, THE SUBSISTENCE ACCESS MANAGEMENT ACT OF 2015**

**July 22, 2015**

Thank you for the opportunity to provide a statement on the Administration's views regarding H.R. 2388, the Subsistence Access Management Act of 2015 (HR 2388). The Administration has several concerns about this legislation and opposes its enactment.

H.R. 2388 would prohibit the Secretary of the Interior and the Secretary of Agriculture from changing the status under the Alaska National Interest Lands Conservation Act (ANILCA) of Alaskan communities from rural to nonrural and would also prohibit any regulatory changes to rural Alaskan community boundaries that would result in such a change. It would require the Secretaries to publish an interim final rule within 30 days of enactment to amend any regulations that are not consistent with the legislation, and it would require the Secretaries to annually publish a list of Alaska communities that are designated as rural and non-rural.

If enacted, this legislation would effectively undermine the expectations of the Federal Subsistence Regional Advisory Councils (Councils) that they will be given a meaningful voice in future nonrural determinations. The Councils currently have invested and use their voice in shaping the proposed nonrural determination process. Also, permanently prohibiting the Secretaries from changing the status of affected communities from rural to non-rural status would impose permanent rural status on communities in which there is general agreement that a non-rural designation is appropriate. In a rapidly changing landscape, a statutory requirement that freezes such status to that prior to the 2007 rule could mean that access to wild food resources could be dominated by urban communities that are not in need of wild foods and are removed from traditional Alaskan culture.

The Secretaries are presently engaged in a review of changes to the rural determinations under ANILCA to make them more responsive to and less onerous for Alaskans. This has been a rigorous, two-year public process to seek comments on ways to improve the rural determination process. The Secretaries have sought and considered input from affected people across the state, including Alaska natives peoples, including Federally recognized tribes and Alaska Native Claims Settlement Act Corporations. A statutory freeze on the 2007 status of all Alaskan communities would ignore the diversity of views reflected in comments submitted to date. While we understand there is some frustration in the length of time involved in the Federal rulemaking process, there is a wide diversity of need, values, and preferences among Alaskan communities on the rural determination process. As is occurring in the current process, these voices deserve to be heard and thoughtfully considered, and they deserve to have an ongoing role in a process that is responsive to their changing landscape and community needs.

Finally, the bill imposes an unnecessary and expensive administrative burden on the Secretaries to publish in the Federal Register, on an annual basis, a list of rural and nonrural communities. Under the present system, the rural or nonrural status of the vast majority of communities in Alaska has

remained unchanged during the history of the program. Only a limited number of changes have been made to date, and if the proposed rule to eliminate the decennial rural review process is made final, then we expect even fewer such changes in the future. Moreover, when the Secretaries find that a change in status is necessary, it is currently and would continue to be our policy to publish it in the Federal Register.

### **Review of Rulemaking Process to Date**

In 2010, the Secretary of the Interior directed the Federal Subsistence Board (Board) to conduct a public review of the rural determination process. The Board deferred the effective date of the 2007 nonrural determination list in order to provide time to reexamine the rural determination process. That deferral remains in effect today.

In 2012, the Board initiated the public review. A series of meetings and public hearings were held, during which the public was briefed on the current process and invited to provide suggestions on how to improve it. In addition, the Board conducted three consultations involving 20 Alaska Native tribes and 12 Alaska Native Claims Settlement Act Corporations. Through these meetings, it became clear that the public favored removing the rigid rural determination criteria from Secretarial regulations in favor of a more flexible approach that allows the Secretaries to consider a wide range of variables. Specifically, the consensus view was to eliminate the following: population thresholds, aggregation of communities, and the mandatory decennial review.

In January of 2015, in response to this rigorous public and consultation process, the Secretaries published a proposed rule that would eliminate the existing rural determination criteria from Secretarial regulation and focus the process on making nonrural determinations, rather than rural determinations. This would greatly simplify the process and remove the need for communities to "defend" their rural status. It would also empower the public and the Councils to have a stronger role in determinations. The majority of the substantive comments we received were supportive of the proposed rule. The Board will meet in late July, when the Secretaries will consider recommendations from Board members regarding finalization of the rule.

### **Conclusion**

In conclusion, a rural determination is at the heart of eligibility for the Federal subsistence priority under Title VIII of the Alaska National Interest Lands Conservation Act, and it is crucial to ensure that the public has a voice in those determinations. Establishing the determination in statute would diminish the role of rural Alaskan residents in a process that would meaningfully incorporate a diversity of stakeholder needs, values, and preferences. It would also diminish the ability of the Federal Subsistence Advisory Councils to engage in future nonrural determinations. Also, a determination in statute would not readily be responsive to changes on the Alaskan landscape over time and would undo the hard work of a rigorous, 2-year public process and the trust of the public engendered through that process.

We would welcome the opportunity to provide further information on the rulemaking process and the proposed rule to Rep. Young and the Subcommittee and staff and respond to any continued questions and concerns.

Thank you again for this opportunity to present the Administration's views on this legislation.