

COOPERATIVE AGREEMENT
between the
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
and the
ALASKA ESKIMO WHALING COMMISSION
as amended
2019

1. PURPOSES

The purposes of this agreement are to protect the bowhead whale and the Eskimo culture, to promote scientific investigation of the bowhead whale, and to effectuate the other purposes of the Marine Mammal Protection Act, the Whaling Convention Act, and the Endangered Species Act as these acts relate to aboriginal subsistence whaling.

In order to achieve these purposes, this agreement provides for:

- (a) Cooperation between members of the Alaska Eskimo Whaling Commission (AEWC) and the National Oceanic and Atmospheric Administration Fisheries (NOAA) in management of the bowhead whale hunt through 2025; and
- (b) an exclusive enforcement mechanism that shall apply during the term of this agreement to any violation by whaling captains (or their crews) who are registered members of the AEWC of any provisions of the Marine Mammal Protection Act, the Endangered Species Act, or the Whaling Convention Act, as these acts may relate to aboriginal subsistence whaling; of the International Convention for the Regulation of Whaling, 1946; of regulations of the International Whaling Commission; of the AEWC Management Plan; or of this agreement.
- (c) a funding mechanism, subject to the availability of funds, to ensure the availability of fiscal resources for the AEWC's ongoing compliance with provisions of the Whaling Convention Act, as it may relate to aboriginal subsistence whaling; of the International Convention for the Regulation of

Whaling, 1946; and of regulations of the International Whaling Commission. No financial commitment on the part of NOAA is authorized by this agreement.

2. RESPONSIBILITIES

NOAA has primary responsibility within the United States Government for management and enforcement of programs concerning bowhead whales. The AEWG is an association governing Alaskan Eskimo whalers who hunt for bowhead whales. The AEWG adopted a Management Plan on March 4, 1981, to govern hunting for bowhead whales by Alaskan Eskimos. The AEWG and NOAA have cooperatively managed the bowhead hunts since 1981. Under this Cooperative Agreement, the AEWG will, in continued cooperation with NOAA, manage the bowhead whale hunts through 2025. In addition, the AEWG will report annually to NOAA any incidental takes of other species of whale by AEWG-registered whaling captains, and the outcome of any enforcement review and determination related to such takes. The authority and responsibilities of the AEWG are contained in and limited by this agreement and the Management Plan, as amended from time to time, to the extent the Management Plan is not inconsistent with this agreement. If the AEWG fails to carry out its enforcement responsibilities or meet the conditions of this agreement or of the Management Plan, as amended from time to time, NOAA may assert its federal management and enforcement authority and will regulate the bowhead whale hunt in a manner consistent with federal law, this agreement, and the Management Plan to the extent necessary to carry out the responsibilities that are not carried out by the AEWG. Such assertion of federal authority will be preceded by notice to the AEWG of intent to regulate the bowhead whale hunt to the extent necessary to carry out those responsibilities and conditions, and will not be effected until the AEWG or its members have been given an opportunity to present their views on the need for such assertion in a public forum:

provided, however, that in cases where NOAA determines that irreparable harm to the bowhead whale resource might result, the assertion of federal authority may be effected immediately after notice, in which cases the public forum on the need for such assertion will be conducted as soon as practicable thereafter.

3. INSPECTION AND REPORTING

NOAA personnel shall monitor the hunt and the AEWG shall assist such personnel with such monitoring. The AEWG shall report to NOAA regarding the number of strikes and landings. The AEWG shall also inform all whaling captains who are engaged in whaling activities of the number of whales struck or landed at all times. The AEWG shall also provide a report to NOAA within 30 days or as soon as practicable, after the conclusion of the spring/fall hunts, containing at least the following information:

- (1) The date and exact, to the extent practicable, location of strike for each whale struck or landed, including, at a minimum, the estimated distance and bearing from the village or whaling camp;
- (2) The length (as measured from the point of the upper jaw to the notch between the tail flukes) and the sex of the whales landed;
- (3) The length and sex of a fetus, if present, in a landed whale; and
- (4) An explanation of circumstances associated with the striking of any whale not landed, and an estimate of whether a harpoon or bomb emplacement caused a wound which might be fatal to the animal (e.g., the harpoon entered a major organ of the body cavity and the bomb exploded).

NOAA shall provide technical assistance in collection of the above information. The AEWG shall assist appropriate persons in collection of specimens from landed whales. The AEWG shall encourage whaling captains to make such specimens available to researchers upon written request to the AEWG. NOAA personnel cooperating with the AEWG shall work closely with the AEWG Commissioner in each whaling village to facilitate the accurate monitoring of the hunt.

4. MANAGEMENT

- (1) No more than ninety-three (93) bowhead whales shall be struck in 2019. The AEWG and NOAA shall determine the total number of bowhead whales that may be struck in each year from 2020 through 2025, and any applicable number of bowhead whales that may be landed, through annual negotiations during the first fourth quarter of the year prior to the year for which the quota is applicable: provided, however, that the Under Secretary or his designee may, in consultation with the AEWG, reconsider and revise the term of this paragraph if he deems it necessary on the basis of public comments received pursuant to the Federal Register notice of the allocations.
- (2) Registered whaling captains shall hunt under the provisions of the AEWG Management Plan, and will use all practical means to improve hunting efficiency.
- (3) The AEWG shall determine the allocation of these permitted strikes among the whaling villages.
- (4) The AEWG Management Plan will provide that the meat and edible products of bowhead whales taken in the subsistence hunt must be used exclusively for native consumption and may not be sold or offered for sale.

5. ENFORCEMENT

- (1) The AEWc agrees that registered whaling captains may be subject to civil monetary assessments for whales struck over the annual strike limit as set forth in this Agreement and whales landed over any landing limit that is prescribed in this agreement and the Management Plan as they may be amended from time to time. The AEWc will collect the assessments from the whaling captains. In the event of a dispute between NOAA and the AEWc over the number of whales landed or struck or the amount of the assessment, or other factual matters, NOAA will consult with the AEWc about the matter. If the dispute cannot be resolved, it will be referred to an administrative law judge for determination under a trial-type administrative proceeding of the facts and the amount of assessment. The procedures contained in 15 CFR sections 904.200-904.273 will control these proceedings. The decision of the administrative law judge may be appealed to the Administrator of NOAA. Whaling captains may also be liable for civil assessments for other violations of the Management Plan as determined by the AEWc or by an administrative law judge under the procedures described above.
- (2) In consideration of the AEWc's agreement to undertake the responsibilities set forth in this document, the Government of the United States agrees that the enforcement procedure described in paragraph (1) of this section shall be the exclusive enforcement mechanism that shall apply during the term of this agreement to any violation by whaling captains or their crew who are registered members of the AEWc of any provisions of the Marine Mammal Protection Act, the Endangered Species Act, or the Whaling Convention Act, as these Acts may relate to aboriginal subsistence whaling; of the International Convention for the

Regulation of Whaling, 1946; of any regulations of the International Whaling Commission; of the Management Plan; or of this agreement.

- (3) The AEWC shall maintain a list containing the names of all registered whaling captains and shall make this list available to the Assistant Administrator for NOAA Fisheries upon request.

6. FUNDING

NOAA shall provide funding, as available, pursuant to the Marine Mammal Protection Act, the Whaling Convention Act, and other authorities, to the AEWC to ensure that it is able to carry out its responsibilities under this Agreement, including but not limited to responsibilities pertaining to animal welfare arising out of the International Whaling Commission. No financial commitment on the part of NOAA is authorized by this Agreement.

7. AUTHORITIES

This Cooperative Agreement is concluded under the authorities governing management of living marine resources, including but not limited to the Marine Mammal Protection Act of 1972 and the Whaling Convention Act of 1949.

8. DURATION

This Agreement will become effective upon the signature of the approving officials of both the AEWC and NOAA, and will remain in effect through March 31, 2026.

9. CONSULTATION

NOAA and the AEWC shall consult during the operation of this Agreement concerning

the matters addressed herein as well as all other matters related to bowhead whales which either party believes are suitable for such consultation. Specifically, NOAA shall consult with the AEWC on any action undertaken or any action proposed to be undertaken by any agency or department of the Federal Government that may affect the bowhead whale and/or subsistence whaling and shall use its best efforts to have such agency or department participate in such consultation with the AEWC.

10. LIMITATION OF USE

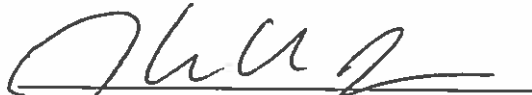
Nothing in the Agreement shall be construed to support or contradict the position of either party regarding the jurisdiction of the International Convention for the Regulation of Whaling, 1946, or the Whaling Convention Act of 1949 with respect to aboriginal subsistence whaling by Alaskan Eskimos.


11. AMENDMENT

This Agreement may be amended from time to time by mutual written consent of the parties. Such amendments may be approved, on behalf of NOAA, by the United States Commissioner to the International Whaling Commission, or his designee.

Dated: 8/1/2019

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John Hopson, Jr.
Chairman
Alaska Eskimo Whaling Commission


Chris Oliver
Assistant Administrator for Fisheries