

SJR

37

COMMITTEE REPORT

SENATE

1/26/88

FURTHER: None

Date: _____

Mr. President:

The Committee on Conservation of Downy Woodpecker has had 2/1/88

Conservation of Downy Woodpecker

under consideration and (a majority of the committee) (the committee reports it back as follows)

- recommends it do pass recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____
- and _____ new title same title
- AND attaches a Letter of Intent New Fiscal Note
- reports it back without recommendation
- and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Chairman



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
P. O. BOX 1668 - JUNEAU, ALASKA 99801

file

February 7, 1978

Honorable Kay Poland
Alaska State Legislature
Juneau, AK 99801

Dear Senator Poland:

In response to the request by the Senate Resources Committee in their final day of hearings on Senate Bills 439 and 440, and Senate Joint Resolution 37, the following information is submitted:

The average yearly take of bowhead whales by all Alaskan Eskimo villages for the past ten years is 24.4 whales. The take in 1976 was 48 whales.

The average yearly take of bowhead whales in Barr ; for the past ten years is 13 whales. The take in 1976 was 23 whales.

The average yearly take of bowhead whales by Soviet natives for the past five years is 2 whales. They took no bowhead whales in 1976.

A call this morning to Dr. George Harry, Director of the Marine Mammal Division of National Marine Fisheries Service in Seattle, confirms that there has been no take of bowhead whales by Canadian Eskimos in recent years.

Bowhead whale catch statistic tables have been attached for your information. Please do not hesitate to call on us if we can be of any further assistance.

Sincerely,

Harry L. Rietze

Harry L. Rietze
Director, Alaska Region

Table 13.--Bowhead whales taken by USSR natives in recent years

Year	Chukchi Sea	Bering Sea	Total
1972	0	1	1
1973	0	2	2
1974	1	2	3
1975	2	2	4
1976	0	0	0

Source: Personal communication from Dr. V.N. Mineev.

Tables taken from: "The 1976 Catch of Bowhead Whales (Balaena mysticetus) by Alaskan Eskimos, with a Review of the Fishery, 1973-1976, and Biological Summary of the Species." by Willman Marquette, U.S. Dept. of Commerce, May 1977

Table 14. Bowhead Whales taken by Alaskan Eskimos and shore-based stations in the western Arctic Ocean.

Year	Barrow	Pt. Hope	Wainwright	Nuigsut	Icy Cape	Kaktovik	Gambell	Savoonga	Kivalina	Misc.	Total
1852	17										17
1853	7										7
1854-79											-
1880			5								5
1881	18										18
1882	1										1
1883	2										2
1884	10										10
1885	28	12									40
1886											-
1887	6										6
1888	2										2
1889	4										4
1890	1	1									2
1891	18										18
1892	8	0									8
1893											-
1894	10										10
1895	4										4
1896	6	33									39
1897	5										5
1898	42 ¹ / ₂	1									43
1899											-
1900	19										19
1901		1									1
1902		2									2
1903	4	0									4
1904	2	0									2
1905	5										5
1906	1										1
1907	9	0									9
1908	23	13			10-12						46-48
1909	11	13			1						25
1910	2+										2
1911	1	3									4

Table 14 . (continued)

Year	Barrow	Pt. Hope	Wainwright	Nuigsut	Icy Cape	Kaktovik	Gambell	Savoonga	Kivalina	Misc.	Total
1912	2	1									3
1913	4	1									5
1914	1	2			1						4
1915		3									3
1916	5	7	1							1	14
1917		3			3					2	8
1918	1	7									8
1919	1	2									3
1920		3									3
1921		2									2
1922	1	13	3								17
1923										2	2
1924		16								9	25
1925	19	10	2								31
1926	4	13									17
1927	2	3									5
1928	11										11
1929	15										15
1930	7										7
1931	11	1									12
1932	7										7
1933	5										5
1934	4										4
1935	6										6
1936	4	4									8
1937	9										9
1938	4										4
1939	6										6
1940	0	5									5
1941	2	8	1								11
1942	10		1								11
1943	6										6
1944	0		2								2
1945	3	3									6
1946	9	2									11

Table 14. (continued)

Year	Barrow	Pt. Hope	Wainwright	Nuigsut	Icy Cape	Kaktovik	Gambell	Savoonga	Kivalina	Misc.	Total
1947	4	6									10
1948	5	0									5
1949	0	4		1							5
1950	4	2		2						1 (Cape Lisburne)	9
1951	9	4									13
1952	0	2+									2
1953	17	4					2				23
1954	1	3									4
1955	19	1		1			2				23
1956	2	2					1				5
1957	0	3					0				3
1958	0	2					0				2
1959	0	1									1
1960	15	4		0							19
1961	6	2		1			1				10
1962	5	6		1							12
1963	5	3		2							10
1964	11	1		1		2			1		16
1965	4	2		0							6
1966	7	5		1							13
1967	3	1		0							4
1968	10	3		2			1				16
1969	11	3		3						1 (Wales)	18
1970	15	8		0					1		24
1971	12	6		2			1		1	1 (Wales)	24
1972		14		2			2		1		39
1973	17	7		3	1	3	2	4			37
1974	9	6		1		2	2		0		20
1975	10	4		0			1		0		15
1976	23	12		3		2	1	7	0	0 (Wales)	48

1/. Combined catch of Eskimos and two vessels.



Alaska Conservation Society

Incorporated in 1960

P.O. Box 60192

College Branch, Fairbanks, Alaska 99708

September 16, 1977

Mr. Robert Schoening, Director
National Marine Fisheries Service
US Department of Commerce, NOAA
Washington, DC 20235

*Senate
Resources*

Dear Bob:

This letter is written on behalf of the Alaska Conservation Society, to urge the United States government to file a qualified objection to the International Whaling Commission's moratorium on bowhead whale hunting by Alaska Natives.

This has not been an easy decision to make. The Society has tried to inform itself fully about the situation. We know the uncertainties about the present status of bowhead whales, the fluid and confused cultural context of the harvest, and the potential international ramifications of a U.S. objection. Having weighed the risks from every angle, we firmly believe that our Nation must support continued bowhead harvests, albeit under a much different level of control, cooperation, and study than previously.

In one sense our decision is based on the knowledge that the prime responsibility for the historic decline of bowhead whales lies not with Alaska Natives but with non-Native commercial whalers. Further, the federal government has been negligent in the extreme since 1972 and 1973 in not mounting an adequate effort to find out the status of bowheads or the effect of subsistence hunting on bowhead numbers; in failing to establish cooperative relations with hunters; and in failing to heed the repeated warnings of the International Whaling Commission. In short, both the longterm reduction in bowhead numbers and the present crisis atmosphere are largely our national responsibility. Now we need to proceed with a decision that balances careful conservation with sensitivity to human needs, and we think it would be grossly unfair to ask Native hunters and their families to bear the entire costs of that decision.

There is no doubt that Native hunters must share some of the responsibility as well. The ranks of longtime hunters have been swelled by the addition of young Eskimos who, now wealthy enough to outfit a whaling crew, compete for the prestige of killing a whale. The overall harvest has gone up since 1974; worse, the struck-and-lost rate has increased sharply. When too many whales were beached at once, waste has occurred.

The Alaska Conservation Society offers recommendations dealing with hunting, research, and cooperation between government and citizen. We base these recommendations on two premises: 1) That the United States will have to show the world community and IWS in particular, a substantive response to the need for bowhead conservation; and 2) That Native people recognize the gravity of the situation and will not only regulate their own actions more closely but will cooperate in all phases of a bowhead conservation program.

Hunting

The Society recommends adoption of a quota and permit system for limiting the overall kill in 1978 and subsequent hunts as may be authorized. Recognizing that any number will be more or less arbitrary, we recommend a quota of twenty five whales yearly beginning in 1978, subject to change as soon as new and convincing population data indicate that a change is needed or permissible. A permit will be considered filled if a whaling crew kills and beaches a whale, or strikes and loses a whale. This should provide a strong incentive to harpoon or shoot at only those whales where chances of loss are small. The number of whales harvested (beached) under this system probably would be 10 to 15, close to the longterm average for years prior to 1975.

Each traditional whaling community would receive a block of permits in numbers proportional to the historic take in that community. The community itself, or a recognized association of whalers such as the newly formed Alaska Eskimo Whalers Commission, would then allocate the permits to specific whaling captians or cooperatives. The hunt would be monitored by both local and federal officials. If substantial abuses occurred, the US should immediately withdraw its objection to the IWC moratorium.

Hunting technology is an important aspect of the situation. Fewer whales are lost when harpoons (with attached lines and floats) are struck into the whale first, with or without later use of explosive-

shell shoulder guns. However, use of harpoons increases the risk to the whalers. A decision must be made either to require the use of harpoons or to develop much more lethal explosive projectiles; the present reliance on individual choice of a mix of weapons has contributed to the current conservation problem.

Research

A big share of the bowhead problem is that no one has convincing information on the number or composition of arctic bowhead stocks. Such information is urgently needed. Funding this research is the responsibility of the federal government.

Bowhead research should start immediately, in October 1977. The studies should consist of at least the following:

- a) Re-examination of existing data. There is reason to believe that presently available data could support a firmer population estimate than given by NMFS in its Environmental Impact Statement.
- b) Aerial surveys for visual observation of migrating whales.
- c) Surface counts using the best available equipment for echo sounding and vocal signal reception. Equipment could be tested in the field this fall for major census in the spring of 1978.
- d) Radio tagging of whales as feasible. Marking-resighting census techniques are well within the state-of-the-art and should be used whether or not radio tagging is possible.
- e) Use of an icebreaker in April and May each spring for three years beginning in 1978 as a mobile base for surface research and helicopter operations.

We urge most strongly that the help of Alaska Natives be sought and used to the utmost in this research program. Such an action would pay off in better research results as well as in overall cooperative relationships.

Cooperation

Tensions are high among the various groups involved in the bowhead problem. The main reasons are that the federal government has had no

continuing cooperative presence in arctic Alaska, acting as though one could understand the whole world from Washington, DC; and, on the other hand, that some Native spokesmen have been extremely defensive and "militant". It is absolutely essential that these tensions be resolved. Day to day and face to face contacts need to be established in arctic Alaska among people with clear responsibilities for various aspects of the bowhead program. Involvement of local people in research, as I just mentioned, is important.

We understand the discomfort U.S. representatives may feel when they file an objection this fall to the IWC moratorium. Indeed, some countries may gleefully seize on this as evidence of hypocrisy in our position on whales. I am convinced, however, that the world at large will respect us if we admit to some mismanagement of bowheads but, at the same time, put our reputation on the line behind a sound program responsive to biological conservation and human needs.

Please enter this letter in the record of hearings on the bowhead whale question.

Sincerely yours,

ALASKA CONSERVATION SOCIETY

Bob

Robert B. Weeden
President

RBW/ts

Alaska Eskimo Whaling Commission

Box 570
Barrow, Alaska 99723

TESTIMONY IN SUPPORT OF SJR 37; SB 439; AND SB 440 BEFORE THE SENATE RESOURCES COMMITTEE BY JACOB ADAMS, CHAIRMAN, ALASKA ESKIMO WHALING COMMISSION

MR. CHAIRMAN, MY NAME IS JACOB ADAMS, AND I AM CHAIRMAN OF THE ALASKA ESKIMO WHALING COMMISSION. I AM HERE WITH MR. ARNOLD BROWER, PRESIDENT OF THE BARROW WHALING CAPTAINS ASSOCIATION. OUR BARROW WHALING COMMUNITY IS THE LARGEST OF EIGHT WHALING VILLAGES IN ALASKA. THE OTHERS ARE KAKTOVIK (BARTER ISLAND), WAINWRIGHT, PT. HOPE, KIVALINA, SAVOONGA AND GAMBEL. THE ALASKA ESKIMO WHALING COMMISSION WAS ORGANIZED WHEN THE BARROW WHALING CAPTAINS ASSOCIATION JOINED WITH THE NORTH SLOPE BOROUGH TO HOLD THE FIRST STATE-WIDE WHALING CAPTAINS CONFERENCE IN BARROW LAST AUGUST. THIS WAS AN HISTORIC GATHERING OF OUR WHALING CAPTAINS, IMPORTANT TO THE HISTORY OF THE ENTIRE ARCTIC, AND IMPORTANT TO THE DEVELOPMENT OF EFFECTIVE MANAGEMENT OF ALASKA'S SUBSISTENCE RESOURCES, PARTICULARLY OUR MIGRATORY SPECIES. THE MEETING WAS CALLED TO DEAL WITH THE INTERNATIONAL WHALING COMMISSION'S DECISION TO REGULATE NATIVE SUBSISTENCE WHALING, AND TO PLACE A "ZERO" SUBSISTENCE QUOTA ON THE BOWHEAD.

THE IWC IMPOSED ITS BAN LAST JUNE, AND BY AUGUST WE HAD LEARNED THAT THE NATIONAL OCEANOGRAPHIC AND ATMOSPHERIC ADMINISTRATION, WORKING WITH A FEW WASHINGTON, D.C. WHALE CONSERVATIONIST LOBBYISTS, HAD BEEN TRYING SINCE 1970 TO USE THE INTERNATIONAL WHALING COMMISSION TO BRING ALASKA'S

BOWHEAD SUBSISTENCE HUNT UNDER REGULATION. UNTIL WE WERE CONTACTED EARLY IN 1977, WE HAD RECEIVED NO WORD OF THE IWC'S CONCERN ABOUT ALASKA'S SUBSISTENCE BOWHEAD WHALING. HAD WE BEEN ASKED EARLY ON TO ORGANIZE TO HELP THE U.S. RESPOND TO IWC CONCERNS, THERE WOULD HAVE BEEN NO BOWHEAD WHALE CONTROVERSY TODAY AND MUCH OF THE POLITICAL REACTION THAT RESULTED IN THE 1978 QUOTA OF JUST 12 BOWHEAD WHALES FOR ALASKA COULD HAVE BEEN AVOIDED.

SINCE ITS ORGANIZATION, THE ALASKA ESKIMO WHALING COMMISSION, CONSTITUTED OF WHALING CAPTAINS FROM EACH OF ALASKA'S 9 WHALING COMMUNITIES, HAS MET IN BARROW TO ADOPT ITS OWN BOWHEAD WHALING REGULATIONS, COPIES OF WHICH HAVE BEEN PROVIDED YOU. THE BASIC PROVISIONS OF THE AEWG MANAGEMENT PLAN IS TO PROVIDE FOR THE MANNER IN WHICH THE BOWHEAD WHALE HARVEST WILL TAKE PLACE, REPORTING REQUIREMENTS BY WHALING CAPTAINS, METHOD OF DETERMINING THE LEVEL OF HARVEST, ATTEMPTS TO HARVEST BY EACH VILLAGE AND PROVIDING FOR PENALTIES.

LAST WEEK, THE ALASKA ESKIMO WHALING COMMISSION MET TO RESPOND TO THE NEW IWC QUOTA. A CONCENSUS WAS REACHED BY THE COMMISSION TO ABIDE BY THE QUOTA FOR THE 1978 SEASON IF SEVERAL CONDITIONS WERE MET. THE CONDITIONS SET WERE REGULATIONS BY THE AEWG IN COOPERATION WITH THE FEDERAL GOVERNMENT, IMMEDIATE RESEARCH ON WEAPONS IMPROVEMENT, COMMITMENT BY THE GOVERNMENT TO PROVIDE FOR ALTERNATIVE SUBSISTENCE RESOURCES, FULL PARTICIPATION IN FUTURE IWC DECISIONS AND A COMMITMENT BY THE U.S. GOVERNMENT TO WORK

FOR RESTORATION OF A FULL SUBSISTENCE HUNT. BECAUSE WE BELIEVE IN COOPERATIVE MANAGMENT OF SUBSISTENCE RESOURCES, THE COMMISSION DECIDED TO TRY TO COOPERATE WITH THE IWC QUOTA AND THE U.S. GOVERNMENT. OUR PROPOSAL IS NOW IN THE FEDERAL GOVERNMENT HANDS, WE WOULD ASK THE ALASKA STATE LEGISLATURE AND THE ADMINISTRATION TO REQUEST THAT THE U.S. GOVERNMENT COOPERATE WITH THE AEWG TO ACHIEVE THE BEST POSSIBLE MANAGEMENT OF THE BOWHEAD WHALE.

THE COMMISSION ALSO ENDORSED THE GOVERNMENTS RESEARCH PROGRAM WITH THE EMPHASIS THAT THE RESEARCH BE DONE IN A EXPEDITIOUS MANNER AND TO PROVIDE FOR PARTICIPATION BY THE WHALING CAPTAINS.

MR. CHAIRMAN, THE NATIONAL MARINE FISHERIES SERVICE WILL SPEND ABOUT \$700,000 ON BOWHEAD RESEARCH THIS YEAR. THIS WILL ENABLE THE EMPLOYMENT OF SCIENTISTS AND WHALERS TO COOPERATE IN AIR AND SURFACE SURVEILLANCE OF THE SPRING BOWHEAD MIGRATION. MOST OF US WHALERS BELIEVE THAT THERE ARE MANY MORE WHALES THAN THE 1300 ESTIMATED BY THE GOVERNMENT. WE FEEL THAT A MORE ACCURATE COUNT WILL JUSTIFY THE RESTORATION OF OUR SUBSISTENCE EXEMPTION FROM REGULATION BY THE IWC, AND THUS THE REMOVAL OF OUR SUBSISTENCE WHALING FROM THE INTERNATIONAL POLITICS OF COMMERICAL WHALING.

WE WERE PLEASED TO HEAR THAT THE LEGISLATION BEFORE YOU HAD BEEN INTRODUCED. THIS LEGISLATION WILL PROVIDE THE STATE DEPARTMENT OF FISH AND GAME WITH THE AUTHORITY TO ACTIVELY PARTICIPATE AS WE ESTABLISH THE FIRST COOPERATE MANAGEMENT SYSTEM FOR AN IMPORTANT MIGRATORY SUBSISTENCE SPECIES. THIS WEEK, WE LEARNED THAT THE HOUSE VERSION OF THE D-2 BILL WILL

PROBABLY PROVIDE FOR STATE JURISDICTION OVER NATIVE SUBSISTENCE HUNTING IN ALASKA. THIS CONCESSION WILL NOT BE POPULAR IN RURAL ALASKA. I WOULD LIKE TO SUGGEST THAT THIS LEGISLATION WILL ENABLE THE STATE TO JOIN WITH SUBSISTENCE HUNTERS AND THE FEDERAL GOVERNMENT TO DESIGN A PROTOTYPE COOPERATIVE MANAGEMENT SYSTEM ABLE TO DEAL WITH A SINGLE MIGRATORY SPECIES THROUGHOUT ITS RANGE. THE WORK AND EXPERIENCE OF THE ALASKA ESKIMO WHALING COMMISSION WILL HAVE SIGNIFICANT IMPACT UPON THE EARLY DEVELOPMENT OF COOPERATIVE SUBSISTENCE RESOURCE MANAGEMENT REGIMES CAPABLE OF HONORING AND UPHOLDING NATIVE SUBSISTENCE HUNTING RIGHTS. ONCE SUCH A REGIME IS IN PLACE FOR THE BOWHEAD, ITS PRINCIPLES CAN BE APPLIED TO OTHER MARINE MAMMALS, AND TO THE CARIBOU. THERE HAS BEEN TALK OF TRANSFERRING JURISDICTION OVER THE SUBSISTENCE HUNTING OF OTHER MARINE MAMMALS FROM THE FEDERAL GOVERNMENT TO THE STATE. AND THERE IS THE PROBLEM OF THE MANAGEMENT OF THE U.S./CANADIAN ARCTIC CARIBOU HERDS. ALL OF THESE ARE SUBSISTENCE SPECIES MANAGEMENT PROBLEMS THE SOLUTIONS FOR WHICH COULD BE BASED UPON THE EXPERIENCE OF THE ALASKA ESKIMO WHALING COMMISSION. SUCCESSFUL STATE EXPERIENCE HERE COULD HELP REDUCE NATIVE OPPOSITION TO STATE REGULATION OF SUBSISTENCE HUNTING.

THE EXPENSES OF THE ALASKA ESKIMO WHALING COMMISSION HAVE BEEN PAID FROM A \$100,000 APPROPRIATION BY THE NORTH SLOPE BOROUGH ASSEMBLY THAT WAS MADE SHORTLY AFTER THE COMMISSION WAS FORMED. HOWEVER, WE WOULD LIKE TO SEE THE COMMISSION BECOME INDEPENDENT OF THE NORTH SLOPE BOROUGH,

AND THE MONEY AUTHORIZED AND APPROPRIATED BY THE LEGISLATION BEFORE YOU WOULD MAKE THIS POSSIBLE. THE COMMISSION WOULD USE THE MONEY TO EMPLOY A SMALL STAFF TO WORK CLOSELY WITH STATE AND FEDERAL AGENCIES INVOLVED IN WHALE RESEARCH AND WHALING SURVEILLANCE; TO ORGANIZE AND DIRECT ON-GOING WHALING WEAPONS IMPROVEMENT PROGRAMS; AND IN THE PRACTICAL PROBLEMS OF ENFORCEMENT OF THE AEWCS OWN REGULATIONS. ALL OF THIS WILL REQUIRE A SERIOUS WHALING VILLAGE EDUCATION PROGRAM AIMED AT LOCAL UNDERSTANDING OF THE NEED FOR QUOTA COMPLIANCE AND AEWCS REGULATION OF OUR PREVIOUSLY UNREGULATED HUNT OF THE BOWHEAD WHALE. EARLY STATE SUPPORT OF THE AEWCS WOULD STRENGTHEN OUR STATUS AND NEGOTIATIONS WITH THE NATIONAL MARINE FISHERIES SERVICE.

MR. CHAIRMAN, THE LEGISLATION BEFORE YOU WAS NOT REQUESTED BY THE ALASKA ESKIMO WHALING COMMISSION, BUT IT REFLECTS THE GOOD WILL THAT WE HAVE ENJOYED FROM ALL OF ALASKA AS WE HAVE BATTLED IN WASHINGTON, D.C. AND TOKYO TO DEFEND OUR SUBSISTENCE WHALING. THANKS TO A SENSITIVE LEGISLATURE, WE DIDN'T HAVE TO ASK FOR THE LEGISLATION, BUT WE APPRECIATE ITS INTRODUCTION AND YOUR EXPEDITIOUS HEARINGS.

THANK YOU VERY MUCH.

AEWC MANAGEMENT PLAN

Subpart A - Introduction

§100.1 Purpose of regulations

It is the purpose of the regulations contained herein to: (a) insure an efficient subsistence harvest of bowhead whales; and (b) provide a means within the Alaskan Eskimo customs and institution of limiting the bowhead whale harvest in order to prevent the extinction of such species.

§100.2 Scope of regulations

The regulations contained herein apply to the subsistence hunting of bowhead whales by Eskimos located in the State of Alaska.

Subpart B - Alaska Eskimo Whaling Commission

§100.11 Powers

(a) The Alaska Eskimo Whaling Commission (hereinafter AEWK) is empowered to administer the regulations contained herein to insure that the purposes stated in §100.1 of these regulations are attained.

(b) The AEWK is empowered to enforce these regulations by:

(1) denying any person who violates these regulations the right to participate in hunting the bowhead whale.

(2) acting as an enforcement agent for any governmental entity authorized to enforce these regulations.

(c) The AEWK is empowered to promulgate interim regulations that are in addition to, but not in lieu of, regulations contained herein.

§100.12 Duties

(a) The AEWK shall administer and enforce the regulations contained herein (including any interim regulations.)

(b) The AEWK shall conduct village educational programs to facilitate compliance with these regulations, including training programs for whaling captains and crews.

(c) The AEWC shall initiate research for improvement of the accuracy and reliability of weapons.

Subpart C - Regulations

§100.21 Definitions

(a) "bowhead whale" means a whale whose scientific name is Baleana mysticetus and which migrates past whaling villages in Alaska.

(b) "captain" means the person in charge of a whaling crew,

(c) "harvest" means to kill and bring to shore or butchering area.

(d) "non-traditional weapons" means any instrument that could be used to harvest a bowhead whale that is not a traditional weapon.

(e) "Scientific Committee" means the committee established pursuant to §100.26 of these regulations.

(f) "traditional weapon" means a harpoon with line attached, darting gun, shoulder gun, lance or any other weapon approved by the AEWC with the concurrence of the Scientific Committee, as such a weapon in order to improve the efficiency of the bowhead whale harvest.

(i) "harpoon with line attached" means a harpoon with a rotating head which is attached to a line and float and which has no explosive charge. (See Figures 7 and 8 of Appendix E of the FEIS on the International Whaling Commission's Deletion of Native Exemption for the Subsistence Harvest of Bowhead Whales (October, 1977) (hereafter FEIS),

(ii) "darting gun harpoon" means a harpoon with an explosive charge and with a line and float attached. (See Appendix E of the FEIS in Figure 4.)

(iii) "shoulder gun" means a whaling gun, adapted from the era of commercial whaling in the 19th Century, which has an explosive charge and which has no attached line and float. (See Appendix E of the FEIS in Figure 5.)

(iv) "lance" means a non-explosive sharply pointed weapon without a harpoon head.

(g) "whaling crew" means those persons who participate directly in the harvest or attempted harvest of the bowhead whale and are under the supervision of a captain.

(h) "whaling village" means the Alaska Eskimo village in which resides a whaling captain and crew which participates in the harvest or attempted harvest of bowhead whales.

(i) "whaling season" means customary period of time during which the bowhead whale is harvested, either in the Spring or Fall.

§100.22 Registration

(a) Each captain shall register with the AEWG on forms provided by the AEWG for that purpose which discloses his name, address, age, qualifications as captain, names of crew members, and his willingness to abide by the regulations of the AEWG and to require his crew to abide by those regulations.

(b) The AEWG shall take into account any reading or language difficulties in developing procedures and forms for registration.

§100.23 Reports

(a) Each whaling captain shall be responsible for keeping a written record of the number of whales --

- (1) attempted to be harvested by using traditional weapons but not harvested,
- (2) harvested by the captain or his crew, and
- (3) sighted by the captain or his crew.

(b) Each whaling captain shall report the date, place, and time of any striking not resulting in harvesting and shall describe --

- (1) the size of the bowhead whale,
- (2) any known later attempted harvest or actual harvest of said whale, and
- (3) the reason for the captain or crew not harvesting the whale -- e.g. environmental factors, the failure of traditional weapons, or other reason.

(c) Each whaling captain shall make such other reports as the AEWB requires in order to accomplish the purposes of the regulations herein or in order to advance the scientific knowledge of the bowhead whale.

§100.24 Permissible harvesting methods

(a) No whaling captain or crew shall harvest or attempt to harvest the bowhead whale in any manner other than the traditional harvesting manner.

(b) "Traditional harvesting manner" means:

- (1) only traditional weapons shall be used, as defined in §100.21(f).
- (2) the bowhead whale may be struck with a harpoon or darting gun with line and float attached or simultaneously with harpoon and shoulder gun or darting gun.
- (3) the shoulder gun may be used
 - (i) when accompanied by harpoon with or without a darting gun.
 - (ii) after a line has been secured to the bowhead whale, or
 - (iii) when pursuing a wounded bowhead whale with a float attached to it.
- (4) the lance may be used after a line has been secured to the bowhead whale.

§100.25 Traditional proprietary claim

The bowhead whale shall belong to the captain and crew which first strikes the bowhead whale in the manner described in §100.24.

§100.26 Level of harvest

(a) The AEWc shall establish the levels of harvest and attempted harvest for each whaling village during each season. Such levels may be set by methods including, but not limited to, the following:

- (i) Specification of number of whaling crews permitted to harvest or attempt to harvest bowhead whales during specified periods;
- (ii) Specification of the size or age of whales which may be taken during specified periods, after consultation with the Scientific Committee.
- (iii) Specification of the number of whales that may be taken by each crew.
- (iv) Specification of the number of bowhead whales which may be harvested or attempted to be harvested by each village.

(b) The level of harvest supported by scientific data shall be no greater than that necessary to meet the cultural and nutritional needs of the Eskimo inhabitants of the State of Alaska.

(c) In establishing the levels of harvest and attempted harvest, the AEWc shall not establish levels of harvest or attempted harvest greater than the carrying capacity of the bowhead whale stock, supported by scientific data.

(d) The carrying capacity of the bowhead whale stock shall be determined by a Scientific Committee appointed by the Polar Research Board of the National Academy of Sciences. The Scientific Committee shall consist of nine members who are qualified by reason of their education and experience to make objective determination concerning the carrying capacity of the bowhead whale stock. Three of the nine members shall be members of the Eskimo community. The AEWc shall make recommendations to the Polar Research Board for the choice of Eskimo members.

(e) In determining the carrying capacity of the bowhead whale stock the Scientific Committee shall not consider any prospective threats to the species resulting from oil and gas development within the habitat of such species. Provided, however, that this section may be further implemented by the Scientific Committee and the AEWG at a later date in the event of actual risks.

(f) The mortality rate for attempted harvest shall be determined by the Scientific Committee.

Subpart D - Penalties

§100.31 Denial of participation in harvest:

(a) Any person who the AEWG determines has violated the regulations contained herein shall, after opportunity for a hearing before the AEWG, be prohibited from harvesting or attempting to harvest the bowhead whale for a period of not less than one whaling season nor more than five whaling seasons.

(b) Any person who willfully violates the regulations contained herein shall be subject to a fine of not more than \$1,000 assessed by the AEWG. No person shall harvest or attempt to harvest the bowhead whale until such fine has been paid.