

Otter commission calls rule change 'devious'

by **Alexandra J. McClanahan**
Tundra Times publisher

A proposed U.S. Fish and Wildlife Service rule to restrict the taking of sea otters by Alaska Natives is being strongly opposed by the Alaska Sea Otter Commission.

"This proposed regulation is in direct conflict with a law known as the Marine Mammal Protection Act which guarantees Alaska Natives the right to

Subsistence

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sell sea otter handicrafts," according to a commission letter to Alaska Natives.

Commission spokesperson Kimberly Martus called the proposal unfair. "We think it's devious," she said

of the U.S. Fish and Wildlife Service's action. "They are abusing the rule-making process to actually change a statute that guarantees rights to Native."

Among others opposing the change are the Rural Alaska Community Action Program and the Alaska Federation of Natives.

"In light of the clear intent of Congress to not extinguish traditional uses

of marine mammals by Alaska Natives, we are, quite understandably in our opinion, alarmed that the service, in regard to this proposed ruling, seeks to do just that," Jeanine Kennedy, RurALCAP executive director, said in a letter to the Fish and Wildlife Service.

The rule would prohibit the taking

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of sea otters by Alaska Natives for use in creating and selling authentic Native articles of handicrafts and clothing under the Native exemption section of the Marine Mammal Protection Act of 1972.

The proposed rule would allow continued Native take of sea otters for subsistence use only, according to the Fish and Wildlife Service.

The marine mammal act provides for a moratorium on the taking and importation of marine mammals and marine mammal products, including the Northern sea otter. However, Congress created a limited exemption for Alaska Natives.

Fish and Wildlife Service officials say they have determined that the intent of Congress in passing the Native exemption was to preserve existing Native uses of marine mammals, rather than to promote expansion of Alaskan arts and crafts industries or the creation of new industries.

The agency claims that sea otters were not being taken for handicraft or clothing uses when Congress passed the act, therefore officials say the act prohibits the taking of sea otters by Alaska Natives for use in creating and selling handicrafts and clothing.

Both AFN and RurALCAP's Kennedy note, however, that Natives have traditionally used sea otters.

"When one considers that the proposed ruling was not based on any biological factors, ignores evidence of traditional use and was authored by the service's Enforcement Division, a clear impression emerges that the service is attempting to unlawfully harass Native artisans," Kennedy said in her letter.

A series of public meetings has been scheduled by the service to take comments on the proposal, and the first was held last month in Atka, followed by meetings earlier this month in Sitka, Klawock and Cordova.

Martus said the Alaska Sea Otter Commission, a subsistence advocacy organization comprised of sea otter harvester/advocates from the Chugach, Cook Inlet, Koniag, Aleutian Islands, Sealaska and Bristol Bay regions, is urging all Alaska Natives to help decide the fate of the regulation.

In addition, she said the organization has called for a mediation meeting with the Fish and Wildlife Service, following this week's two-day subsistence conference.

Martus said the agency has agreed to meet with subsistence advocates Tuesday at 5 p.m. at the Egan Convention Center, the site of the subsistence conference.

She said advocates hope to convince the Fish and Wildlife Service that a series of public meetings is not the best means of dealing with the proposal.

"We believe this is a very superficial way to solve this," she said, noting that most Alaska Natives do not read the *Federal Register*, where the proposed rule was published, and many may not be aware of the hearings.

The Alaska Sea Otter Commission supports negotiations, she said.

She said the commission believes that the rule would actually undermine subsistence rights of all Alaska Natives.

Martus said the commission eventually hopes to develop management plans for sea otters and is in the process of initiating efforts to become a managing partner of the resource.

Other meetings planned by the Fish and Wildlife Service on the proposal include:

•Tonight — 6 p.m., U.S. Fish and Wildlife Service Regional Office,

Comments and materials concerning the rule may be sent to: Regional Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage 99503.

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•Thursday — 7 p.m., Kachemak Bay Campus of the Kenai Peninsula College, 533 E. Pioneer Ave., Homer.

•Oct. 23 — 7 p.m., Fisherman's Hall, Kodiak.

•Oct. 24 — 7 p.m., Senior Citizens Center, Dillingham.

•Oct. 26 — 7 p.m., Seldovia Native Association Office, Seldovia.

•Oct. 30 — 1 p.m., Fort Mason Center, Golden Gate National Recreation Area, Building 201, San Francisco.

The closing of the comment period for the proposed rule is Nov. 30. Comments and materials concerning the rule may be sent to: Regional Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage 99503.