

TESTIMONY
of
JOHN HOPSON JR
CHAIRMAN, ALASKA ESKIMO WHALING COMMISSION
before the
U.S. SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
Russell Senate Office Building, Room 253
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2:30 pm

EXECUTIVE SUMMARY

The bowhead whale subsistence harvest, conducted for millennia, is critical to the food security and nutritional and cultural health of thousands of American citizens living in northern and western Alaska. The Scientific Committee of the International Whaling Commission (IWC) confirms the harvest as sustainable and Alaska Native subsistence need for bowhead whales is well documented. The IWC subsistence harvest quota for bowhead whales expires in December 2018. A successful effort to block the 75 percent majority vote needed to renew the IWC quota could render this harvest illegal under international law.

The bowhead subsistence quota was blocked for political reasons in 2002. The IWC ended its meeting without acting on the U.S./AEWC bowhead whale subsistence quota request. The quota was later restored at an intersessional meeting. Greenland subsistence whaling quotas were not set in 2012, again for political reasons, but their quota was not restored. Greenland hunters were forced to gather food without a quota and have been branded as international outlaws.

The IWC will hold its 2018 meeting in September. If the IWC fails to reset the bowhead whale subsistence quota, the U.S. will have only three and a half months to attempt reinstatement, since the AEWC's villages in the Bering Strait Region hunt throughout the winter, taking whales as early as the first week of January.

Failing this, through no fault of ours, we will be branded as outlaws, compelled to feed our families without an IWC quota in place.

In northern Alaska, members of the Native community wait anxiously for each quota outcome at the IWC. This international legal threat, if it occurs, will be devastating, creating confusion, panic, and the fear of hunger in our remote, isolated communities.

The potential for the IWC to fail to act on a quota request was not contemplated by the drafters of the International Convention for the Regulation of Whaling (Convention) nor by Congress in passing the Whaling Convention Act (Act, 16 U.S. Code Subchapter II). We seek a clarifying amendment to the Act to address this oversight.

TESTIMONY

Good afternoon, my name is John Hopson, Jr., I am a husband and father, and a whaling captain in the bowhead whale subsistence harvest. I was born and have lived all my life in Wainwright, Alaska. Among other duties within my community, I serve as Wainwright's Commissioner to the Alaska Eskimo Whaling Commission (AEWC), and as Chairman of the AEWC.

Today I would like to give you some background on the Alaska Eskimo Whaling Commission, and on the statute and international treaty that bring us here today.

The Alaska Eskimo Whaling Commission

The Alaska Eskimo Whaling Commission (AEWC) is a not-for-profit entity, formed by the whaling captains of 11 United States communities located along the northern coast of Alaska, from the Bering Strait Region to the U.S. border with Canada. There is no road system in northern Alaska. Our remote villages are accessible only by air or sea. Village supplies arrive by barge or airplane, making store-bought supplies and food items extremely expensive in our communities, where there are few employment opportunities. Therefore, we depend on hunting to feed our families, with the ocean as our most important source of food and natural supplies.

Bowhead whales, which can range up to more than 50 feet in length, averaging about one ton/foot in weight, are our most important resource and the bowhead whale harvest is the heart and soul of our subsistence culture.

In 1977, the IWC banned our subsistence harvest. Neither the IWC nor the U.S. Government consulted with our people before taking this action. We learned about this decision when federal marshals showed up in our villages and told our elders that we could no longer conduct our subsistence harvest.

The IWC's decision was based on faulty research which led people to believe that the Western Arctic bowhead whale stock, from which we hunt, was severely depleted and declining toward extinction. Our whaling captains, who have spent countless generations observing the whales, knew that the stock was healthy and growing rapidly, after having been heavily hunted and depleted during the time of Yankee commercial whaling in the late 1800s and early 1900s.

The IWC's action was devastating to our communities and led to widespread hunger, because there is no means of replacing either the quantity or quality of the food that the whale provides. So, the whaling captains of our villages joined together to form the AEWC, to work with the U.S. Government and the IWC to address both scientific understanding and harvest management concerns related to the bowhead whale and our subsistence harvest.

We are very fortunate that the North Slope Borough was able to step in and develop a research program that, still today, provides reliable science on our bowhead whale stock.

Today, 40 years after the federal marshals came to our villages, conservation organizations from around the world refer to the AEWC's management practices as the gold standard in wildlife conservation. The bowhead whale science program is recognized around the world as state-of-the-art.

The AEWC manages the bowhead whale subsistence harvest, pursuant to tribal delegation, under a Cooperative Agreement with NOAA, originally entered in 1980, under Section 112 of the Marine Mammal Protection Act. The AEWC's Management Plan, approved by NOAA, contains the rules that govern the conduct of our harvest. Under the Cooperative Agreement and Management Plan, the AEWC reports seasonal harvest results to NOAA Fisheries and consults with NOAA on questions and decisions related to management of the harvest.

The North Slope Borough, in cooperation with the AEWC's whaling captains and the National Marine Fisheries Service's Marine Mammal Laboratory, conducts research on the size and health of the Western Arctic bowhead whale stock, reporting research results annually to the IWC's Scientific Committee. Researchers conduct a census of the population every five to ten years and submit results and revised population estimates to the Scientific Committee for scientific peer review. Mayor Brower and Dr. Suydam will speak more to these topics.

The Whaling Convention Act of 1949 Must Be Amended to Address a Drafting Flaw in the International Convention for the Regulation of Whaling

The U.S. is an original signatory of the 1946 Convention, establishing the IWC. Domestically, NOAA implements the Convention and decisions of the IWC through the Whaling Convention Act and its regulations.

The IWC was founded to manage commercial whale hunts. An IWC moratorium on the commercial harvest of all whale stocks went into effect in 1986. Since that time, the IWC has managed the world's four Aboriginal subsistence harvests of large whales, including the bowhead whale. Under the Convention, the IWC manages harvests through the setting of quotas on whale stocks.¹ The setting of a quota requires an amendment to the legally binding Schedule of the IWC and the Schedule can only be amended through an affirmative vote of 75 percent of the voting members. Thus it is not very difficult for just a few countries to block a quota even if the scientific evidence shows that a harvest is sustainable.

Article V of the Convention provides a process by which IWC members can object to decisions of the IWC. However, the Convention does not provide a legal remedy for situations in which the IWC fails to act affirmatively to amend its Schedule, nor does the Act provide a remedy in this instance. Certainly, such an event would not have been anticipated by the Convention's original drafting parties, who came together for the express purpose of coordinating their commercial whaling activities. However, a successful effort to block a 75 percent majority vote

¹ Harvests are also subject to population research and animal welfare requirements. In addition, Aboriginal subsistence harvests are subject to proof that the hunting communities need the food.

on the bowhead whale subsistence quota could deny Alaska Natives legal access to the critical nutritional and cultural resource of the bowhead whale.

This is the issue we seek your assistance in addressing.

The prevailing interpretation of the Convention holds that Aboriginal subsistence quotas, which are set forth in the Schedule in multi-year blocks, expire at the end of the final year listed for each quota block. Thus, a failure of the IWC to amend the Schedule to establish a new quota block, arguably, results in the expiration of the harvest quota. In this case, any ongoing harvests by subsistence communities, who depend on whaling for survival, are considered illegal, regardless of the reason for the IWC's failure to re-establish the quota.

Therefore, a harvest that is determined to be sustainable by the IWC Scientific Committee and that is critical to human survival, can be rendered illegal by a successful effort to block the 75 percent majority vote needed to renew an existing quota.

This is not a remote possibility. Today, powerful members of the international NGO community wield significant influence at the IWC. Some of these organizations oppose all forms of whaling, including Native subsistence harvests. Some use this opposition as a basis for funding and membership drives.

The U.S. is a leader and strong advocate for the IWC's efforts to protect whale stocks from over-exploitation, to reduce by-catch, and to promote healthy marine habitat. Simultaneously, the U.S. works with the IWC's three other subsistence harvesting nations – Russia, Denmark/Greenland, and St. Vincent and the Grenadines – in the effort to preserve the bowhead whale and other sustainable Aboriginal subsistence quotas at the IWC.

The U.S. Delegation provides support for the AEWC in our effort to preserve the legal right of Alaska Natives to continue the sustainable bowhead whale harvest. However, the IWC has become fragmented into voting blocks. Thus, the U.S. must assemble a consensus or a sufficient majority to carry a vote to amend the Schedule, across voting blocks that include countries strongly opposed to the setting of any whaling quotas, including countries under the political influence of international anti-whaling organizations. The U.S.'s ability to succeed at this effort is increasingly less certain.

In addition, IWC members from both pro- and anti-whaling factions at times oppose the bowhead quota for reasons entirely unrelated to their views on whaling or to the proven health of the whale stock, the need of our communities for food, or the AEWC's and U.S.'s highly successful management of the harvest and science program. Rather, IWC members at times oppose the bowhead subsistence quota to influence U.S. views on other issues. In the spring of 2002, the IWC ended its meeting without setting a bowhead harvest quota, due to a political dispute between the U.S. and other countries, unrelated to the Alaska subsistence harvest. As a result, and without justification, we again faced a moratorium on our crucial bowhead whale

harvest, despite sound science and international regard for the AEWC's stellar management practices.

While our bowhead whale subsistence quota ultimately was restored at an IWC intersessional meeting in 2002, the threat to our quota was renewed at the IWC's 2007 meeting and preserving our legal ability to harvest this resource is an ongoing political and strategic challenge for the U.S.

To further illustrate the mounting intensity of opposition to Native food gathering, this year a young man from Gambell, Alaska was subjected to vicious attacks and even death threats through Facebook posts, following the landing of a whale. Chris Apassingok is 16 years old. He, his family, and his community were elated when he landed his first whale, enabling him to "feed the people." Their joy turned to fear for his safety and mental health as the malicious posts started pouring into his Facebook account, instigated by Paul Watson of Sea Shepard.

In October 2012, the last meeting at which the IWC considered Aboriginal subsistence quotas, anti-whaling interests blocked action on a request by Greenland for a minor increase in its subsistence harvest numbers. As in 2002, with the bowhead quota, members of the IWC attempted to address the Greenland situation through an intersessional meeting, hosted by the U.S. However, enough countries failed to attend the meeting that a quorum could not be established. As a result, in 2013, Greenland subsistence hunters were compelled to harvest food for their families and communities without an IWC quota. For this, they have been branded as international outlaws among anti-whaling forces and dogged at the IWC.

The Need for Action Is Urgent

The IWC now holds its biannual meetings in the fall. In 2018, the meeting will be held in September. The AEWC's villages in the Bering Strait Region conduct their harvests throughout the winter, sometimes as early as the first week of January. Therefore, if the IWC fails to reset the bowhead whale subsistence quota in September, the U.S. will have only three and a half months to try to rally a quorum of IWC members to an intersessional meeting. Failing this, our whaling captains would be forced to hunt as outlaws to feed our families.

In northern Alaska, members of the Native community wait anxiously for each quota outcome at the IWC. This legal threat, if instigated, would be devastating, creating confusion, panic, and the fear of hunger in our remote, isolated communities.

We sincerely hope that our Government will stand by our communities and close this loophole that could allow foreign interests to criminalize food gathering by our remote, northern Alaskan Native communities.

To tell you a little bit about who we are and what we do:

The Bowhead Whale Subsistence Harvest

Our communities have harvested the bowhead whale for food for thousands of years. Our bowhead whale subsistence harvest remains central to the food security and the nutritional and cultural well-being of our villages and of communities throughout northern Alaska today. This resource is so important that it literally is the center piece of our culture. In English, we must speak of whaling and hunting or harvesting the whale, but our belief is that the whale gives itself so that the people may continue to live. For those of us who are fortunate enough to be whaling captains, there is no greater honor than to have a whale present itself, and then to be able to share that whale with our families, our community, and with Native Alaskan families and communities throughout our region.

The IWC's Aboriginal subsistence quota for bowhead whales is 67 strikes per year, to land 56 whales, with an additional annual carryover of 15 unused strikes from previous years. The IWC sets a strike and landed quota because sea, ice, and weather conditions, especially in the spring, prevent us from landing 100 percent of the whales we strike.

This level of quota was set by the IWC 20 years ago. Under a U.S.-Russian bilateral agreement, seven of the 67 strikes go to Chuktoka hunters each year. Since the IWC agreed to this harvest level, the estimated size of the Western Arctic stock of bowhead whales has doubled, and its annual growth rate is estimated at 3.7 percent. The subsistence harvest is less than one-fourth of one percent (< 0.25%) of the current population estimate, which may be near 21,000.

We land, on average, 41 whales per year. Depending on its size, each whale provides us with 12 - 20 tons of highly nutritious food, for an annual average of about 500 to more than 800 tons of food each year. There are no substitutes for the quantity or nutritional quality of this subsistence food resource. Store-bought food is extremely expensive in our villages, where jobs are scarce; few families could survive on store-bought food alone. From a broader perspective, our local food gathering has virtually no carbon footprint, compared with the carbon emissions that would be caused by food shipments that would need to travel thousands of miles to our remote villages.

Our spring hunting is done primarily from wood framed canoes, or *umiaqs*, covered in seal or walrus skins. With the retreat of sea ice, however, some of our villages must conduct the spring harvest from motorized skiffs, previously used only for harvesting during the fall open water season. My village is one of the spring hunting villages that has had to learn to hunt from motorized skiffs. Whatever boat we use, we take the whale with a hand-held darting gun, secure it to our boats by hand and tow it to the ice-edge or shore. If we have a stable shore-fast ice platform, we pull the whale onto the ice by hand.

Our communities' need for the bowhead whale is well documented and social scientists are now beginning to document our practices of sharing the whale and other marine resources, not

only within our villages, but throughout Alaska, even to Anchorage². They refer to our practices as a *mixed cash-subsistence economy*. Those of us who have paying jobs work to bring in cash so that we can buy hunting equipment to hunt the resources we need to make sure that our communities and others who have need are fed. In this way, we leverage the cash income that is available to us into a much greater quantity of food than we could purchase with that income.

For example, in my village, steak costs an average of approximately \$25.00 per pound. Therefore, one ton of steak, if it could be flown in, would cost about \$50,000. Purchasing enough steak to replace one whale would cost about \$600,000 - \$1M. Purchasing steak to replace the annual whaling harvest would cost between \$25M and \$41M per year. By comparison, outfitting a crew and landing a whale can cost an average of about \$40,000, if the captain must replace equipment. So, with one whale, a captain can feed hundreds of people for about 60¢ - \$1.00 per pound, with food that far exceeds steak in nutritional quality and provides for our spiritual and cultural well-being. The whaling captains in our 11 villages share the whales, that have given themselves to us, to feed thousands of people each year.

Using these numbers helps to illustrate the fact that our ability to harvest the whale is essential to the food security of our northern Alaskan communities and to us as American citizens. However, numbers cannot illustrate what the whale is to us spiritually and emotionally. We are The People of the Ice Whale. Each year, our bowhead whale harvest reinforces the cultural identity of our people, as we practice our hunting and sharing traditions, and train our children in our cultural practices and traditions. Without the whale, the heart and soul of our culture would die.

The AEWC's and North Slope Borough's Work at the International Whaling Commission

The AEWC's Chair and Vice Chair, and our North Slope Borough Mayor and scientists attend all regular and many intersessional meetings of the IWC, often at our own expense. We actively participate with the U.S. Delegation in preparations for IWC meetings and actively participate in all relevant discussions within those meetings.

In 2015, I participated in a special IWC Workshop, held in Maniitsoq, Greenland, on Aboriginal Subsistence Whaling. Next spring the AEWC, the North Slope Borough, and NOAA will host a second meeting, in Barrow, on Aboriginal subsistence issues, in preparation for the fall, 2018 IWC meeting.

Our scientists have conducted groundbreaking research on the bowhead whale population, and are leading the effort at the Scientific Committee to develop a new, science-based management procedure for Aboriginal harvests. Our scientists and their work are so highly respected at the IWC that Dr. Suydam has been elected Vice Chair of the IWC Scientific Committee and will ascend to Chairman of that very highly regarded peer review body in 2018. He will be the

² BurnSilver S, Magdanz J, Stotts R, Berman M, Kofinas G (2016), *Are mixed economies persistent or transitional? Evidence using social networks from arctic Alaska*. American Anthropologist 118(1):121–129. See attached.

second IWC Chair from our ranks. Dr. Judy Zeh, who conducted groundbreaking statistical work on the bowhead whale census was Chair of the Scientific Committee during its 2000-2002 meetings. She continues to participate in the Committee.

In short, the AEWC and North Slope Borough are committed to our role in bowhead whale conservation, the ongoing development of sound management practices within the IWC, and our continued participation in the work of the IWC.

The AEWC's Conservation Work Beyond the IWC

Beyond research and our management duties, the AEWC's mandate is, "*to safeguard the bowhead whale and its habitat and to support the aboriginal subsistence whale harvest and traditional culture of its member communities.*" Therefore, when offshore oil and gas development came to our waters in the 1980s, the AEWC worked with Congress to amend the Marine Mammal Protection Act to provide support for our efforts to ensure that the development would not harm the whale, its habitat, or our harvest opportunities. An article describing this ongoing and highly successful work is attached to this testimony.

In more recent years, as sea ice recedes and we see increasing vessel traffic in our waters, the AEWC, working with the U.S. Coast Guard, was a leader in the effort to form the Arctic Waterways Safety Committee, the harbor safety committee established to develop guidelines for the management of vessel traffic in U.S. waters from the Bering Strait Region, north. This Committee now meets twice yearly. Through it we are working with other marine mammal hunting organizations, vessel operators from industrial and commercial concerns, including tourism, and with marine researchers to develop a Waterways Safety Plan for the Arctic.

Anyone familiar with the AEWC and our work knows that as whaling captains we take very seriously our responsibilities: to feed our people, to provide leadership in our communities, and to serve as leaders in the conservation of the bowhead whale resource and the preservation of our traditional subsistence culture.

Thank you for allowing me to speak to you today and I am happy to try to answer any questions you might have about the AEWC or our work at the IWC.

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