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## **1.0 SUBSISTENCE USERS PROTECTION**

### **1.1 INTRODUCTION**

A Subsistence Users Protection (SUP) Program will be developed, implemented and maintained for the Project. The purpose of the SUP Program is to establish the criteria and methodologies to protect subsistence users during the design, construction and operation of the Project. The Project will implement the SUP through plans and procedures that are developed specifically to protect the interests of individuals living in the general area of the Project right-of-way who rely on fish, wildlife and biotic resources of the area for subsistence purposes.

Protection of subsistence users will require an understanding of which communities along the Project route rely on natural resources for subsistence, which resources are used for subsistence, the extent of associated subsistence use (both in harvest amounts and geographic use area, if available), the primary seasons of use, relevant socioeconomic information, issues of concern in rural communities along the proposed corridor, and the nature of the potential effects the Project could have on those users. In order to protect subsistence users and/or mitigate potentially adverse Project-related effects, this basic information is necessary.

There are several ways Project-related activities could potentially have an effect on subsistence users. For example, a fuel/oil spill could damage subsistence resources and also result in contamination concerns. Roads and associated noise could result in displacing resources from traditional hunting locations. Damage, displacement, and contamination concerns could affect the availability of resources to local users.

A pipeline project could also potentially increase or diminish access to traditional subsistence resources and/or use areas. For example, roads or trails associated with a pipeline in a previously inaccessible area could increase access to use areas. On the other hand, a regulatory barrier if access becomes restricted, or a social barrier (e.g., increased recreationists in an area associated with project development and operation) could displace traditional users. Finally, Project development and operation (bringing in people not from the region) along with increased access (e.g., roads and/or trails) that attracts the new people as well as outside users could result in increased competition for resources with traditional users.

#### **1.1.1 Subsistence Definition**

Under state law, “subsistence uses means the noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area [sic] of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of the fish and wildlife resources taken for personal or family consumption, and for customary trade, barter, or sharing for personal or family consumption; in this paragraph, family means persons related to blood, marriage, or adoption and a person living in the household on a permanent basis” (A.S. 16.05.940(32)).

The Alaska Department of Fish and Game (ADFG 2000) describes subsistence as part of a rural economic system, called a “mixed, subsistence-market” economy, wherein families invest money in small-scale, efficient technologies to harvest wild foods. Fishing and hunting for subsistence provide a reliable economic base for many rural regions and these important activities are conducted by domestic family groups who have invested in fishwheels, gill nets, motorized skiffs and snowmobiles (Wolfe and Walker 1987). Subsistence is not oriented toward sales, profits or capital accumulation (i.e., commercial market production), but is rather focused toward meeting the self-limiting needs of families and small communities (ibid.). Participants in this mixed economy in rural Alaska augment their subsistence production through cash employment, Alaska Permanent Fund dividends, and transfer payments (ibid.; Alaska Natives Commission Final Report (May 1994)). These other sources of income provide the means to purchase the equipment used in subsistence activities. The combination of subsistence and commercial-wage activities, supplemented by dividends and transfer payments, provides the economic basis for the way of life so highly valued in rural communities (Wolfe and Walker; Alaska Natives Commission Final Report).

Subsistence is central to the customs and traditions of many cultural groups in Alaska, including the Iñupiat of the North Slope and the Athabaskans of interior Alaska (ADFG 2000:1). Subsistence fishing and hunting are important sources of employment and nutrition in almost all rural communities (ibid.). ADFG (2000:3) estimates that the annual wild food harvest by subsistence users in the Arctic is 10,507,255 pounds or 516 pounds per person per year and in the Interior area of Alaska is approximately 6,359,255 pounds or 613 pounds per person per year. Subsistence harvest levels vary widely from one community to the next. Sharing of subsistence foods is common in rural Alaska.

## 1.2 CRITERIA

### 1.2.1 General Project Criteria

- The Project will establish and maintain a policy of protecting fish, wildlife, and other subsistence resources, to avoid, where possible, the disruption of subsistence activities.
- The Project will, where feasible, avoid changes in access to resources, changes in competition for resources, changes in reasonable opportunity to harvest resources, and damages to resources resulting from the Project that affect subsistence users. Reasonable opportunity means an opportunity “that allows a subsistence user to participate in a subsistence hunt or fishery that provides a normally diligent participant with a reasonable expectation of success of taking fish or game” (A.S. 16.05.258(f)).

### 1.2.2 Statutes, Regulations and Other Applicable Authorities

Alaska state law contains several statutory and regulatory provisions that might be applicable to the protection of subsistence users in the context of a pipeline right-of-way lease.

The Alaska Right-of-Way Leasing Act requires the Commissioner, in making a determination on an application for a right-of-way lease, to consider, among other things, whether the applicant has the “technical and financial capability to take action to the extent reasonably practical to . . . protect the interests of individuals living in the general area of the right-of-way who rely on fish, wildlife, and biotic resources of the area for subsistence purposes.” A.S. 38.35.100(a)(3)(C). In this regard, Alaska Department of Natural Resources regulations implementing the Right-of-Way Leasing Act require an application for a right-of-way lease to include plans and procedures to protect “the interests of the individuals living in the general areas of the right-of-way who rely on fish, wildlife and biotic resources of the area for subsistence purposes.” 11 A.A.C. 80.005(b)(10). The Right-of-Way Leasing Act further requires that a right-of-way lease must include terms and conditions that are reasonably necessary to obligate the lessee, to the extent reasonably practicable, to “protect the interests of individuals living in the general area of the right of way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes.” A.S. 38.35.120(d)(5).

Several other state statutory and regulatory provisions are relevant to protection of subsistence users. For instance, under the Alaska Land Act, before issuing a right-of-way lease adjacent to a body of water or waterway, the Commissioner must determine if the body of water or waterway is navigable or public water. If the Commissioner finds that it is navigable or public water, the Commissioner must provide for easements or rights-of-way necessary to ensure free access to and along the body of water, unless regulating or limiting access is found to be necessary for other beneficial uses or public purposes. A.S. 38.05.127; 11 A.A.C. 51.035, 51.045. In addition, certain portions of the Project may be subject to the requirements of the Alaska Coastal Management Program. Under the Alaska Coastal Management Program regulations, coastal resource districts are required to identify areas in which subsistence is the “dominant use” of coastal resources. Districts may, after consultation with appropriate parties, designate such areas as subsistence zones, in which subsistence users and activities will have priority over all nonsubsistence users and activities. Before a potentially conflicting use or activity may be authorized in a subsistence zone, a study of the possible adverse impacts of the proposed use or activity upon subsistence use must be conducted, and appropriate safeguards to protect subsistence use must be provided. 6 A.A.C. 80.120.

Certain other provisions also may be relevant with respect to the potential introduction of new users, activities of Project personnel, and increased competition for subsistence resources. These provisions include: A.S. 16.05.090 and A.S. 16.05.094, which establish and set forth the duties of

the ADFG Section of Subsistence Hunting and Fishing; A.S. 16.05.258, which governs the subsistence use and allocation of fish and game; 5 A.A.C. Chapters 1 and 2, which set forth regulations for subsistence fishing; 5 A.A.C. Chapter 77, which sets forth regulations for personal use fishing; 5 A.A.C. Chapter 96, which provides for a system of local fish and game advisory committees and regional fish and game councils; and 5 A.A.C. 99.010, which directs the Board of Fisheries and Board of Game to provide for conservation and development of Alaska's fish and game resources according to sustained yield principles, and requires each board to identify fish stocks or game populations that are customarily and traditionally used for subsistence purposes according to certain specified criteria.

Other applicable authorities include:

- 18 CFR 380.12, “FERC’s Environmental Reports for Natural Gas Act Applications,” and FERC environmental policy guidelines thereunder;
- Federal Right-of-Way Grant for the Alaska Natural Gas Transportation System Alaska Segment, Serial No. F-24538 (December 1, 1980), as such may be updated and/or amended.

### 1.3 METHODOLOGIES

The methodologies that the Project will use to implement the SUP Program include:

- An SUP Program Plan will be developed that describes the structure and various responsibilities of the SUP Program.
- An assessment of previous subsistence research along the proposed right-of-way corridor will be conducted.
- A Subsistence Study Plan for new research to fill any data gaps for relevant information identified in the preliminary data review will be developed that includes a Baseline Characterization of the communities potentially affected by the Project done in coordination with the Public Information Plan developed for the Socioeconomic Protection Program (see SSIS02).
- A preliminary assessment of the potential effects of pipeline construction and operation on subsistence users.
- The Project will provide a mechanism to ensure an ongoing dialogue between Project personnel and subsistence users along the corridor (e.g., a local outreach program).
- The Project will establish a Subsistence Use Monitoring Program during pipeline construction and operation to identify any potential negative effects of the Project on subsistence users and implement corrective actions.
- Identifying and implementing appropriate Project related mitigation measures to protect subsistence users.

#### 1.3.1 Subsistence Baseline Information Assessment

Preliminary steps necessary to develop a subsistence protection plan include identifying:

- The communities along the proposed right-of-way corridor whose residents rely on natural resources for subsistence uses.
- What subsistence information is available on these communities?
- What subsistence data are not available?
- What data are necessary to develop and implement a successful subsistence protection plan?

Table 1 lists the communities along the proposed pipeline corridor. Table 1 also indicates the years for which ADFG, Division of Subsistence, Community Profile Database (CPDB) data are available for each community (column 3), the ADFG Division of Subsistence technical report

number that is available for each community (column 4), and a list of the CPDB data available for those years (column 5). The ADFG CPDB and technical report series is an excellent starting point for development of community baselines. It contains a variety of relevant subsistence and socioeconomic information. It will be important to review how current these data are for the various communities. Baseline information will be validated with communities.

Additional sources of subsistence information include customary and traditional use analyses prepared by the National Park Service and the U.S. Fish and Wildlife Service for the Federal Subsistence Board, analyses prepared for the federal subsistence regional advisory councils, and other subsistence studies performed by public and private entities in the region. Native non-profit organizations, tribal governments and the North Slope Borough also could provide such information. For land use information, the ADFG Habitat Guides are an important source of information. However, these data are often very broad and general and may not be very useful to identify more specific interactions between subsistence users and the Project. See the “Subsistence References” section that lists potentially relevant sources related to subsistence users and communities along the proposed pipeline right-of-way. (Nuiqsut and Kaktovik subsistence activities for caribou may extend into the Project area (e.g., Dalton Highway area) so they are included in the references.

### 1.3.2 Develop Study Plan

Once the existing subsistence information is assessed for the subject communities, a study plan will be developed that presents the approach for augmenting the Project’s baseline information regarding subsistence users. Topics will include identification of resident concerns and issues along the pipeline corridor related to potential issues between pipeline construction and operation and local subsistence use patterns. Identifying these potential issues will require visiting certain communities along the right-of-way corridor and soliciting information during workshops or public meetings held with residents. These visits would be coordinated with the Public Information Plan developed to address socioeconomic topics.

Thus, based on a review of existing subsistence information, identification of data gaps, and community visits identifying potential issues associated with the pipeline, the subsistence users protection plan calls for developing a set of recommendations for what studies and/or information need to be updated in which communities.

During the preliminary visits, existing subsistence information will be presented to communities, including any existing maps of land use patterns. Local subsistence users will be encouraged to comment on the accuracy of the maps and if land use patterns have changed significantly since the maps were prepared. This would inform the study plan if additional land use information were required.

A baseline description of subsistence uses and associated socioeconomic conditions of communities along the pipeline right-of-way will be developed. This description of existing conditions before initiation of the Project is an important component for developing a mitigation/protection plan. In order to protect and/or mitigate subsistence users as they might be affected by the Project, the following information would be necessary in the baseline:

- The resources used for subsistence, including identification of key species.
- Subsistence harvest amounts.
- Geographic use area and land use patterns.
- Primary seasons of use.
- Other relevant socioeconomic information (e.g., description of the local economy and social structure of the community).
- Community issues of concern.
- The nature of the potential effects the Project could have on subsistence users.

### 1.3.3 Preliminary Assessment of Potential Effects of the Project on Subsistence Users

Based on the baseline information and a description of the proposed pipeline, the potential effects of the pipeline as they may affect subsistence users will be prepared. This analysis will include effects on availability of resources to local residents (e.g., damage to subsistence resources, contamination concerns, potential displacement of resources from traditional hunting locations), effects on access to traditional subsistence resources and/or use areas (e.g., physical barriers, regulatory barriers, or social barriers), increased competition for resources with traditional users (e.g., increased access attracts new users who compete with historic users), and effects on reasonable opportunities to harvest resources. In assessing these potential Project-related effects, the applicant will primarily focus on any new or increased disturbances to subsistence users that may result from the Project.

### 1.3.4 Local Outreach Program

The subsistence protection plan includes a local outreach program that that will be developed in coordination with the Community Relations Plan (Socioeconomic Protections Section, SSIS02). The objective of this outreach is to:

- Provide Project information to communities.
- Identify community issues, including where the Project and subsistence users may conflict.
- Review data and identify options for resolving these issues.
- Establish an implementation plan to resolve issues.
- Work to resolve the issues in a mutually satisfactory manner.

### 1.3.5 Monitoring During Construction and Operation

The Project will coordinate with ADFG in developing a monitoring plan for subsistence users. This monitoring program will address such questions as “How is the Project affecting subsistence?” and “How are land use patterns changing?”, and “Are the mitigation measures working?”

### 1.3.6 Mitigation Measures

Through the process of reviewing existing information, reviewing the community issues analysis, gathering additional information, meetings with subsistence users in the communities, and the other steps of the subsistence protection plan, it may become apparent that there are mitigation measures that the Project could implement that would minimize the effect of the Project on subsistence users. For example, controls might be placed on Project personnel with respect to hunting and fishing while they are employed on pipeline construction or operation. As a part of the subsistence protection plan, the developer, with input from the communities and relevant agencies, will develop appropriate Project mitigation measures to protect subsistence resources and users from adverse Project effects.

## 1.4 FIGURES AND TABLES

### List of Figures and Tables

Table 1. Communities Along the ANGTS Pipeline Route and ADFG Subsistence Data Availability

**Table 1**  
**Communities Along the ANGTS Pipeline Route & ADFG Subsistence Data Availability**

<b>ID</b>	<b>Communities</b>	<b>ADFG CPDB/Years</b>	<b>ADFG TR Number</b>	<b>CPDB Data Available</b>
1	Nuiqsut	1985, 1993	170, 504	Demographics, Economics, Harvest, Issues, References, Methods
2	Kaktovik	1985, 1986, 1987, 1990, 1991, 1992	209, 92, 120, 172, 206, 209, 999, 999, 504	Demographics, Economics, Harvest, Issues, References, Methods
3	Prudhoe Bay (INDUSTRIAL)			No information available
4	Dead Horse (INDUSTRIAL)			No information available
5	Coldfoot			No information available
6	Livengood			No information available
7	Nolan/Wiseman			No information available
8	Bettles	1997, 1998, 1999	899, 999, 999	Demographics, Harvest, Issues, References, Methods
9	Evansville	1997, 1998, 1999	899, 999, 999	Demographics, Harvest, Issues, References, Methods
10	Allakaket	1997, 1998, 1999	899, 999, 999	Demographics, Harvest, Issues, References, Methods
11	Alatna	1997, 1998, 1999	899, 999, 999	Demographics, Harvest, Issues, References, Methods
12	Stevens Village	1984	129, 121	Demographics, Harvest, Issues, References, Methods
13	Rampart			No information available
14	Minto	1984	122, 137	Demographics, Harvest, Issues, References, Methods
15	Anaktuvuk Pass	1990, 1991, 1993	999, 999, 999	Demographics, Economic, Issues, References, Methods
16	<b>Fairbanks (Non-Subsistence Zone)</b>			No information available
17	Delta Junction			No information available
18	Dot Lake	1987	168, 19, 701	Demographics, Economic, Harvest, Issues, References, Methods
19	Tanacross	1987	168, 115, 701	Demographics, Economic, Harvest, Issues, References, Methods
20	Tok	1987	168, 701	Demographics, Economic, Harvest, Issues, References, Methods
21	Tetlin	1987	168, 149, 701	Demographics, Economic, Harvest, Issues, References, Methods
22	Nabesna (Road)	1982, 1987	107, 75, 124, 96, 180, 701	Demographics, Economic, Harvest, Issues, References, Methods
23	Northway	1987	168, 115, 701	Demographics, Economic, Harvest, Issues, References, Methods

Note: Report #899 designates a report that is forthcoming  
 Report #999 designates a report that is not available  
 Stephen R. Braund & Associates, 2002

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