

**AGREEMENT**  
**between the**  
**NATIONAL MARINE FISHERIES SERVICE**  
**and the**  
**ALASKA BELUGA WHALE COMMITTEE**  
**for**  
**CO-MANAGEMENT OF THE WESTERN ALASKA BELUGA WHALE POPULATION**

**I. PARTIES**

This document constitutes an agreement between the National Marine Fisheries Service (NMFS) and the Alaska Beluga Whale Committee (ABWC), otherwise referred to as the Parties.

The ABWC is an association which represents Alaska Native beluga whale subsistence hunters within the State of Alaska who hunt from the Western Alaska beluga whale population and who are registered with the ABWC through registration with their Management Regions. It also includes Federal, State and local government representatives, and charter members as set forth in the ABWC Bylaws. The Western Alaska beluga population includes beluga whale stocks occurring in the Bering (including Bristol Bay), Chukchi and Beaufort seas and is referred to in this agreement as "Western Alaska beluga whales" or "the Western Alaska population."

**II. AUTHORITIES**

- A. NMFS has the authority to enter into this Agreement with the ABWC under Section 119 (16 U.S.C. 1388) of the Marine Mammal Protection Act of 1972, as amended (MMPA), and the Endangered Species Act of 1973, as amended (ESA) (16 U.S.C. 1531 et seq.). Additional guidance is provided by Executive Order #13084 of May 14, 1998 ("Consultation and Coordination with Indian Tribal Governments," 63 FR 27655), Presidential Memorandum of April 29, 1994 ("Government-to-Government Relations with Native American Tribal Governments," 59 FR No. 85). U.S. Department of Commerce Memorandum "American Indian and Alaska Native Policy of the U.S. Department of Commerce" of March 30, 1995, and the "Memorandum of Agreement for Negotiation of Marine Mammal Protection Act, Section 119 Agreements" of August, 1997.
- B. The ABWC has the authority to enter into this Agreement under authorizing resolutions from those tribes and tribally-authorized organizations listed in Appendix A.

This agreement is between  
ABWC and NMFS.

The ABWC represents beluga whale subsistence hunters. It also includes government representatives and charter members who were at the first meeting.

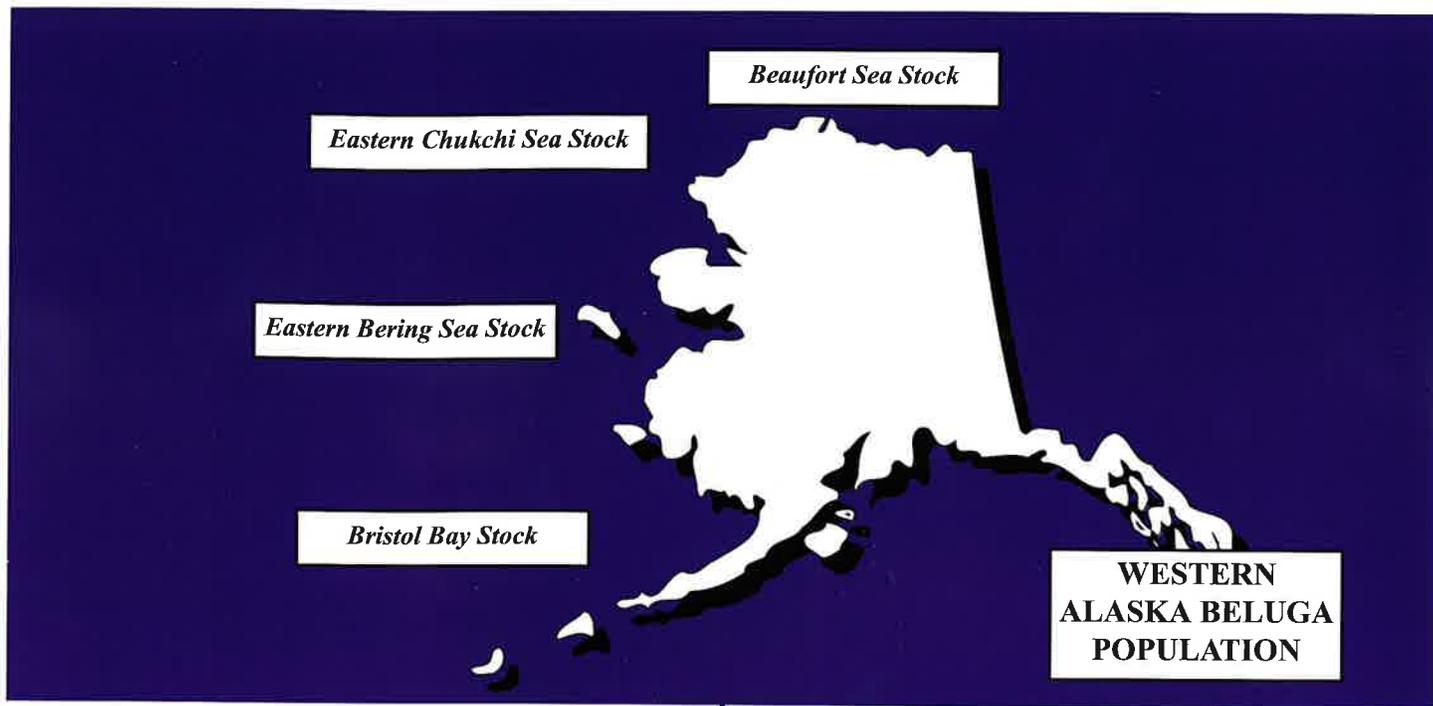
The Western Alaska beluga population includes belugas in Bristol Bay and the Kuskokwim, the eastern Bering Sea (Yukon and Norton Sound), and the Chukchi and Beaufort seas.

NMFS can be a part of this agreement because of the Marine Mammal Protection Act and other federal laws.

Other federal agreements also allow NMFS to be part of this agreement.



Twenty-five villages have authorized the ABWC to represent them in getting a co-management agreement for belugas



### III. PURPOSES

The purposes of this Agreement between NMFS and the ABWC are to conserve the Western Alaska beluga whale population; protect Alaska Native beluga whale subsistence hunting traditions and culture; promote scientific research on beluga whales, whale stocks and their environment; and effectuate provisions of the Marine Mammal Protection Act that are relevant to aboriginal subsistence hunting of beluga whales. To achieve these purposes, this Agreement provides for:

- A. Cooperation between members of the ABWC and NMFS in the conservation and management of Western Alaska beluga whales for the year 2000 and thereafter; and
- B. The development of Regional Beluga Whale Management Plans to be entered into under this Agreement between the ABWC and the ABWC Management Regions.

### IV. BACKGROUND

In 1972, the Marine Mammal Protection Act was passed by Congress and provided for an exemption on the taking of any marine mammal by Alaska Natives provided such taking is for subsistence purposes or done for purposes of creating and selling authentic Native articles of handicraft and clothing. Such taking may not be accomplished in a wasteful manner.

In 1988, the ABWC was established to facilitate cooperation and communication among beluga whale subsistence hunters, scientists, and the government regarding the conservation and management of beluga whales. The ABWC is composed of regional and village representatives from areas where hunting of the

The purposes of the Agreement are to:

- 1) conserve belugas
- 2) protect subsistence hunting
- 3) promote scientific research
- 4) make sure parts of the Marine Mammal Act affecting subsistence hunting are followed

To do these things:

- 1) The ABWC and NMFS will cooperate in conserving and managing beluga whales.
- 2) There will be Regional Management Plans for local management of belugas

The Marine Mammal Act was passed in 1972.

It states that Alaska Natives may harvest marine mammals for subsistence or to make and sell Native clothing and handicraft things.

Taking cannot be wasteful.

The ABWC was formed in 1988 to encourage cooperation and discussions among the hunters and the scientists and the government.



Western Alaska population of beluga whales takes place; beluga whale scientists; and members of Federal, State and local governments. On December 1, 1995, the ABWC adopted Bylaws and a Management Plan to conserve and manage the subsistence hunting of the Western Alaska beluga whale population. The Bylaws of the ABWC specify that only Alaska Native beluga hunters may vote on matters pertaining to hunting

In April 1994, the Marine Mammal Protection Act was amended to include Section 119 "Marine Mammal Cooperative Agreements in Alaska." Section 119 formalizes the rights of Alaska Native Organizations to participate in conservation-related co-management of subsistence resources and their use. Section 119 also authorized the appropriation of funds to be transferred by NMFS to Alaska Native Organizations to accomplish these activities.

## **V. MANAGEMENT OF WESTERN ALASKA BELUGAS WHALES WITHIN THE STATE OF ALASKA**

### **A. RESPONSIBILITIES OF THE ABWC**

#### **1. Management of the Western Alaska Beluga Whale Subsistence Hunt**

The ABWC Management Plan sets forth principles governing conservation, subsistence harvesting, use, reporting and monitoring, research, public involvement, and enforcement as they relate to beluga whales. Under this Agreement, the ABWC, through the ABWC Management Regions and in cooperation with NMFS, will manage the beluga whale subsistence harvest conducted by all member beluga whale subsistence

ABWC members include: 1) hunter representatives, 2) beluga whale scientists, 3) government representatives

The ABWC Beluga Management Plan says that only Alaska Native beluga hunters can vote on hunting matters.

In 1994, the Marine Mammal Act was changed to recognize the right of Alaska Native Organizations to participate in co-management of subsistence resources.

These changes in also authorized NMFS to spend money for co-management activities.

ABWC has responsibilities under this Agreement.

The ABWC will manage the subsistence hunt for belugas according to its Management Plan.

The ABWC will do this through the Management Regions. This means that decisions about management will be made on a local basis.

hunting villages within the State of Alaska who hunt from the Western Alaska population of beluga whales. Any necessary enforcement of ABWC or Regional Management Plans will be accomplished according to the provisions of these plans. The authority and responsibilities of the ABWC and of each ABWC Management Region are contained in and limited by this Agreement, the ABWC Management Plan and the Regional Management Plans, as amended from time to time, to the extent the ABWC Management Plan and the Regional Management Plans are not inconsistent with this Agreement.

2. Inspection and Reporting.

The ABWC shall obtain accurate harvest information and biological samples from each Management Region in accordance with the Regional Management Plan and in agreement with the ABWC Management Plan. NMFS personnel may participate in such data collection. All information collected under this section shall be shared between the ABWC and NMFS.

3 Research

The ABWC, in consultation with NMFS, may conduct research on the biology, natural history and traditional knowledge of the Western Alaska population of beluga whales. NMFS personnel may participate in such data collection. All information collected under this section shall be shared between the ABWC and NMFS.

The ABWC and the Management Regions will cooperate with NMFS.

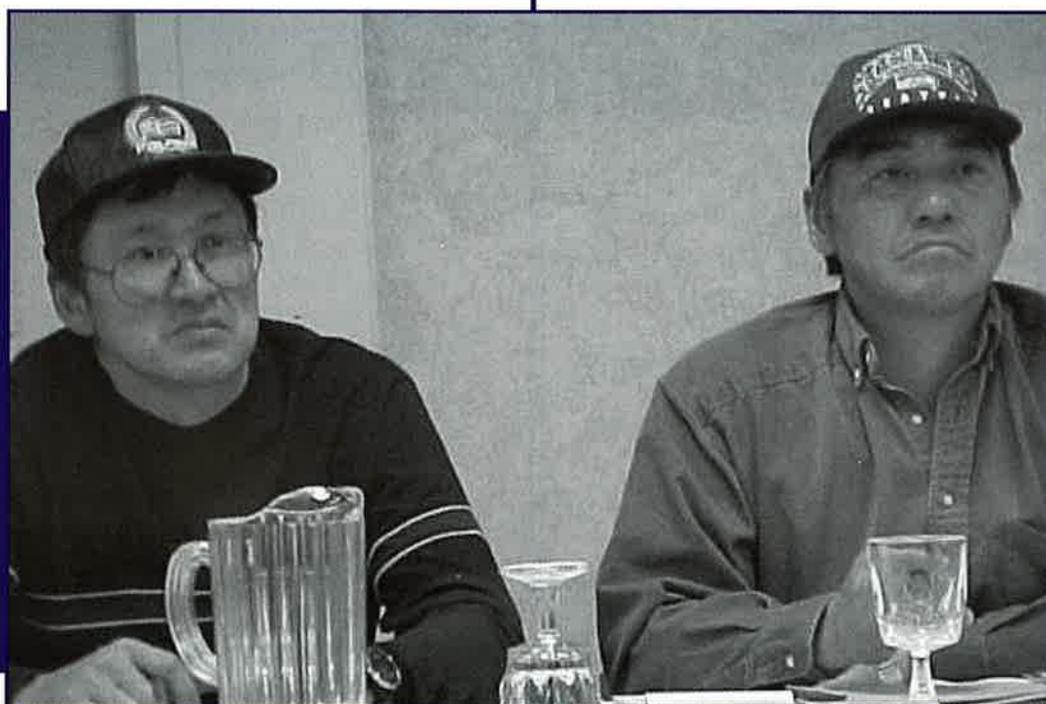
If any enforcement is necessary, it will be done according to Regional Management Plans, with help from the ABWC if necessary.

This Agreement, together with the ABWC and Regional Management Plans, will be used to manage belugas

The ABWC will collect accurate harvest information and samples from each Management Region.

Information will be shared with NMFS.

The ABWC may do research on belugas. They will keep NMFS informed about what they are doing. NMFS people can take part in the research. The information will be shared.



4. Funding

Pending the appropriation of Section 119 funds by Congress, the ABWC shall be responsible for costs incurred by its representatives participating in activities under this Agreement. Once Section 119 funds become available, ABWC may voluntarily, at its sole discretion, elect to support the goals of this Agreement by supplementing Section 119 funds with non-Section 119 funds that are available from other sources. No financial commitment on the part of the ABWC is authorized or required by this Agreement.



B. RESPONSIBILITIES OF NMFS

1. Management of the Western Alaska Beluga Whale Subsistence Hunt

NMFS has primary responsibility within the United States Government for management and enforcement of programs concerning beluga whales. NMFS may assert its federal management authority to enforce any existing provisions of the Marine Mammal Protection Act that are applicable to the Native harvest of beluga whales. Such assertion of federal management authority will be preceded by consultation with the ABWC as specified in V.B.2 below.

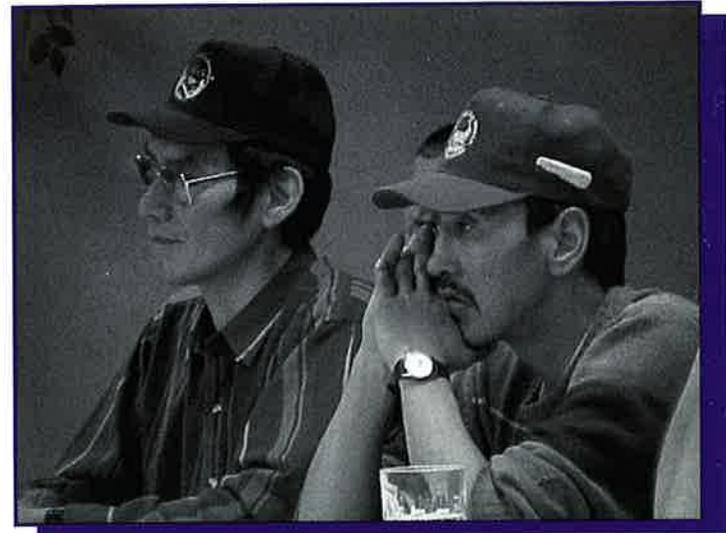
2. Research

NMFS, in consultation with the ABWC, may conduct research on the biology, natural history and traditional knowledge of the Western Alaska population of beluga whales. ABWC personnel may participate in such data collection. All information collected under this section shall be shared between the ABWC and NMFS.

Until Congress provides additional funding, the ABWC will pay its own bills for co-management.

The ABWC always has the right to spend its own money on things it thinks are important.

This Agreement doesn't require ABWC to spend money.



NMFS is the government agency responsible for beluga whales.

NMFS has the right to enforce existing parts of the Marine Mammal Protection Act, but it must consult with the ABWC before it does this.

NMFS may do research on belugas. They will keep the ABWC informed about what they are doing. ABWC people can take part in the research. The information will be shared.

### 3. Funding

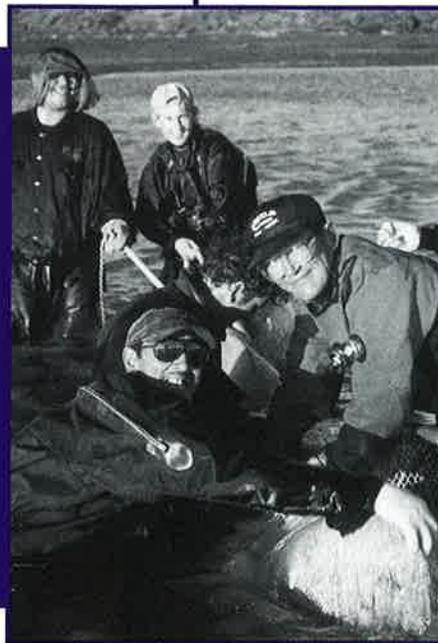
NMFS shall provide funding, as available, pursuant to Section 119 of the Marine Mammal Protection Act, or in-kind support, for the beluga whale inspection, Reporting and Research responsibilities identified in sections V.A.2 and V.A.3, and other co-management responsibilities of the ABWC as set forth in this Agreement. Pending the appropriation of Section 119 funds by Congress, NMFS shall be responsible for costs incurred by its representatives participating in activities under this Agreement. Once Section 119 funds become available, NMFS may voluntarily, at its sole discretion, elect to support the goals of this Agreement by supplementing Section 119 funds with non-Section 119 funds that are available from other sources. No financial commitment on the part of the NMFS is authorized or required by this Agreement.

When Congress makes the money available, NMFS will provide funding to help the ABWC meet its responsibilities to monitor the harvest, do research, and do other co-management activities.

Until Congress provides additional funding, NMFS will pay its own bills for co-management.

NMFS always has the right to spend its own money on things it thinks are important.

This Agreement doesn't require NMFS to spend money.



## VI. CONSULTATION

The ABWC and NMFS shall consult on an as-needed basis concerning matters related to management of Western Alaska beluga whales which either party believes are suitable for such consultation. This will include matters which have the potential to affect any Western Alaska beluga whale stock or the Native subsistence hunting of Western Alaska beluga whales. The Parties agree that they will consult on issues that may include but are not limited to any possible change in designation or status of Western Alaska beluga whales under any provision of the Marine Mammal Protection Act or the Endangered Species Act, or any changes in regulations or agreements that are applicable to Western Alaska beluga whales.

The ABWC and NMFS will consult about anything that either group thinks should be discussed about beluga management.

This includes things that might affect belugas or beluga hunting - such as decisions about the status of stocks and any proposed listings as depleted or endangered.

## REGIONAL MANAGEMENT PLANS

Each Management Region within the ABWC shall have responsibility for preparing, in consultation with the ABWC, a Regional Management Plan for the management of the beluga whale subsistence hunt within that region. The Regional Management Plans shall be consistent with the provisions of the ABWC Management Plan and shall be submitted to the ABWC for approval. Any individual Regional Management Plan will be consistent with the Memorandum of Agreement for Negotiation of Marine Mammal Protection Act Section 119 Agreements.

## VII. REGULATION AND ENFORCEMENT

NMFS recognizes the existing tribal authority to regulate tribal members during the conduct of the subsistence harvest of beluga whales. The ABWC recognizes the Secretary of Commerce's authority to enforce the existing provisions of the MMPA applicable to the Native harvest of beluga whales.

## VIII. OTHER PROVISIONS

- A. Nothing in this Agreement shall be construed to support or contradict an extension of the jurisdiction of the International Convention for the Regulation of Whaling, 1946, or the Whaling Convention Act of 1949 with respect to aboriginal subsistence beluga whale hunting by Alaska Natives.
- B. Nothing herein is intended to conflict with current NOAA or NMFS directives. If the terms of this Agreement are inconsistent with existing laws, regulations, or directives of either of the Parties entering into this Agreement, then those portions of this Agreement which are determined to be inconsistent shall be invalid, but the remaining terms and conditions not affected by the

Each Management Region will make a Regional Management Plan. The ABWC will help.

This Plan must agree with the ABWC Management Plan, and be approved by the ABWC.

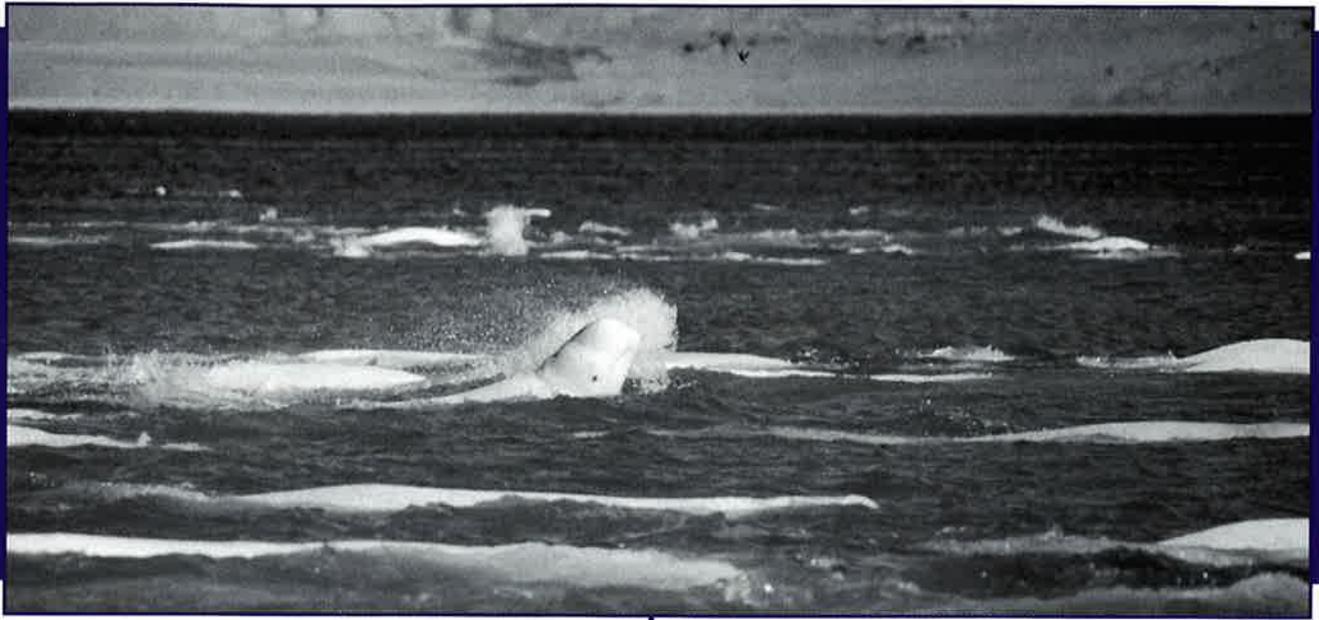
NMFS recognizes existing tribal authority to regulate tribal members during subsistence hunting of belugas.

ABWC recognizes the authority of NMFS to enforce the MMPA.

Nothing in this Agreement affects or changes the involvement of the International Whaling Commission in beluga whale subsistence hunting issues.

This Agreement can't conflict with regulations of either the ABWC or NMFS. If it does, the part that disagrees will be thrown out and must be changed as soon as possible.





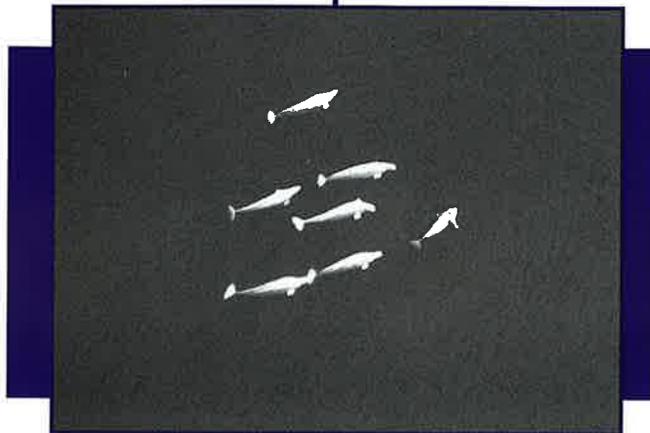
inconsistency shall remain in full force and effect. At the first opportunity for review of the Agreement, all necessary changes will be accomplished by either an amendment to this Agreement or by a new Agreement, whichever is deemed expedient to the interest of both Parties.

- C. Should disagreements arise over the provisions of this Agreement, or amendments or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each Party and presented to the other Party for consideration. If agreement on interpretation cannot be reached within a reasonable time, a special meeting or teleconference shall be held to resolve the issues. This meeting shall include representatives of NMFS, the ABWC Executive Committee and the affected Region(s) as appropriate.

The rest of the Agreement stays in effect.

If there are disagreements that are hard to work out, they will be stated in writing. Then, a special meeting will be held to work on a solution.

Meetings to work out disagreements will involve NMFS, ABWC and the Region that is affected, if appropriate.



**IX. ADOPTION, DURATION, AND MODIFICATION**

This Agreement will become effective when signed by both Parties, and may be amended at any time by written agreement of both Parties. Either Party may terminate this agreement by giving 45 days prior written Notice of Termination to the other Party.

**X. SIGNATORIES**

The Parties hereto have executed this Agreement as of the last written date below:

**National Marine Fisheries Service**

**Alaska Beluga Whale Committee**

Steve Pennoyer 12/23/99  
Date

Roswell Schaeffer 11/09/99  
Date

Steve Pennoyer  
Administrator, Alaska Region  
National Marine Fisheries Service  
U. S. Department of Commerce  
P. O. Box 21668  
Juneau, Alaska 99801

Roswell Schaeffer  
Chairman  
Alaska Beluga Whale Committee  
P. O. Box 293  
Kotzebue, Alaska 99752

Ron Berg 11/19/99  
Date  
Deputy Administrator, Alaska Region

Marie Adams Carroll 11/09/99  
Date  
Vice Chairman

Douglas DeMaster 11/9/99  
Date  
Director, National Marine Mammal Lab

Kathryn Frost 11/9/99  
Date  
Secretary

Barbara Mahoney 9 Nov 99  
Date  
ABWC Representative, Alaska Region

Molly Chythlook 11/9/99  
Date  
Treasurer

Charles Saccheus 11/9/99  
Date  
Sergeant at Arms

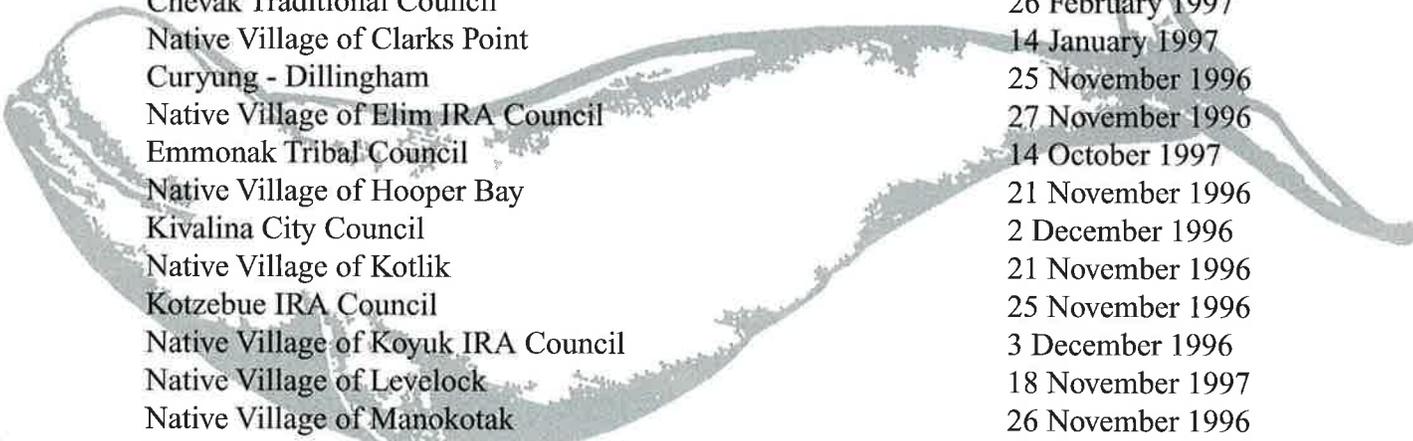
Cooperative Agreement between the Alaska Beluga Whale Committee and the National Marine Fisheries Service Entered into Pursuant to Section 119 of the Marine Mammal Protection Act of 1972, As Amended

## Appendix A

List of Tribally-authorized Organizations Providing Authorizing Resolutions to the Alaska Beluga Whale Committee. This list may be amended from time to time if additional authorizing resolutions are received from tribally authorized organizations representing villages with a history of hunting Western Alaska beluga whales, and with ABWC approval.

### Tribally Authorized Organization

### Resolution Date



Alakanuk Traditional Council	20 October 1997
Native Village of Barrow	25 February 1997
Buckland I.R.A. Council	2 December 1996
Chevak Traditional Council	26 February 1997
Native Village of Clarks Point	14 January 1997
Curyung - Dillingham	25 November 1996
Native Village of Elim IRA Council	27 November 1996
Emmonak Tribal Council	14 October 1997
Native Village of Hooper Bay	21 November 1996
Kivalina City Council	2 December 1996
Native Village of Kotlik	21 November 1996
Kotzebue IRA Council	25 November 1996
Native Village of Koyuk IRA Council	3 December 1996
Native Village of Levelock	18 November 1997
Native Village of Manokotak	26 November 1996
Native Village of Noatak IRA Council	29 November 1996
North Slope Borough Fish and Game Management Committee	14 July 1994
Native Village of Point Hope	17 October 1997
Native Village of Point Lay IRA Village Council	2 December 1996
Native Village of Scammon Bay	2 December 1996
Native Village of Shaktoolik	25 November 1996
Native Village of South Naknek	30 June 2000
Native Village of Stebbins	4 December 1996
Native Village of St. Michael	2 December 1996
Traditional Council of Togiak	10 February 1997
Native Village of Unalakleet	3 December 1996

