

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

NINILCHIK TRADITIONAL COUNCIL,

Plaintiff

v.

TIM TOWARAK, in his official capacity as
Chairman of the Federal Subsistence Board;
S.M.R. JEWELL, in her official capacity as
Secretary Of The U.S. Department Of The
Interior; and TOM VILSACK, in his official
capacity as the Secretary of the U.S.
Department of Agriculture,

Defendants.

Case No. 3:15-cv-0205-JWS

**ORDER GRANTING DEFENDANTS'
MOTION FOR JUDICIAL NOTICE**

Pending before this Court is Defendants' Motion for Judicial Notice Pursuant to Local
Civil Rules 7.1(c) and (d). Defendants request that the Court take judicial notice of certain

Ninilchik Traditional Council v. Towarak et al

documents and consider them when ruling on Defendants’ pending motion to dismiss. The Court agrees that it may take judicial notice of documents referenced in Plaintiff’s complaint that are central to Plaintiff’s claims, and whose authenticity is not questioned. *See Marder v. Lopez*, 450 F.3d 445, 448 (9th Cir. 2006). The Court also agrees that it may take judicial notice of documents from government agency websites. *See, e.g. Paralyzed Veterans v. McPherson*, No. C 06-4670 SBA, 2008 WL 4183981, *5 (N.D. Cal. 2008) (Sept. 9, 2008) (citing *Kitty Hawk Aircargo Inc. v. Chao*, 418 F.3d 453, 124 (5th Cir. 2005), *Denius v. Dunlap*, 330 F.3d 919, 926–27 (7th Cir. 2003); *United States ex rel. Dingle v. BioPort Corp.*, 270 F. Supp. 2d 968, 972 (W.D. Mich. 2003); *In re Agribiotech Sec. Litig.*, No. CV-S-990144 PMP, 2000 WL 35595963, *2 (D. Nev. Mar. 2, 2000)). The Court may also take “judicial notice of its own records in other cases pursuant to Rule 201.” *United States ex. rel. Calilung v. Ormat Industries*, No. 3:14-cv-00325-RCJ-VPC, 2015 WL 1321029, *8 (D. Nev. 2015) (citing *United States v. Wilson*, 631 F.2d 118, 119 (9th Cir. 1980)); *see also MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986). Finally, the Government agrees that it may take judicial notice of government records. *See United States ex. rel. Calilung*, 2015 WL 1321029, at *7–*9; *Mack v. South Bay Beer Distributors, Inc.*, 798 F.2d 1279, 1282 (9th Cir. 1986). For these reasons, Defendants’ motion is hereby GRANTED.

The Court will take judicial notice of the following documents, referenced by Defendants’ exhibit letter:

Plaintiff’s original proposal for the Kenai gillnet fishery, Ex. A (referenced at Compl. ¶ 18); excerpts of transcripts of the Federal Subsistence Board’s (the “Board’s”) January 22, 2015 and July 28, 2015 meetings, Ex. B and C, respectively; Jeffry Anderson’s June 17, 2015 order

Ninilchik Traditional Council v. Towarak et al

closing the subsistence Chinook fishery on the Kenai through August 15, 2015, Ex. D (referenced at Compl. ¶ 27); the Fish and Wildlife Service's ("FWS"), the State of Alaska's, and the United Fishermen of Alaska's Requests for Reconsideration, Ex. E–G; this Court's order in *Kenaitze Indian Tribe v. United States*, Case No. A03-088-CV (JWS), Ex. H; and a May 3, 2002 letter from the chair of the Board to an FWS employee, Ex. I.

IT IS SO ORDERED.

DATED this 18th day of February 2016.

/s/ JOHN W. SEDWICK
SENIOR UNITED STATES DISTRICT JUDGE