

Alaska Board of Game

RC 1 Meeting Workbook



**Special Meeting: Muskox, Archery, and
Ambler Road**

Fairbanks, AK | July 22-23, 2026

ALASKA BOARD OF GAME

Special Meeting: Muskox, Archery, and Ambler Road

Fairbanks, AK | July 22 – 23, 2026

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ALASKA BOARD OF GAME
Special Meeting: Muskox, Archery, and Ambler Road
Westmark Hotel and Conference Center | Fairbanks, Alaska
July 22-23, 2026

TENTATIVE AGENDA

Note: This Tentative Agenda is subject to change throughout the course of the meeting. It is provided to give a general idea of the board's anticipated schedule. The board will attempt to hold to this schedule; however, the board is not constrained by this Tentative Agenda.

Wednesday, July 22, 8:30 a.m.

OPENING BUSINESS

- Call to Order / Purpose of Meeting
- Introductions of Board Members and Staff
- Board Member Ethics Disclosures

PUBLIC TESTIMONY including ADVISORY COMMITTEE TESTIMONY

BOARD DELIBERATIONS upon conclusion of public testimony

The deadline to sign up to testify will be 12:00 p.m. July 22. The length of testimony will be three to five minutes for individuals and five to ten minutes for advisory committee and regional advisory council representatives.

Thursday, July 23, 8:30 a.m.

PUBLIC & ADVISORY COMMITTEE TESTIMONY (if not concluded on July 22)

BOARD DELIBERATIONS continued upon conclusion of public testimony

MISCELLANEOUS BUSINESS, including petitions, findings and policies, letters, and other business

- Mulchatna Caribou Herd Intensive Management Update by Department of Fish and Game

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Agenda Notes

1. Meeting materials are available online at:
<https://www.adfg.alaska.gov/index.cfm?adfg=gameboard.meetinginfo&date=07-14-2025&meeting=anchorage> or by contacting ADF&G Boards Support Section in Juneau at (907) 465-4110.
2. A live audio stream for the meeting is intended to be available at: <https://boardofgame.adfg.alaska.gov>
3. The State of Alaska Department of Fish and Game complies with Title II of the Americans with Disabilities Act of 1990 (ADA). Individuals with disabilities who may need auxiliary aids, services, and/or special modifications to participate in this hearing and public meeting should contact 465-4110 no later than two weeks prior to start of the meeting to make any necessary arrangements.



Alaska Board of Game

P.O. Box 115526

Juneau, AK 99811-5526

(907) 465-4110

<https://www.boardofgame.adfg.alaska.gov>

ALASKA BOARD OF GAME
Special Meeting: Unit 26B Muskox, Archery, & Ambler Road
July 22-23, 2026
Westmark Hotel & Conference Center, Fairbanks, Alaska

Tentative List of Oral Reports

Wednesday, July 22, 2026

1. Agency Updates/Reports

Reports to be Provided during Deliberations

Musk Oxen 26(B)

- Non-Intensive Predator Control Plan Overview – Mark Nelson, Chris Brockman, and Jason Caikoski ADF&G

Archery

- Proposal Overview – Natalie Weber, ADF&G

Ambler Road

- Proposal Overview – Ryan Scott and Alida Trainor, ADF&G

Reports to be Provided during Miscellaneous Business

Mulchatna Caribou Herd

- Intensive Management update – Todd Rinaldi and Chris Brockman, ADF&G

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE ALASKA BOARD OF GAME

Summary of Changes: The Alaska Board of Game proposes to adopt regulation changes in Title 5 of the Alaska Administrative Code, dealing with the use and taking of game in Game Management Units 23, 24 26(B), and 5 AAC Chapter 92, Statewide Provisions including the following:

- (1) 5 AAC 92.510 is proposed to be amended regarding hunting in the vicinity of the Ambler Road.
- (2) 5 AAC 92.550 is proposed to be amended regarding trapping in the vicinity of the Ambler Road.
- (3) 5 AAC 92.126(b) is proposed to be amended regarding reauthorization of a non-intensive management predator control plan for muskoxen in Unit 26B.
- (4) 5 AAC 92.085 is proposed to be amended regarding the use of equipment in hunts for big game with archery.

Written comments: You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to the Alaska Board of Game at <https://boardofgame.adfg.alaska.gov>. Written comments may also be submitted to the ADF&G Boards Support Section at P.O. Box 115526, Juneau, AK 99811-5526. Additionally, the Board of Game will accept comments by facsimile at (907) 465-6094.

Written comment deadline: The comments must be received not later than 8:00 a.m. on Thursday, July 16, 2026.

Oral hearing: Oral or written comments also may be submitted at a hearing to be held on July 22-23, 2026, at the Westmark Fairbanks Hotel & Conference Center, 813 Noble St., Fairbanks, Alaska. The hearing will be held from 8:30 a.m. to 5:30 p.m. and might be extended to July 24, from 8:30 am to 5:30 p. m. at the same location to accommodate those present before 1:00 p.m. on July 22, who did not have an opportunity to comment.

Obtaining copies of proposed regulations: For a copy of the proposed regulation changes, go to <https://www.adfg.alaska.gov/index.cfm?adfg=gameboard.meetinginfo&date=07-22-2026&meeting=fairbanks> or contact the ADF&G Boards Support Section at (907) 465-4110.

Final version of regulations: After the public comment period ends, the Board of Game will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

Public nature of comments: Public comments, once submitted, are public records and subject to disclosure under the Alaska Public Records Act. See AS 40.25.100 - 40.25.295. Do NOT include in your comments any information that you do not want made public.

Accommodations: If you are a person with a disability who needs a reasonable accommodation in order to participate in this process, please contact ADF&G, Boards Support Section at (907) 465-4110 not later than July 15, 2026 to ensure that any necessary accommodation can be provided.

Statutory authority: AS 16.05.255

Statutes being implemented, interpreted, or made specific: AS 16.05.250; AS 16.05.255; AS 16.05.258; AS 16.05.270; AS 16.05.783; AS 16.05.790; AS 16.05.920

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

How to receive further notices: The ADF&G Boards Support Section keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the boards' notices of proposed regulation changes. To be added to or removed from the list, send a request to Kari Winkel at kari.winkel@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices. Alternatively, visit the website at <https://boardofgame.adfg.alaska.gov> or contact ADF&G Boards Support Section at (907) 465-4110.

Individuals can also signup to receive automated notifications of all State of Alaska notices, including public notice for regulation changes, by subscribing to the Alaska Online Public Notices System: <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx>.

Date: June 12, 2026

/s/
Kari Winkel
Executive Director
Alaska Board of Game

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(g))

1. Adopting agency: Alaska Board of Game
2. General subject of regulation: Areas closed to hunting and trapping, Non-Intensive Management Predator Control Plans, Methods and Means, other miscellaneous provisions
3. Citation of regulation (may be grouped): 5 AAC 92.085, 5 AAC 92.126, 5 AAC 92.510, 5 AAC 92.550
4. Department of Law file number, if any: 2026200173
5. Reason for the proposed action:

☐ Compliance with federal law
☐ Compliance with new or changed state statute
☐ Compliance with court orders
☒ Development of program standards
☐ Other (identify): _____
6. Appropriation/Allocation: Natural Resources and all RDUs; OMB Component Number 2048
7. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year	Subsequent Years	
	FY <u>27</u>	FY <u>28</u>	FY <u>29</u>
Operating Cost	\$ <u>106.0</u>	\$ <u>100.0</u>	TBD*
Capital Cost	\$ <u>0</u>	\$ <u>0</u>	
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>	
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>	
1004 General fund	\$ <u>0</u>	\$ <u>0</u>	
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>	
Other (identify)	\$ <u>106.0</u>	\$ <u>100.0</u>	100% Fish and Game Fund all years.

* There will be a cost for the non-intensive management predator control plan for muskoxen in Unit 26B but we do not have a good estimate of the cost at this time because it is dependent on factors outside of our control. There will be no cost associated with hunting and trapping in the vicinity of the Ambler Road initially but there could be a cost associated with implementation of the regulations if the road is built.

8. The name of the contact person for the regulation:

Name: Kari Winkel
Title: Executive Director, Board of Game
Address: Boards Support Section
Alaska Department of Fish and Game
PO Box 115526
Juneau, AK 99811-5526
Telephone: (907) 465-6098
E-mail address: kari.winkel@alaska.gov

9. The origin of the proposed action:

 X Staff of state agency
 Federal government
 X General public
 Petition for regulation change
 Other (identify) _____

10. Date: June 12, 2026 Prepared by: _____

Name (printed) Kari Winkel
Title (printed): Executive Director
Telephone: 907-465-6098

ALASKA BOARD OF GAME
Special Meeting: Unit 26B Muskox, Archery
& Ambler Road
Westmark Hotel and Conference Center
Fairbanks, Alaska
July 22 - 23, 2026

TENTATIVE ROADMAP

Special Meeting Multiple Regions & Units (4 proposals)

_____ **PROPOSAL 1:** Reauthorize a non-intensive management predator control plan for muskox in Unit 26B.

_____ **PROPOSAL 2:** Allow the use of verifiers, clarifiers, and non-electronic scopes in hunts for big game restricted to archery only.

_____ **PROPOSAL 3:** Allow the use of verifiers, clarifiers, and electronic scopes in hunts for big game restricted to archery only.

_____ **PROPOSAL 4:** Close a 2-mile-wide corridor along the Ambler Road to hunting and trapping.



Alaska Board of Game

P.O. Box 115526

Juneau, AK 99811-5526

(907) 465-4110

<https://www.boardofgame.adfg.alaska.gov>

Alaska Board of Game Members

NAME AND ADDRESS	TERM EXPIRES
Jake Fletcher, Talkeetna, Chair Jacob.fletcher@alaska.gov	6/30/2029
Stosh (Stanley) Hoffman, Bethel, Vice Chair Stosh.hoffman@alaska.gov	6/30/2029
Allen (Al) Barrette, Fairbanks Allen.barrette@alaska.gov	6/30/2028
David Lorrington, Fairbanks David.lorrington@alaska.gov	6/30/2029
James Baichtal, Thorne Bay Jim.baichtal@alaska.gov	6/30/2027
Jake Garner, Anchorage Jake.garner@alaska.gov	6/30/2027
Carri Ann Mueller, Palmer Carriann.mueller@alaska.gov	6/30/2028

Alaska Board of Game members may also be reached by contacting

Kari Winkel, Executive Director, Alaska Board of Game

Email: kari.winkel@alaska.gov | Phone: (907) 465-6098

<https://www.boardofgame.adfg.alaska.gov>

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<https://boardofgame.adfg.alaska.gov>**ALASKA BOARD OF GAME****2026/2027 Cycle****Tentative Meeting Dates**

Meeting Dates	Topic	Location	Comment Deadline
January 22, 2027 (1 day)	Work Session	Kotzebue National Guard Armory	January 15, 2027
January 23-26, 2027 (4 days)	Western Arctic/Western Region Game Management Units 18, 22, 23, & 26A	Kotzebue National Guard Armory	January 9, 2027
March 19-26, 2027 (8 days)	Interior and Eastern Arctic Region Game Management Units 12, 19, 20, 21, 24, 25, 26B, and 26C	Fairbanks Pikes Waterfront Lodge	March 5, 2027

The Board of Game will meet via web conference to consider Agenda Change Requests following the November 1 deadline.

Total Meeting Days: 13

Proposal Deadline: Thursday, May 1, 2026

Agenda Change Request Deadline: Sunday, November 1, 2026

PROPOSAL 1

5 AAC 92.126 (b) Non-Intensive Management Predator Control Plans, Unit 26(B) Musk Oxen Recovery Area.

Reauthorize a non-intensive management predator control plan for muskox in Unit 26B, as follows:

5 AAC 92.126. Non-Intensive Management Predator Control Plans.

(a) Non-intensive management plans are established under this section in areas described in this section.

(b) Unit 26(B) Musk Oxen Recovery Area: Notwithstanding any other provisions in this title, and based on the following information contained in this subsection, the commissioner or the commissioner's designee may conduct selective, lethal, brown bear removal to allow recovery of the musk oxen population in Unit 26(B):

(1) the Unit 26(B) Musk Oxen Recovery Area is established and consists of all lands within Unit 26(B); this recovery program does not apply to any National Park Service or National Wildlife Refuge lands unless approved by the federal agencies;

(2) musk oxen and brown bear objectives are as follows:

(A) Unit 26(B) musk oxen are not managed intensively for high levels of human harvest, but are managed to provide hunting opportunities; the population objective is a minimum of 300 musk oxen that are one year old or older during April surveys; achieving this objective will allow re-establishment of a hunting season and also enhance and maintain viewing opportunity; the harvest objective is 3 - 9 musk oxen annually, once the population reaches 300 musk oxen and a harvestable surplus is available;

(B) the brown bear population objective for Unit 26(B) is to maintain the current estimated population of 200 - 320 bears, while annually removing up to 20 brown bears identified as threatening or killing musk oxen; limiting the number of bears that can be removed will assure that brown bears persist as part of the natural ecosystem and will assure continued brown bear hunting and viewing opportunities;

(3) findings of the Board of Game (board) concerning populations and human use are as follows:

(A) the Unit 26(B) musk oxen population and harvest objectives have not been achieved, based on the following:

(i) the musk oxen population size was estimated at 190 musk oxen in April 2011; musk oxen numbers in Unit 26(B) increased during 1990 - 1995 from 122 to 330 musk oxen; some of this increase in population was the result of immigration from Unit 26(C); during the mid-to-late 1990s, numbers stabilized at around 265 - 300 musk oxen through 2003; subsequently, the population declined to 216 musk oxen by 2006, and during 2007 - 2011, the population in Unit 26(B) slightly declined and stabilized at its current, reduced population size;

(ii) the hunting season for musk oxen in Unit 26(B) has been closed since regulatory year 2006 - 2007; the first hunting season in Unit 26(B) was in 1990; during 1990 - 1997, all

hunting was by Tier II permit; in regulatory year 1998 - 1999, the board determined that the amount necessary for subsistence was 20 musk oxen in Unit 26(A) and Unit 26(B), west of the Dalton Highway Management Corridor and established a Tier II hunt; the board also determined that the amount necessary for subsistence was four musk oxen in Unit 26(B), east of the Dalton Highway Management Corridor and established a Tier I registration hunt for residents only; a drawing permit hunt was also established for residents only; three permits were issued annually for bull musk oxen in Unit 26(B), east of the Dalton Highway, and the harvest of up to five musk oxen were authorized by the board; beginning in regulatory year 2005 - 2006, permits were not issued for the drawing and Tier I registration hunts, east of the Dalton Highway in Unit 26(B); this was in response to the sharp decline in musk oxen numbers following 2003; however, the Tier II subsistence hunt west of the Dalton Highway remained open until regulatory year 2006 - 2007, when no permits to hunt musk oxen were issued for any of the hunts;

(B) predation by brown bears was identified as a primary source of mortality on musk oxen and is an important cause of the failure to achieve the population and harvest objectives, based on the following:

(i) during 2007 - 2011, brown bear predation was identified as the primary source of mortality; 62 percent of the documented total adult musk oxen mortality (n=73) was attributed to brown bear predation, which accounted for an average of nine adult musk oxen deaths annually; during the same time period, 58 percent of documented calf mortality (n=45) was caused by brown bear predation; this resulted in an annual average of five calves known to be preyed on by brown bears; over the five years, a total of 74 calves were classified as "missing"; their fates were unknown and not included in the above calculations;

(ii) during 2007 - 2011, the habitat appeared capable of supporting a larger musk oxen population; captured musk oxen were generally in good condition, and birth rates were sufficient to provide for population growth, but growth was not realized because of poor survival; concentrations of some trace nutrients in musk oxen body tissues were believed to be suboptimal for survival; an imbalance of trace minerals, particularly low copper and selenium with elevated concentrations of zinc and iron, can negatively affect immune systems and make musk oxen more susceptible to diseases and potentially more vulnerable to predation; thus, it is possible that habitat limitations may have been obscured by high mortality due to predation; controlling predation will help answer this question;

(C) reducing predation can reasonably be expected to aid in achieving the objectives, based on the following:

(i) during 2004 - 2011, the population remained relatively stable at around 200 musk oxen; evidence indicates that the number of yearlings being recruited annually approximately equaled the number of adult musk oxen dying annually; if survival rates of either adult musk oxen or calves increase, then the musk oxen population would be expected to increase; reducing predation on adults and calves should change survival rates of one or both; during 1987 - 1995, the annual rate of increase for the entire population was seven percent; this time period should be representative of what population growth rate Unit 26(B) musk oxen could experience

if bear predation is reduced and habitat is not limiting; therefore, in a best case scenario, it would take approximately seven years for the musk oxen population to reach 300 musk oxen;

(ii) when the musk oxen population increases to 300 musk oxen one year old or older during April surveys, a hunt will be established if a harvestable surplus is available;

(D) reducing predation is likely to be effective and feasible using recognized and prudent active management techniques and based on scientific information; selectively removing brown bears to reduce predation is an experimental approach, based on the hypothesis that relatively few individual bears commonly kill musk oxen; brown bear radiotracking data collected during 1991 - 2007 indicated that several radiocollared adult males were responsible for multiple musk oxen predation events in early spring in a given year or over several years; this suggests that targeting individual bears should be effective, especially for reducing the incidence of multiple kills in spring; most of the predation was caused by male bears before the time when females emerge from dens;

(E) reducing predation is likely to be effective given land ownership patterns, based on the following:

(i) most of Unit 26(B) is state land; the land ownership pattern is 69 percent state land, 29 percent federal land, and 2 percent private land; of the 29 percent federal lands, 12 percent is Bureau of Land Management, and these lands are available for bear control; total land available for bear control is 72 - 74 percent of the unit;

(ii) only two of the 8 - 15 total musk oxen groups in Unit 26(B) occasionally occur on federal lands within the Arctic National Wildlife Refuge;

(F) reducing predation is in the best interests of subsistence users because no harvest is currently taking place; an increase in the population that results in sustainable harvest will benefit all residents;

(4) permissible methods and means are as follows:

(A) hunting of brown bears by the public in Unit 26(B) during the term of the program may occur as provided in the hunting regulations set out elsewhere in this title; however, hunting will be restricted as necessary to maintain the current estimated population of 200 - 320 bears;

(B) notwithstanding any other provisions in this title, the commissioner may allow agents of the state accompanied by department employees, or department employees, to conduct aerial, land and shoot, or ground-based lethal removal of any sex and age of brown bear using state-owned, privately-owned, or chartered equipment, including helicopters, under AS 16.05.783;

(5) the anticipated time frame for update and reevaluation are as follows:

(A) through June 30, 2034 [2018], the commissioner may authorize removal of bears in the Unit 26(B) Musk Oxen Recovery Area;

(B) annually the department shall, to the extent practicable, provide to the board a report of program activities conducted during the preceding 12 months, including implementation activities, the status of the musk oxen and brown bear populations, and recommendations for changes, if necessary to achieve the objectives of the plan;

(C) the program will be reviewed and modified or suspended if there is no evidence of improved survival or a detectable increase in the Unit 26(B) musk oxen population after three years of bear removal.

What is the issue you would like the board to address and why?

In 2004, the Unit 26(B) muskox population declined from around 300 muskoxen to 200 muskoxen and the hunting season was closed. In addition, the department was concerned that the population may continue to decline with some risk of extirpation or near extirpation as was observed in the muskox population in neighboring Unit 26(C). The department conducted a series of studies to help determine the cause of the decline, including habitat, nutrition, mineral deficiencies, disease, and predation. The results of those studies indicated that most muskoxen mortalities were caused by relatively few brown bears that specialized on killing muskoxen and that the time period this occurred was relatively short during the calving season.

In March 2012, the Alaska Board of Game adopted a non-intensive management predator control program for the Unit 26(B) muskox population. The program authorized selective lethal removal of brown bears by the Department.

During 2012–2016, the department removed seven total bears that were either predating on muskox or displaying predatory behaviors in proximity to muskox groups. Three bears were removed in 2012, three in 2013, and one in 2016. All removed bears were males. The department subsequently observed a reduction in both adult and calf mortality caused by bear predation. However, the population did not grow through 2016; a major drowning event led to the loss of approximately 11% of the population, and the population-wide annual recruitment of calves to the short-yearling age class did not appear to improve. Therefore, the program was suspended for re-evaluation.

Following program suspension, in 2018 the muskox population began to increase, surpassing the management objective of ≥ 300 muskoxen by 2020, and a hunt was re-established. The hunt structure includes Tier II and Tier I registration hunts, as well as a limited drawing permit hunt.

During the period of population growth, few brown bear predation events were detected when compared to the period prior to the control program and it is plausible that the impact of removing relatively few bears that specialize on killing muskoxen had a positive effect on population growth that was not immediately detectable when the program was active. This may be in part because the drowning event masked our ability to detect improvements in survival at the population level as a result of decreased bear predation and/or because this population is small, improvements to survival and population growth are difficult to detect.

Since 2023, the population has declined significantly and has dropped below the management objective. The most recent population estimate in April 2026 indicated a total of 220 muskoxen. Mortality of radiocollared muskox due to bear predation increased to levels similar to those

observed prior to and during bear removal. Given the current rate of decline there is risk that this population may decline to very low levels which will result in hunt closures.

The department and the board are required to consider all the important, relevant, and material factors relating to the sustainability of a replenishable, public, wildlife resource prior to adoption of a regulatory proposal. The proposed non-intensive management predator control plan is designed to grow the Unit 26B muskox population to maintain harvestable surplus to offer hunting opportunity by reducing predation from brown bears. The proposed reinstatement of the non-intensive management program for brown bears is designed to be sustainable because only those bears identified as preying or exhibiting predatory behavior on muskox will be removed. Annual removals under the program, in addition to hunting mortality, are expected to be below or near the annual estimated harvestable surplus. Therefore, all open seasons for the harvest of brown bears will remain open in Unit 26(B).

The department is committed to the conscious application insofar as practicable of principles of management intended to sustain the yield of muskoxen and brown bears. The department has considered the role of predators in the ecosystem, as well as their distribution within the range of the Unit 26B muskox population. Brown bear removal in this area under the proposed plan will occur in a small geographic area for a limited duration during the calving and post calving season (April–June).

PROPOSED BY: Alaska Department of Fish & Game (HQ-F26-039)

PROPOSAL 2

5 AAC 92.085. Unlawful methods of taking big game; exceptions.

Allow the use of verifiers, clarifiers, and non-electronic scopes in hunts for big game restricted to archery only, as follows:

5 AAC 92.085(10) with the following archery equipment or devices in a restricted weapons hunt that authorizes taking by bow and arrow:

(A) any type of electronic device, or light attached to the bow, arrow, or arrowhead, except a non-illuminating camera or a lighted nock on the end of an arrow, or a scope or electronic sight that does not project light externally;

[(B) SCOPES OR OTHER DEVICES ATTACHED TO THE BOW OR ARROW FOR OPTICAL ENHANCEMENT;]

What is the issue you would like the board to address and why?

Hunters with poor eyesight may have difficulty participating in big game hunts restricted to archery only, since the use of certain optical enhancement equipment is not legal in big game hunts restricted to archery only. Verifiers are an optical enhancement that allow archers who have trouble seeing things at close distances to see the sight pins on their bows more clearly, and are the equivalent of reading glasses for peep sites. Scopes on bows are an optical enhancement that magnifies the target, the same way scopes are used on rifles. Clarifiers used in conjunction with a lense can also be used on a scope to make the image of the target clearer, the same way the focus of binoculars and scopes are adjusted to see a clearer image. Both forms of technology, verifiers, clarifiers, and scopes, are allowed on archery equipment for big game when used in hunts without a weapons restriction. Neither are legal in hunts restricted to archery only. Battery-powered sight lights enhance the visibility of sight pins in low-light conditions and are allowed on archery equipment for big game when used in hunts restricted to archery only.

PROPOSED BY: Alaska Department of Fish & Game

(HQ-F26-038)

PROPOSAL 3

5 AAC 92.085. Unlawful methods of taking big game; exceptions.

Allow the use of verifiers, clarifiers, and electronic scopes in hunts for big game restricted to archery only, as follows:

5 AAC 92.085(10) with the following archery equipment or devices in a restricted weapons hunt that authorizes taking by bow and arrow:

(A) any type of [ELECTRONIC DEVICE, OR] light attached to the bow, arrow, or arrowhead, except a non-illuminating camera or a lighted nock on the end of an arrow, or a scope or electronic sight that does not project light externally;

[(B) SCOPES OR OTHER DEVICES ATTACHED TO THE BOW OR ARROW FOR OPTICAL ENHANCEMENT;]

What is the issue you would like the board to address and why?

Hunters with poor eyesight may have difficulty participating in big game hunts restricted to archery only, since the use of certain optical enhancement equipment is not legal in big game hunts restricted to archery only. Verifiers are an optical enhancement that allow archers who have trouble seeing things at close distances to see the sight pins on their bows more clearly, and are the equivalent of reading glasses for peep sites. Scopes on bows are an optical enhancement that magnifies the target, the same way scopes are used on rifles. Clarifiers used in conjunction with a lens can also be used on a scope to make the image of the target clearer, the same way the focus of binoculars and scopes are adjusted to see a clearer image. Both forms of technology, verifiers, clarifiers, and scopes, are allowed on archery equipment for big game when used in hunts without a weapons restriction. Neither are legal in hunts restricted to archery only. Battery-powered sight lights enhance the visibility of sight pins in low-light conditions and are allowed on archery equipment for big game when used in hunts restricted to archery only.

PROPOSED BY: Alaska Department of Fish & Game

(HQ-F26-041)

PROPOSAL 4

5 AAC 92.510. Areas closed to hunting; and 5 AAC 92.550. Areas closed to trapping.

Close a 2-mile-wide corridor along the Ambler Road - as follows:

5 AAC 92.510. Areas closed to hunting. (a) The following areas are closed to hunting as specified:

(21) Units 23 and 24:

(A) the area within 1 mile from each side of the Ambler Road, including the driveable surface of the road is closed to hunting.

5 AAC 92.550. Areas closed to trapping. The following areas are closed to the trapping of furbearers as indicated:

(11) Units 23 and 24:

(A) the area within 1 mile from each side of the Ambler Road, including the driveable surface of the road is closed to trapping.

What is the issue you would like the board to address and why?

The access road for the Ambler Mining District is a proposed 211-mile-long road that will originate from the Dalton Highway in Unit 24A and will extend west through Unit 24 and terminate in the Ambler Mining District in Unit 23. The proposed road is for commercial purposes only, is private, and access to it will be controlled by a locked gate that is staffed 24 hours a day, 7 days a week, 365 days a year. While the area within 1 mile on either side of the road will be closed, hunters and trappers will not be prevented from crossing the corridor or the road. Access across the closed area will be provided to areas open to hunting and trapping.

PROPOSED BY: Alaska Department of Fish & Game

(HQ-F26-042)

5 AAC 96.625. JOINT BOARD PETITION POLICY

(effective September 19, 2019)

(a) Under AS 44.62.220, an interested person may petition an agency, including the Boards of Fisheries and Game, for the adoption, amendment, or repeal of a regulation. The petition must clearly and concisely state the substance or nature of the regulation, amendment, or repeal requested, the reason for the request, and must reference the agency's authority to take the requested action. Within 30 days after receiving a petition, a board will deny the petition in writing, or schedule the matter for public hearing under AS 44.62.190--44.62.210, which require that any agency publish legal notice describing the proposed change and solicit comment for 30 days before taking action. AS 44.62.230 also provides that if the petition is for an emergency regulation, and the agency finds that an emergency exists, the agency may submit the regulation to the lieutenant governor immediately after making the finding of emergency and putting the regulation into proper form.

(b) Fish and game regulations are adopted by the Alaska Board of Fisheries and the Alaska Board of Game. Annually, the boards solicit regulation changes through regulatory proposals described in 5 AAC 96.610(a). Several hundred proposed changes are usually submitted to each board annually. The Department of Fish and Game compiles the proposals and mails them to all fish and game advisory committees, and to other interested individuals.

(c) Copies of all proposals are available at local Department of Fish and Game offices and on the boards support section's website. When the proposal books are available, the advisory committees and hold public meetings in the communities and regions they represent, to gather local comment on the proposed changes. Finally, the boards convene public meetings, which have lasted as long as six weeks, taking department staff reports, public comment, and advisory committee reports before voting in public session on the proposed changes.

(d) The public has come to rely on this regularly scheduled participatory process as the basis for changing fish and game regulations. Commercial fishermen, processors, guides, trappers, hunters, sport fishermen, subsistence fishermen, and others plan business and recreational ventures around the outcome of these public meetings.

(e) The Boards of Fisheries and Game recognize the importance of public participation in developing management regulations, and recognize that public reliance on the predictability of the normal board process is a critical element in regulatory changes. The boards find that petitions received under (a) of this section can detrimentally circumvent this process and that an adequate and more reasonable opportunity for public participation is provided by regularly scheduled meetings.

(f) The Boards of Fisheries and Game recognize that in rare instances circumstances may require regulatory changes outside the process described in (b) - (d) of this section. It is the policy of the boards that a petition will be denied and not scheduled for hearing unless the problem outlined in the petition justifies a finding of emergency under AS 44.62.250(a). In accordance with state policy expressed in AS 44.62.270, emergencies will be held to a minimum and are rarely found to exist. Except for petitions dealing with subsistence hunting or subsistence fishing, an emergency is an unforeseen, unexpected event that either threatens a fish or game resource, or an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future. Petitions dealing with subsistence hunting or subsistence fishing will be evaluated under these criteria:

- (1) the petition must address a fish or game population that has not previously been considered by the board for identification as a population customarily and traditionally used for subsistence under AS 16.05.258; or
- (2) the circumstances of the petition otherwise must require expedited consideration by the board, such as where the proposal is the result of a court decision or is the subject of federal administrative action that might impact state game management authority.

(Eff. 9/22/85, Register 95; am 8/17/91, Register 119; readopt 5/15/93, Register 126; am 2/23/2014, Register 209; am 9/19/2019, Register 231)

Authority: AS 16.05.251, AS 16.05.255, AS 16.05.258

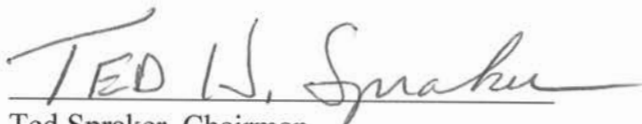
ALASKA JOINT BOARDS OF FISHERIES AND GAME

CRITERIA FOR DEVELOPMENT OF BOARD-GENERATED PROPOSAL

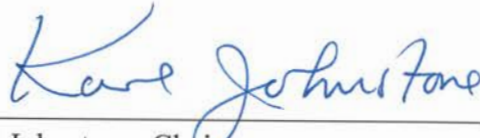
It has been suggested that criteria need to be established to guide the Alaska Joint Boards of Fisheries and Game, Board of Fisheries, and Board of Game (boards) members when deliberating on whether or not to develop a board-generated proposal. The boards will consider the following criteria when deliberating the proposed development and scheduling of a board-generated proposal:

1. Is it in the public's best interest (e.g., access to resource, consistent intent, public process)?
2. Is there urgency in considering the issue (e.g., potential for fish and wildlife objectives not being met or sustainability in question)?
3. Are current processes insufficient to bring the subject to the board's attention (e.g., reconsideration policy, normal cycle proposal submittal, ACRs, petitions)?
4. Will there be reasonable and adequate opportunity for public comment (e.g., how far do affected users have to travel to participate, amount of time for affected users to respond)?

Findings adopted this 16th day of October 2013.



Ted Spraker, Chairman
Alaska Board of Game
Vote: 6-0



Karl Johnstone, Chairman
Alaska Board of Fisheries
Vote: 7-0

**Findings of the Alaska Board of Game
2023-228-BOG
BOARD OF GAME WOLF MANAGEMENT POLICY
(Policy duration: Date of finding through July 2028
This policy supersedes BOG policy #2016-215-BOG))**

Background and Purpose

Alaskans are proud that wolves occur throughout their historic range in Alaska. Wolves are important to people for a variety of reasons, including as furbearers, big game animals, competitors for ungulate prey animals, for customary and traditional uses for Alaskans, and as subjects of enjoyment, curiosity, and study. Wolves are important components in the natural functioning of northern ecosystems. Over time, many people have come to appreciate wolves as exciting large carnivores that contribute significantly to the quality and enjoyment of life in Alaska.

The primary purpose of this policy is to provide guidance to the public, the Department, and the Board of Game on wolf management issues as the Board and the Department implement constitutional and statutory direction and respond to public demands and expectations. The Board recognizes the need for ongoing responsible wolf management to maintain sustainable wolf populations and harvests, and to help maintain sustainable ungulate populations upon which wolves are largely dependent. The Board also recognizes that when conflicts arise between humans and wolves over the use of prey, wolf populations may have to be managed more intensively to minimize such conflicts and comply with existing statutes (e.g. AS 16.05.255). Under some conditions, it may be necessary to greatly reduce wolf numbers to aid recovery of low prey populations or to arrest undesirable reductions in prey populations. In some other areas, including national park lands, the Board also recognizes that non-consumptive uses of wolves may be considered a priority use. With proper management, non-consumptive and consumptive uses are in most cases compatible but the Board may occasionally have to restrict consumptive uses where conflicts among uses are frequent.

Wolf/Human Use Conflicts

Conflicts may exist between wolves and humans when priority human uses of prey animals cannot be reasonably satisfied. In such situations, wolf population control will be considered. Specific circumstances where conflicts arise include the following:

1. Prey populations or recruitment of calves into populations are not sufficient to support existing levels of existing wolf predation and human harvest;
2. Prey populations are declining because of predation by wolves or predation by wolves in combination with other predators;
3. Prey population objectives are not being attained; and
4. Human harvest objectives are not being attained.

Wolf Management and Wolf Control

The Board and the Department have always distinguished between wolf management and wolf control. Wolf management involves managing seasons and bag limits to provide for general public hunting and trapping opportunities. These seasons provide for both subsistence and other traditional economic harvest opportunities and, as a side benefit, allow for participants to directly aid in mitigating conflicts between wolves and humans or improving ungulate harvest levels. In most cases trapping seasons will

be kept to times when wolf hides are prime. However, some hunters are satisfied to take wolves during off-prime months including August, September, April, and May. Opportunity may be allowed for such harvest.

Wolf control is the planned, systematic regulation of wolf numbers to achieve a temporarily lowered population level using aerial shooting, hiring trappers, denning, helicopter support, or other methods which may not normally be allowed in conventional public hunting and trapping. The purpose of wolf control is not to eradicate wolf populations. Under no circumstances will wolf populations be eliminated or reduced to a level where they will not be able to recover when control efforts are terminated, and wolves will always be managed to provide for sustained yield.

In some circumstances it may be necessary to temporarily remove a high percentage (>70%) of wolf populations to allow recovery of prey populations. In other situations, it may be necessary to temporarily remove a smaller percentage of wolf populations (40-70%) to allow prey populations to increase or meet human harvest objectives. Once prey population objectives have been met, wolf populations will generally be allowed to increase to or above pre-control levels.

During the 1997 review of predator control in Alaska by the National Research Council of the National Academy of Sciences (National Research Council 1997), only two clearly successful cases were found where increased harvests of ungulates resulted from control in the Yukon and Alaska. In the last 13 years since that review, several other programs have been successful, including programs in GMUs 9, 13, 16 and 19. In addition, there is now a thirty-year history of intensive wolf and moose management and research, including 2 periods of wolf control in GMU 20A. It is clear, and well documented, that periodic wolf control has resulted in much higher harvests of moose than could be realized without control (Boertje et al., 2009). Biologists now have considerable experience successfully managing moose at relatively high density (Boertje et al., 2007). The GMU 20A case history has provided a great deal of information on what biologists can expect from intensive management programs and these programs are scientifically well founded. However, GMUs are different ecologically and new information on which areas are best suited to intensive management programs will continue to be gathered.

Decisions by the Board to Undertake Wolf Control

Generally, there are two situations under which the Board will consider undertaking wolf control (implementing extraordinary measures outside normal hunting and trapping). In rare cases, control may be implemented where sustained yield harvests of ungulates cannot be maintained or where extirpation of ungulate populations may be expected. More commonly, the Board may implement wolf control to comply with Alaska Statutes (AS 16.05.255) where ungulate populations are declared “depleted” or where ungulate harvests must be significantly reduced, and these populations have been found by the Board to be important for “high levels of human harvest”. In most cases when wolf control is implemented, the Board will favor and promote an effective control effort by the public. Experience has shown that often a joint effort by the public and the Department has been most effective. However, the Board recognizes that there are areas and situations where the public cannot effectively or efficiently control predation and that the Department may, under its own authority and responsibilities, conduct the necessary wolf population control activities. Such situations arise in part because public effort to take wolves tends to diminish before an adequate level of population control is achieved. In areas where wolf reduction is being conducted, ungulate and wolf surveys should be conducted as frequently as necessary

to ensure that adequate data are available to make management decisions and to ensure that wolf numbers remain sufficient to maintain long-term sustained yield harvests.

Methods the Board Will Consider When Implementing Wolf Control Programs

- 1) Expanding public hunting and trapping into seasons when wolf hides are not prime.
- 2) Use of baiting for hunting wolves.
- 3) Allowing same-day-airborne hunting of wolves when 300 ft from aircraft.
- 4) Allowing land-and-shoot by the public.
- 5) Allowing aerial shooting by the public.
- 6) Allowing use of Department staff and helicopters for aerial shooting.
- 7) Encouraging the Department to hire or contract with wolf trappers and other agents who may use one or more of the methods listed here.
- 8) Allowing denning by Department staff and use of gas for euthanasia of sub-adults in dens.

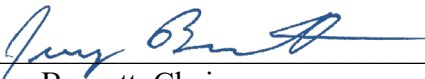
Terminating Wolf Control

Depending on the response to wolf control and ungulate population and harvest objectives, control may either be of short or long duration. In some cases, control may last less than five years. In other cases it may be an ongoing effort lasting many years. As ungulate harvest objectives are met, the Board will transition from a wolf control program to a wolf management program, relying to a greater extent on public hunting and trapping. In cases where ungulates respond very well and hunting is ineffective at controlling ungulate numbers for practical reasons, it may be necessary for the Board to restrict the taking of predators.

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Vote: 7-0
January 19, 2023
Ketchikan, Alaska



Jerry Burnett, Chairman
Board of Game

**Findings of the Alaska Board of Game
2023-227-BOG
BOARD OF GAME BEAR CONSERVATION, HARVEST,
AND MANAGEMENT POLICY
(Expiration Date: July, 2028
This policy supersedes BOG Policy #2016-214-BOG)**

Purposes of Policy

1. To clarify the intent of the Board and provide guidelines for Board members and the Department of Fish and Game (Department) to consider when developing regulation proposals for the conservation and harvest of bears in Alaska, consistent with the Alaska Constitution and applicable statutes.
2. To encourage review, comment, and interagency coordination for bear management activities.

Goals

1. To ensure the conservation of bears throughout their historic range in Alaska.
2. To recognize the ecological and economic importance of bears while providing for their management as a harvestable opportunity, food, predatory, and furbearer species.
3. To recognize the importance of bears for customary and traditional uses, viewing, photography, research, and non-consumptive uses in Alaska.

Background

The wild character of Alaska's landscapes is one of our most important natural resources and the presence of naturally abundant populations of brown/grizzly bears (*Ursus arctos*) and black bears (*Ursus americanus*) throughout their historic range in Alaska is important to that wild character. Bears are important to Alaskans in many ways, including as food animals, predators of moose, caribou, deer and muskox, a unique species opportunity for nonresident and resident hunters, furbearers, , and as objects of curiosity, study, awe, and enjoyment. Bears are also important components of naturally functioning Alaskan ecosystems.

Bear viewing is a rapidly growing industry in selected areas of the state. The interest exceeds the opportunities provided now by such established and controlled sites as McNeil River, Pack Creek, Anan Creek, Wolverine Creek and Brooks Camp. In most areas, hunting and viewing are compatible uses but the Board may consider bear viewing as a priority use in some small areas, especially where access for people is good and bears are particularly concentrated. The Board, the Department , and the Alaska Wildlife Troopers will continue to discourage people from feeding bears to provide viewing and will continue to enforce laws against persons who feed bears illegally.

Bears are frequently attracted to garbage or to fish and hunting camps and can be a nuisance where they become habituated to humans and human food sources. Dealing with problem bears has been especially difficult in Anchorage, Juneau, and the Kenai Peninsula. The Department has worked hard, and successfully, with municipalities to educate people and solve waste

management problems. The Department's policy on human food and solid waste management (<http://www.wc.adfg.state.ak.us/index.cfm?adfg=bears.bearpolicy>) provides guidance on reducing threats to humans and the resulting need to kill problem bears.

Bears can pose a threat to humans in certain situations. The Department has the regulatory authority to address human/bear conflicts and has developed a detailed approach to investigating incidents involving bears and humans. In addition, the Department has developed a detailed wildlife safety curriculum for use internally and by the public, with considerable focus on bears. The Department and the Board will continue to educate people about ways to minimize threats to humans and the resulting need to remove problem bears.

Alaska is world-renowned as a place to hunt brown bears, grizzly bears and black bears. Alaska is the only place in the United States where brown and grizzly bears are hunted in large numbers. The brown bear harvest has remained stable over the last 10 years, despite more liberal regulations governing take. Many of the hunters are nonresidents and their economic impact is significant to Alaska. Hunters have traditionally been the strongest advocates for bears and their habitat, providing consistent financial and political support for research and management programs.

Because bears can be both prey and predator, their relationship with people is complex. Throughout much of Interior Alaska and in some areas of Southcentral Alaska, the combined predation by bears and wolves keeps moose at relatively low levels. Bear predation on young calves has been shown to contribute significantly to keeping moose populations depressed, delayed population recovery, and low harvest by humans. People in parts of rural Alaska (e.g., Yukon Flats) have expressed considerable frustration with low moose numbers and high predation rates on moose calves in hunting areas around villages. The Board and the Department take an active role in addressing bear management issues. Because the Constitution of the State of Alaska requires all wildlife (including predators) to be managed on a sustained yield basis, the Board of Game and the Department will manage all bear populations to maintain a sustained yield, and the Board recognizes its broad latitude to manage predators including bears to provide for higher yields of ungulates (*West vs State of Alaska*, Alaska Supreme Court, 6 August 2010).

Brown and grizzly bears

Although there is no clear taxonomic difference between brown and grizzly bears, there are ecological and economic differences that are recognized by the Board and Department. In the area south of a line following the crest of the Alaska Range from the Canadian border westward to the 62nd parallel of latitude to the Bering Sea, where salmon are important in the diet of *Ursus arctos*, these bears are commonly referred to as brown bears. Brown bears grow relatively large, tend to be less predatory on ungulates, usually occur at high densities, and are highly sought after by hunters for the unique hunting opportunity generally only found in Alaska and for viewing and photography. Bears found north of this line in Interior and Arctic Alaska; where densities are lower and which are usually smaller in size, more predatory on ungulates, and have fewer opportunities to feed on salmon; are referred to as grizzly bears. Brown and grizzly bears are found throughout their historic range in Alaska and may have expanded their recent historic range in the last few decades into places like the Yukon Flats and lower Koyukuk River.

Although determining precise population size is not possible with techniques currently available, most bear populations are estimated to be stable or increasing based on aerial counts, Capture-

Mark-Resight techniques (including DNA), harvest data, traditional knowledge, and evidence of expansion of historic ranges. Throughout most coastal habitats where salmon are abundant, brown bears are abundant and typically exceed 175 bears/1,000 km² (450 bears/1,000 mi²). A population in Katmai National Park on the Alaska Peninsula was measured at 550 bears/1,000 km² (1,420 bears/1,000 mi²). In most interior and northern coastal areas, densities do not exceed 40 bears/1,000 km² (100 bears/1,000 mi²). Mean densities as low as 4 grizzly bears/1,000 km² (12 bears/1,000 mi²) have been measured in the eastern Brooks Range but these density estimates may be biased low and the confidence intervals around the estimates are unknown. Extrapolations from existing density estimates yielded statewide estimate of 31,700 brown bears in 1993, but the estimate is likely to be low.

Although some northern grizzly bear populations have relatively low reproductive rates, most grizzly bear and brown bear populations are capable of sustaining relatively high harvest rates comparable to moose, caribou, sheep, goats, and other big game animals that exist in the presence of natural numbers of large predators in most areas of Alaska. In addition, grizzly bears and brown bears have shown their ability to recover relatively quickly (<15 years) from federal poisoning campaigns during the 1950s and overharvest on the Alaska Peninsula during the 1960s. Biologists were previously concerned about the conservation of brown bears on the Kenai Peninsula and brown bears there were listed by the state as a “species of special concern”. The Department implemented a conservation strategy there through a stakeholder process. In recent years it has become apparent that brown bears remain healthy on the Kenai and the Board, and the Department no longer believes there is a conservation concern.

In some areas of the state (e.g., Unit 13) where the Board has tried to reduce grizzly bear numbers with liberal seasons and bag limits for over 15 years, there is no evidence that current increased harvests have affected bear numbers, age structure, or population composition. In areas of Interior Alaska, where access is relatively poor, long conventional hunting seasons and bag limits of up to 2 bears per year have not been effective at reducing numbers of grizzly bears. In these areas, most biologists believe that as long as sows and cubs are protected from harvest it will not be possible to reduce populations enough to achieve increases in recruitment of moose.

Black bears

American black bears (*Ursus americanus*) are generally found in forested habitats throughout the state. Like brown and grizzly bears, black bears also occupy all of their historic ranges in Alaska and are frequently sympatric with grizzly and brown bears. Because they live in forested habitats it is difficult to estimate population size or density. Where estimates have been conducted in interior Alaska, densities ranged from 67 bears/1,000 km² (175 bears/1,000 mi²) on the Yukon Flats to 289 bears/1,000 km² (750 bears/1,000 mi²) on the Kenai Peninsula. In coastal forest habitats of Southeast Alaska’s Alexander Archipelago, black bear densities are considered high. A 2000 estimate for Kuiu Island was 1,560 black bears/1,000 km² (4,000 black bears/1,000 mi²).

In most areas of the state, black bears are viewed primarily as food animals, but they are also sought after for their fur/hides, and as predators of moose calves. The Board classified black bears as furbearers, recognizing the desire of people to use black bear fur as trim on clothing, to enhance the value of black bears, and to enable the Board and the Department to use foot-snares in bear management programs. The classification of black bears as a furbearer has legalized the sale of some black bear hides and parts (except gall bladders) and has thus made regulations in Alaska similar to those in northern Canada in this regard.

Black bears exhibit higher reproductive rates than brown and grizzly bears. In all areas of the state black bear populations are healthy and can sustain current or increased harvest levels. However, hunting pressure on black bears in some coastal areas like Game Management Unit (GMU) 6 (Prince William Sound), GMU 2 (Prince of Wales Island) and parts of GMU 3 (Kuiu Island) may be approaching or have exceeded maximum desired levels if mature bears are to be preserved and are the subjects of frequent regulatory adjustments.

In some other parts of the state, deliberately reducing black bear numbers to improve moose calf survival has proven to be difficult or impossible with conventional harvest programs. The Board has had to resort to more innovative regulations promoting baiting and trapping with foot snares. The Department has also tried an experimental solution of translocating bears away from an important moose population near McGrath (GMU 19D) to determine if reduced bear numbers could result in significant increases in moose numbers and harvests. The success of the McGrath program has made it a potential model for other small areas around villages in Interior Alaska, if acceptable relocation sites are available.

Guiding Principles

The Board of Game and the Department will promote regulations and policies that will strive to:

1. Manage bear populations to provide for continuing sustained yield, while allowing a wide range of human uses in all areas of the state.
2. Ensure subsistence uses of bears are provided in accordance with state law.
3. Ensure public safety near population centers.
4. Continue and, if appropriate, increase research on the management of bears and on predator/prey relationships and methods to mitigate the high predation rates of bears on moose calves in areas designated for intensive management.
5. Continue to provide for and encourage non-consumptive use of bears without causing bears to become habituated to human food.
6. Favor conventional hunting seasons and bag limits to manage bear numbers.
7. Encourage the human use of bear meat as food.
8. Employ more efficient harvest strategies, if necessary, when bear populations need to be substantially reduced to mitigate conflicts between bears and people.
9. Work with the Department to develop innovative ways of increasing bear harvests if conventional hunting seasons and bag limits are not effective at reducing bear numbers to mitigate predation on ungulates or to deal with problem bears.
10. Simplify hunting regulations for bears and increase opportunity for incidental harvest of grizzly bears in Interior Alaska by eliminating resident tag fees.
11. Recognize the increasing value of mature brown bears, especially in Units 1-6 and 8-10, and generate increased revenue from sales of brown bear tags.
12. Review and recommend revision to this policy as needed.

Conservation and Management Policy

The Board and the Department will manage bears differently in different areas of the state, in accordance with ecological differences and the needs and desires of humans. Bears will always be managed on a sustained yield basis. In all non-subsistence areas, the priority is to ensure continued subsistence uses of bears in accordance with state law. In some areas, such as the Kodiak Archipelago, portions of Southeast Alaska and the Alaska Peninsula, brown bears will generally be managed for mature adult bears for hunting, and for viewing opportunities. In Southeast Alaska and Prince William Sound, black bears will generally be managed as for sustainable populations for harvest, food animals, and viewing opportunities. In Interior and Arctic Alaska, black bears and grizzly bears will be managed primarily for sustainable populations, food animals, and predators of moose and caribou. Near population centers bears will be managed to ensure for public safety. In some parts of Interior Alaska, the Board may elect to manage populations of black bears primarily as furbearers.

Monitoring Harvest and Population Size

The Board and the Department recognize the importance of monitoring the size and health of bear populations on all lands in Alaska to determine if bear population management and conservation goals are being met. In areas where monitoring bear numbers, population composition, and age class is a high priority, sealing of all bear hides and skulls will be required. At the present time, all brown and grizzly bears harvested under the general, drawing, or registration hunting regulations must be inspected and sealed by a Department representative. Where monitoring bear numbers and harvests is a lower priority, harvest may be monitored using harvest tickets or subsistence harvest surveys.

Harvest of black bears will generally be monitored either with harvest tickets or sealing requirements. Where harvests are near maximum sustainable levels or where the Department and the Board need detailed harvest data, sealing will be required.

Large areas of the state have subsistence brown/grizzly bear hunts with liberal seasons and bag limits, mandatory meat salvage, and relaxed sealing requirements. The Department will continue to provide for subsistence needs.

Bear viewing also is an important aspect of bear management in Alaska. Increasing interest in watching bears at concentrated feeding areas such as salmon streams and sedge flats, and clam flats is challenging managers to find appropriate levels and types of human and bear interactions without jeopardizing human safety. Bear hunting and viewing are compatible in most situations.

Nothing in this policy affects the authority under state or federal laws for an individual to protect human life or property from bears (5 AAC 92.410). All reasonable steps must be taken to protect life and property by non-lethal means before a bear is killed.

Managing Predation by Bears

In order to comply with the AS 16.05.255, the Board and Department may implement management actions to reduce bear predation on ungulate populations. The Board may promulgate regulations that allow the Department to temporarily reduce bear populations in Game Management Units, Subunits, or management areas. The Board and the Department may

also need to reduce bear predation on ungulates to provide for continued sustained yield management or conservation of ungulates. In addition, it may be necessary for the Department to kill problem bears to protect the safety of the public under AS 16.05.050 (a) (5). In some cases, the Board may direct the Department to prepare a Predation Control Areas Implementation Plan (5 AAC 92.125 or 92.126) or in other cases the Board may authorize extensions of conventional hunting seasons or implement trapping seasons to aid in managing predation on ungulates.

To comply with AS 16.05.255 to maintain sustained yield management of wildlife populations, or to prevent populations of ungulates from declining to low levels, the Board may selectively consider changes to regulations allowing the public to take bears, including allowing the following:

- Baiting of bears
- Trapping, using foot-snares, for bears under bear management or predator control programs.
- Incidental takes of brown or grizzly bears during black bear management or predator control programs.
- Use of communications equipment between hunters or trappers.
- Sale of hides and skulls as incentives for taking bears.
- Diversionary feeding of bears during ungulate calving seasons.
- Use of black bears for handicraft items for sale, except gall bladders.
- Use of grizzly bears for handicraft items for sale, except gall bladders.
- Taking of sows accompanied by cubs and cubs.
- Same-day-airborne taking.
- Aerial shooting of bears by Department staff
- Suspension or repeal of bear tag fees.
- Use of helicopters.

The Board intends that with the exception of baiting, the above-listed methods and means will be authorized primarily in situations that require active control of bear populations, and only for the minimum amount of time necessary to accomplish management objectives. The Board allows baiting of black bears as a normal method of take in broad areas of the state and will consider allowing brown bear baiting as a normal method of take in select areas.

Vote: 7-0
January 19, 2023
Ketchikan, Alaska



Jerry Burnett, Chairman
Board of Game

Findings for the Alaska Board of Game
2012-193-BOG
Unit 26B Muskoxen Findings
January 18, 2012

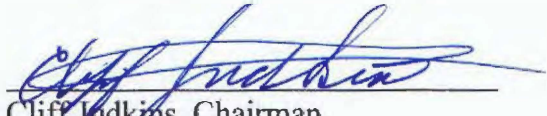
The Board of Game finds as follows, based on information provided by Department staff, Alaska residents and other users of muskoxen in Unit 26(B). These findings are supplemental to the findings set forth in 5AAC 92.126.

1. Unit 26(B) muskoxen are not managed intensively for high levels of human harvest, but they are managed to provide hunting opportunities. The population objective is a minimum of 300 muskoxen $\geq$ 1 year old during April surveys. The harvest objective is 3–9 muskoxen annually, once the population reaches 300 and a harvestable surplus is available.
2. The Unit 26(B) muskox population and harvest objectives are not being met. The muskoxen population size was estimated at 190 in April 2011 which is below the population objective of 300. The hunting season for Unit 26(B) muskoxen has been closed since regulatory year 2006–2007 because there is no harvestable surplus.
3. Predation by brown bears was identified as a primary source of mortality on muskoxen and is an important cause of the failure to achieve the population and harvest objectives. During 2007–2011, brown bear predation was identified as the primary source of mortality. Sixty-two percent of the documented total adult muskoxen mortality ($n=73$) was attributed to brown bear predation, which accounted for an average of 9 adult muskoxen deaths annually. During the same time period, 58 percent of documented calf mortality ($n=45$) was caused by brown bear predation. This resulted in an annual average of 5 calves known to be preyed on by brown bears.
4. During 2007–2011, the habitat appeared capable of supporting a larger muskoxen population. Captured muskoxen were generally in good condition, and birth rates were sufficient to provide for population growth, but growth was not realized because of poor survival.
5. Reducing predation can reasonably be expected to aid in achieving the objectives. During 2004–2011, the population remained relatively stable at around 200 muskoxen. Evidence indicates that the number of yearlings being recruited annually approximately equaled the number of adult muskoxen dying annually. If survival rates of either adult muskoxen or calves increase, then the muskoxen population is expected to increase. Reducing predation on adults and calves should change survival rates of one or both. During 1987–1995, the annual rate of increase for the entire population was 7%. This time period should be representative of what the population growth rate Unit 26(B) muskoxen could experience if bear predation is reduced and habitat is not limiting.
6. Reducing predation is likely to be effective given land ownership patterns. Most of Unit 26(B) is state land; the land ownership pattern is 69 percent state, 29 percent federal, and 2 percent private. Of the 29 percent federal lands, 12 percent is Bureau of Land Management,

Objectives are unlikely to be achieved in the foreseeable future unless predator control is conducted.

8. Increases in moose recruitment and abundance in the Subunit 15A population are achievable utilizing the recognized and prudent active management technique of predator control in combination with habitat improvement.
9. Reducing predation can reasonably be expected to achieve a sex and age structure that will sustain the population, provide for harvest, and allow growth toward objectives.

Vote: 7-0
January 18, 2012
Anchorage, Alaska


Cliff Judkins, Chairman
Alaska Board of Game

ALASKA BOARD OF GAME

BOARD FINDINGS AND POLICY REGARDING
BOWHUNTING

FINDINGS

- I. Alaska's comparatively low population, large land area open to hunting, and long seasons generally afford all individuals who use legal, specialized weapons a reasonable hunting opportunity;
- II. General permit hunting may restrict hunting effort both spatially and temporally, resulting in lower hunting densities, and providing additional high quality opportunities for bowhunters;
- III. Bowhunting provides a comparatively large amount of high quality recreation with regard to biological cost;
- IV. Bowhunting as one legitimate use among others is a management tool and may be applied, as appropriate, to achieve desirable management goals.

POLICY

- I. Bowhunting is recognized as a legitimate method of taking game in Alaska and is to be encouraged;
- II. It is acknowledged that where practicable and within reasonable limits, bowhunting shall be encouraged in areas open to the taking of game but closed to the discharge of firearms;
- III. In certain areas, for certain species, where the take of game must be limited or the area closed for management or safety reasons, bowhunting may be permitted when hunting with firearms is prohibited;
- IV. Though appropriate in many areas, it is acknowledged that aspects of bowhunting are highly visible and that bowhunting may be restricted on that basis.

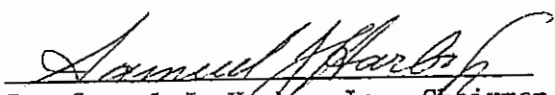
Editor's Note:

- (1) Areas closed to the discharge of firearms may be open to other legal methods of hunting; for example, bowhunting in Denali State Park.

The Board deliberately allowed bowhunters to continue to carry sidearms for added safety while bowhunting in areas closed to hunting by means of firearms. However, if abuses involving sidearms appear, bowhunters will be deprived of the extra security a sidearm provides.

ADOPTED: April 2, 1980
Fairbanks, Alaska

VOTE: 7/0


Dr. Samuel J. Harbo, Jr., Chairman
Alaska Board of Game

ALASKA BOARD OF GAME RESOLUTION

#95-83-BOG

Whereas ANILCA created several national park units in Alaska which are closed to hunting with the exception of qualified subsistence users; and

Whereas actions by the State of Alaska have and could continue to cause a loss of those opportunities on national park lands;

Therefore be it resolved that the Alaska Board of Game requests the Governor and the State Legislature to consider the ramifications of any actions when dealing with the subsistence issue which may jeopardize present subsistence uses on national park lands.

DATE: January 25, 1995



Richard Burley, Chair

VOTE: 6 Favor, 1 Absent

**Findings of the Alaska Board of Game
Regarding Customary and Traditional Uses of the Teshekpuk Caribou Herd
2014-204-BOG**

At its January 2014 meeting in Kotzebue, the Alaska Board of Game (board) took up Proposal 23, sponsored by the Alaska Department of Fish and Game, to determine whether the Teshekpuk caribou herd (TCH) in game management units (GMUs) 22, 23, 24, 26A, and 26B were customarily and traditionally taken or used for subsistence under AS 16.05.258(a) and 5 AAC 99.010(b).

The board was first presented a customary and traditional use worksheet for consideration of the TCH in 1990. From the administrative record, it is not clear whether a customary and traditional use determination was made by the board at that time.

In 1992, when the board completed a review of subsistence regulations after passage of the 1992 subsistence statute, the board did not consider the TCH. However, the board did review the Western Arctic caribou herd (WAH) and established an amount reasonably necessary of 8,000–12,000 caribou. The WAH proposal prepared by the department included some caribou harvest information from Wainwright and Barrow, which now are known to be among the primary users of the TCH. Harvest information from other North Slope communities that are primary users of the TCH were not included (e.g., Atkasuk, Nuiqsut, Anaktuvuk Pass). The administrative record remains unclear if the 1992 board specifically included the TCH in the amount reasonably necessary (ANS) for subsistence of the WAH.

To ensure compliance with the requirements of AS 16.05.258, in January 2014 the department presented the board with a customary and traditional use worksheet for the TCH, in the form of a written report and an oral report, at its meeting in Kotzebue. Board deliberations on the findings of customary and traditional uses lead to a positive determination for the TCH, and that there was a harvestable surplus of the caribou population.

Caribou are present on the North Slope year-round. Four caribou herds intermingle at various times of the year: the WAH, the Central Arctic caribou herd (CAH), the TCH, and the Porcupine caribou herd (PCH). Although the TCH has demonstrated high fidelity to calving areas surrounding Teshekpuk Lake, extensive use of coastal habitat for insect relief, and broad use of the coastal plain west of the Colville River drainage in late summer, its use of winter ranges is highly variable and the overlap between the TCH with WAH and CAH animals can be extensive during fall and summer.

Following the board's findings, the department then presented options for ANS to the board. The options were included in both a written report and an oral report. One of the options was to forego establishment of a separate ANS for the TCH because caribou harvest data from some communities considered the primary users of the Teshekpuk caribou herd (Barrow, Wainwright) were included in the information reviewed by the board in 1992 when the ANS for the Western Arctic caribou herd (WAH) was determined to be 8,000–12,000 caribou. The 2014 department reports stated: "While the administrative record of that meeting is limited at best, it may be that

the [1992] board set the WAH ANS with TCH animals in mind, in effect, creating a combined ANS for the two herds.”

After deliberation, the board determined that the ANS for the TCH was already included in the 8,000–12,000 caribou it had determined for the WAH, given the 1992 board’s consideration of some North Slope community harvests in establishing the WAH ANS.

At its February 2014 meeting in Fairbanks, during deliberations on Proposal 50, the board re-affirmed the positive finding for Teshekpuk caribou, and re-affirmed that the ANS for Teshekpuk caribou was considered to be part of the ANS for the Western Arctic herd. The board also communicated its intent that the positive finding for Teshekpuk caribou carried into ADF&G Region III units.

Nothing in this finding prevents the board from changing either herd’s amount reasonably necessary for subsistence.

Vote: 7-0
February 21, 2014
Fairbanks, Alaska



Ted Spraker, Chairman
Alaska Board of Game

ALASKA BOARD OF GAME
Policy #81-29-GB

Finding and Policy for
Future Management of the Western Arctic Caribou Herd

1. The management goal of the Game Board's resolution #1, September 21, 1976, was to rebuild the Western Arctic Caribou Herd to 100,000 breeding age animals. This goal will in all probability be attained during summer 1981.
2. This herd is a principal source of food for residents living within the range of the herd. Other Alaska residents and some nonresidents utilize a small portion of the herd, of which the harvest has been severely restricted since fall 1976.
3. The recent rapid rate of recovery of the herd at approximately 14 percent annually is in part a result of unusually low natural mortality due to the recent mild winters, possible reduced rates of wolf predation, and the herd conservation concerns of the residents also the herd's range in conjunction with harvest restriction.
4. At the present population level of approximately 140,000 animals there are portions of the herd's range which remain underutilized by the herd--notably the Koyukuk valley.
5. Assessment of the habitat's capabilities and condition can be determined by evaluations at varying population levels and consistent or nonconsistent migration patterns arising from development of access corridors or other human activities.

THEREFORE, future management of the Western Arctic Caribou Herd should be to:

1. Provide a greater proportion of the annual increment to those users most dependent on the herd for sustenance;
2. Allow a gradual increase in herd size for expansion into traditional ranges;
3. Maintain a portion of the annual increment for periods of increased natural mortality; and
4. Maintain periodic assessments of the habitat to determine long-term carrying capacities.

ADOPTED: Anchorage, Alaska
April 5, 1981

VOTE: 6-0 (Bennett absent)

Dr. Samuel J. Harbo, Jr.
Chairman, Alaska Board of Game

Findings of the Alaska Board of Game
Regarding Customary and Traditional Use of Muskoxen
in Northwestern Unit 23
98-118 BOG

At its October 1997 meeting in Nome, the Board of Game took up a proposal sponsored by the Alaska Department of Fish and Game to determine whether there is a customary and traditional use of muskoxen in northwestern Unit 23. The muskoxen now in Unit 23 were introduced in 1970 and have been protected from hunting by state law, since then. Muskoxen in Unit 23 represented an unusual situation for the C&T determination process because muskoxen have been absent from that area for many years. Unlike muskoxen on the Seward Peninsula no federal hunt has been established on this population of muskoxen on federal lands so there has been no reported recent use of muskoxen by residents of Unit 23.

Board deliberations on the findings of a customary and traditional use lead to the following conclusions:

Criterion 1: A long-term consistent pattern of non-commercial taking, use, and reliance on the fish stock or game population that has been established over a reasonable period of time of not less than one generation, excluding interruption by circumstances beyond the user's control, such as unavailability of the fish or game caused by migratory patterns.

While the Board of Game did not find that a consistent pattern of taking, use, and reliance on this re-established population had occurred over a period of not less than one generation (approximately 30 years), the Board did find that the reason was due to an interruption by circumstances beyond the users' control.

Muskox bones and horns have been found near Cape Thompson and Kivalina associated with other cultural materials at known archeological sites. Inupiaq oral histories include references to muskoxen and one muskox was reported to have been taken by a Point Hope resident in 1946. In addition to the direct evidence of customary and traditional use of muskoxen in Unit 23 there is a good record for use of muskoxen on the North Slope by the Inupiaq culture. The Inupiat people of northwestern Unit 23 share that culture, which includes the use of muskoxen for food and blankets.

Criterion 2: A pattern of taking or use recurring in specific seasons of each year.

Due to the long interruption of the availability of the population the board could not determine directly when muskoxen were taken in Unit 23. A pattern of taking muskoxen during the late-winter and spring has become established for muskox hunting on the newly established federal hunt on the Seward Peninsula and on the North Slope. Even though the

federal hunt was established with specific seasons, extensions have been granted to accommodate the developing pattern of taking.

Criterion 3: A pattern of taking or use consisting of methods and means of harvest that are characterized by efficiency and economy of effort and cost.

Due to the long interruption of the availability of the population the board could not determine directly the method and means of harvest in Unit 23. In neighboring areas, the primary transportation is by snowmachine and foot without the use of aircraft or other expensive commercial services. Muskoxen harvests are efficient and economical to local hunters. The grouping behavior of the animals when approached allows hunters to easily get within range and select animals to harvest.

Criterion 4: The area in which the noncommercial, long-term and consistent pattern of taking, use, and reliance upon the fish stock or game population has been established.

The current range of muskoxen is within the area that has traditionally been used for subsistence hunting of large land mammals by residents of Point Hope and Kivalina. Therefore, if hunting were allowed it would likely occur in this area.

Criterion 5: A means of handling, preparing, preserving, and storing fish or game that has been traditionally used by past generations, but not excluding recent technological advances where appropriate.

While many families now use freezers for storage, most fish is smoked or dried as is some moose and caribou. Since muskoxen have not been harvested in this area in many years the Board of Game could not address the handling and preparation of muskoxen directly. However, available information suggests that the handling and preparation, preservation and storage would occur in the same manner as that of other big game subsistence species. On the Seward Peninsula and on the North Slope, the meat is salvaged and used and hides are used for warmth as blankets or clothing. There has been no trophy use of horns or hides.

Criterion 6: A pattern of taking or use that includes the handing down of knowledge of fishing or hunting skills, values, and lore from generation to generation.

Hunting knowledge in the communities within Unit 23 are known to be passed along from parent to child. Learning commonly occurs when children accompany their parents during hunting, fishing, and gathering activities. When hunting large animals young boys are taught hunting skills by older brothers, fathers, or uncles.

Criterion 7: A pattern of taking, use, and reliance where the harvest effort or products of that harvest are distributed or shared, including customary trade, barter, and gift-giving.

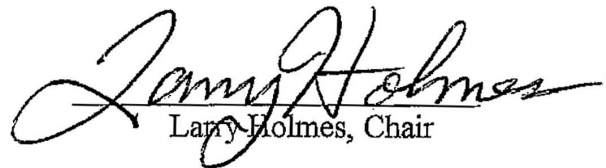
Sharing of big game and other wild resources is common in communities of Northwest Alaska as demonstrated by subsistence surveys indicating that virtually every household received such gifts.

Criterion 8: A pattern that includes taking, use, and reliance for subsistence purposes upon a wide diversity of fish and game resources and that provides substantial economic, cultural, social, and nutritional elements of the subsistence way of life.

Communities in Unit 23 take, use, and rely upon a wide diversity of game resources. Documented harvests ranged from 398 pounds per capita in Kotzebue in 1989 to 762 pounds per capita per year in Kivalina 1992 (Alaska Department of Fish and Game 1997). The typical community harvests about 50 different species of plants, fish, and wildlife each year. It is also well documented that economic opportunities for cash are few and mean household income is low, therefore wild foods are essential to many people of Unit 23.

After weighing the individual criteria, the board found that there is a customary and traditional use of muskoxen in Unit 23. The board believed that muskoxen were used, to the extent they were available, prior to extirpation from the area, and that this use would have resumed, but for legal constraints, as soon as animal were again available. The extirpation was not within the control of current users.

DATE: January 18, 1998
Bethel, Alaska


Larry Holmes, Chair

VOTE: 7-0

**Findings for the Alaska Board of Game
2025-238-BOG**

**Board Recommendation to the Department of Fish and Game
provided during the Special Board Meeting Regarding Intensive Management for the
Mulchatna Caribou Herd**

July 15, 2025

The Board of Game finds as follows, based on information provided by Department staff, Alaska residents and other wildlife users:

The Board recommended the Department take the following actions:

1. To continue to monitor the sustainability of the predator populations to identify if conditions require the Commissioner to review, modify, or suspend program activities.
2. To recognize calving grounds have and will shift over time, the Department will continue to monitor the herd to identify changes in calving periods and locations of calving grounds.
3. To conduct Department removal of brown and black bears on the calving grounds, and during the time frame immediately preceding and during the calving period and as conditions warrant.
4. That adding black and brown bears to the Mulchatna Caribou Herd Predation Management Plan in 5 AAC 92.111(c) is not intended to alter existing wolf removal authorizations.

Vote: 7-0
July 15, 2025
Anchorage, Alaska


Jake Fletcher
Alaska Board of Game

**Findings for the Alaska Board of Game
Regarding the Mulchatna Caribou Herd
2025-235-BOG
March 27, 2025**

The Board of Game finds that an emergency exists regarding the declining Mulchatna Caribou herd, necessitating immediate action to preserve the health and general welfare of Alaskans who depend on the herd. This herd is important for providing high levels of human harvest and has long been important for subsistence users as well as for other Alaskans and nonresident hunters. Currently the herd has declined to a level where no hunting can occur. The Board aims to ensure that a large number of calves to be born in the spring of 2024 will survive, to ensure reproduction into the future. The Department documented extensive bear predation on newborn calves, including by direct observation, and consistently found calves in bear stomachs for the bears taken at the calving grounds in 2023 and 2024. The density of bears in the western calving area leads to an estimate that a similar number of bears would be removed this year if predator control is continued. The Board's intent in 2022 was to implement a predator control program to take bears and wolves for three years. This is considered a minimum period to provide sufficient data to confirm the success seen by the Department. The Mulchatna Caribou herd is responding positively to intensive management. There is no evidence that the intensive management program has impacted or will impact sustainability of bears or wolves in the area. The program covered a small area and was for a limited time during the peak calving season, and failing to take bears and wolves in the area during the calving season for the third cumulative year will threaten the recovery of the herd. There is an immediate threat to the caribou and the Board finds that a delay in acting would result in a situation where a significant number of caribou would not be available in the future. When the intensive management program was first implemented in 2023, the Board and the Department did not have population or density estimates for bears in the area within the prior few years, but the information available indicated the bear population was large and growing while the caribou population was declining. One estimate was an expectation that approximately 30 bears would be taken in 2023; the actual take of almost 100 bears showed there is a high population of bears. The Department has identified brown bears as the primary cause of death of calves within their first two weeks of life. The Board considered a great deal of oral testimony and written comments presented over many days, where such comments were both in support of and opposed to continuing predator control of bears. The communities directly impacted by the caribou decline, including local Advisory Committees, are in support. The Alaska Federation of Natives adopted a resolution, unanimously, supporting the intensive management program.

Vote: 6-0-1 (*John Wood absent*)
March 27, 2025
Anchorage, Alaska



Jake Fletcher, Chairman
Alaska Board of Game

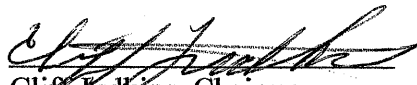
complete closure of the nonresident season (closed in 2009), and season and bag-limit restrictions for resident hunters. The reduced recruitment and low bull numbers have resulted in a failure to provide for human needs.

7. The intensive management harvest objectives for the MCH in Units 9B, 17, 18, 19A, and 19B will not be achieved in the near future unless action is taken to improve calf survival and recruitment.
8. Increases in caribou recruitment and abundance in the MCH are achievable utilizing the recognized and prudent active management technique of predator control.
9. The harvest objectives have not been achieved, at least in part, because wolf and brown bear predation have been important causes of mortality in the population. Objectives are unlikely to be achieved in the foreseeable future unless predator control is conducted. Population objectives are currently being met, however, low recruitment precludes this population from meeting harvest objectives.
10. Reducing predation can reasonably be expected to achieve a sex and age structure that will sustain the population, provide for harvest, and allow growth toward objectives.

Vote: 7-0

March 9, 2012

Fairbanks, Alaska



Cliff Jenkins, Chairman
Alaska Board of Game

**Findings for the Alaska Board of Game
2012-197-BOG
Units 9B, 17, 18, 19A, and 19B (Mulchatna Caribou Herd)
Intensive Management Supplemental Findings
March 9, 2012**

The Board of Game finds as follows: based on information provided by Department staff, Alaska residents, and users of caribou in Subunits 9B, 17B, 17C, 19A, and 19B. These findings are supplemental to the findings set forth in 5AAC 92.108 and 92.125.

1. The Mulchatna Caribou Herd (MCH) in Units 9B, 17, 18, 19A, and 19B has been identified by the Board as a herd that is important for providing high levels of human consumptive use. The Board established an intensive management population objective of 30,000 - 80,000 caribou and an intensive management harvest objective of 2,400 – 8,000 caribou annually for the MCH.
2. The most recent minimum population size estimate for the MCH indicates that the herd contained between 30,000 and 40,000 caribou in 2008, which is at the lower limit of the intensive management population objective of 30,000 - 80,000 caribou.
3. The harvestable surplus of MCH caribou in Units 9B, 17, 18, 19A, and 19B, as described in 5 AAC 92.106(3)(A), is currently estimated to be 1,050 caribou annually, which is less than intensive management harvest objective established by the Board of 2,400 – 8,000 caribou annually.
4. The cause of the decline of the MCH caribou population in Units 9B, 17, 18, 19A, and 19B is not known with certainty but was likely due to weather-related and/or density-dependent factors that resulted in range limitations and disease that caused low pregnancy, low calf production and low calf survival. The poor recruitment also affected a shift in the population's age structure toward older-aged individuals that was not conducive for population growth. The density-dependent factors affecting population growth have become less important in limiting population growth as the number of MCH has declined to 15% of peak numbers. Nutritional indices (pregnancy rates, calf weights, and the prevalence of disease) have improved, and the population's age should no longer be skewed to older animals.
5. The importance of predation in affecting population growth harvest has increased the current low population size. The poor survival of calves and calf recruitment currently observed can be reasonably attributed to the influence of predation on caribou calves. A caribou calf mortality study conducted in May and June 2011 found that predation by bears and wolves accounted for 89% of the of calves that died between birth and 1 month of age. Fall calf:cow ratios in the MCH have averaged 22 calves:100 cows since 2005.
6. The low MCH caribou calf recruitment in Units 9B, 17, 18, 19A, and 19B has prevented recovery of the bull:cow ratio to objectives (3-year average bull:cow ratio = 19 bulls:100 cows between 2009 and 2011), a decrease in the number of harvestable caribou, a

**Findings for the Alaska Board of Game
2011-188-BOG
Units 9B, 17, 18, and 19B (Mulchatna Caribou Herd)
Intensive Management Supplemental Findings
March 30, 2011**

The Board of Game finds as follows, based on information provided by Department staff; Alaska residents and users of caribou in Subunits 9B, 17B, and 17C. These findings are supplemental to the findings set forth in 5AAC 92.108.

1. The Mulchatna Caribou Herd (MCH) in Units 9B, 17, 18, and 19B has been identified by the Board as a herd that is important for providing high levels of human consumptive use. The Board established an intensive management population objective of 30,000 - 80,000 caribou and an intensive management harvest objective of 2,400 – 8,000 caribou annually for the MCH.
2. The most recent minimum population size estimate for the MCH indicates that the herd contained between 30,000 and 40,000 caribou in 2008, which is at the lower limit of the intensive management population objective of 30,000 - 80,000 caribou.
3. The harvestable surplus of MCH caribou in Units 9B, 17, 18, and 19B, as described in 5 AAC 92.106(3)(A), is currently estimated to be 1,050 caribou annually, which is less than intensive management harvest objective established by the Board of 2,400 – 8,000 caribou annually.
4. The cause of the decline of the MCH caribou population in Units 9B, 17, 18, and 19B is not known with certainty but was likely due to weather-related and/or density-dependant factors that resulted in range limitations and disease that caused low pregnancy, low calf production and low calf survival. The poor recruitment also affected a shift in the population's age structure toward older-aged individuals that was not conducive for population growth. The density-dependant factors affecting population growth has become a less important in limiting population growth as the number of MCH caribou declined as evidenced by improved nutritional indices. Nutritional indices (pregnancy rates, calf weights, and the prevalence of disease) have improved as the number of caribou in the MCH declined, and the population's age structure has progressively improved.
5. The importance of predation in affecting population growth and recovery has increased as population size decreased. The poor survival of calves and calf recruitment currently observed can be reasonably attributed to the influence of predation on caribou calves. Fall calf:cow ratios in the MCH have averaged 22 calves:100 cows since 2005.
6. The low MCH caribou calf recruitment in Units 9B, 17, 18, and 19B has resulted in a low bull:cow ratio (17 bulls per hundred cows in 2010), a decrease in the number of harvestable caribou, a complete closure of the nonresident season in 2009, and season and bag-limit restrictions for resident hunters. The reduced bull recruitment and bull numbers have resulted in a failure to provide for human needs.

7. The intensive management harvest objectives for the MCH in Units 9B, 17, 18, and 19B will not be achieved in the near future unless action is taken to improve calf survival and recruitment.
8. Increases in caribou recruitment and abundance in the MCH are achievable utilizing the recognized and prudent active management technique of predator control.
9. The population and harvest objectives have not been achieved, at least in part, because wolf and brown bear predation have been important causes of mortality in the population. Objectives are unlikely to be achieved in the foreseeable future unless predator control is conducted.
10. Reducing predation can reasonably be expected to achieve a sex and age structure that will sustain the population, provide for harvest, and allow growth toward objectives.

Vote: 6-0-1
March 30, 2011
Anchorage, Alaska

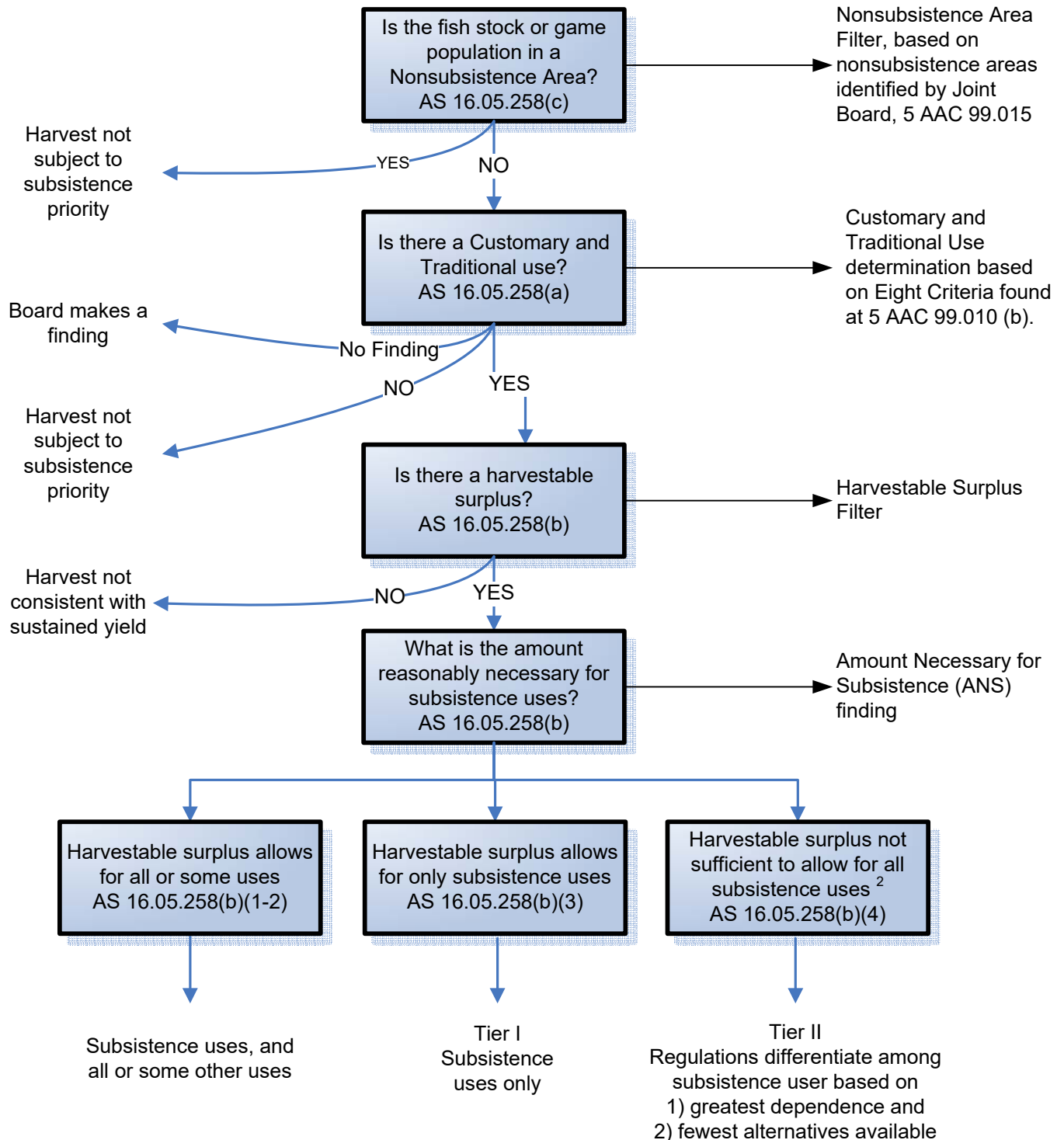

Cliff Judkins, Chairman
Alaska Board of Game

State subsistence materials

1. Alaska Board of Fisheries and Game steps when considering regulations that affect subsistence uses (flowchart)
2. Board of Game subsistence regulatory process in six steps
3. Tier II or Not? Steps to analyze hunting opportunity, Board of Game
4. State subsistence statutes, with notes (AS 16.05.258, 16.05.259, 16.05.940)
5. State subsistence regulations (5 AAC 99)
6. Maps of the five current state nonsubsistence areas (Ketchikan, Juneau, Valdez, Anchorage-Matsu-Kenai Peninsula, Fairbanks)

Alaska Board of Fisheries and Game Steps When Considering Regulations that Affect Subsistence Uses

Alaska Statute 16.05.258 Subsistence Use and Allocation of Fish and Game



² Harvestable surplus below lower end of ANS range

Alaska Department of Fish and Game
**Steps When the Board of Game is Considering Subsistence Uses and
Regulatory Proposals**

Note: these steps are based on those described in the state subsistence statute -- AS 16.05.258

1. Nonsubsistence Area Filter

Is the game population in the proposal in a nonsubsistence area? (See descriptions of these areas at 5 AAC 99.015; see also maps of these areas in board notebooks.) If all of the game population is in a nonsubsistence area, there is no need for the board to address subsistence uses: subsistence harvests are not allowed in a nonsubsistence area. To address game populations outside a nonsubsistence area, then the board goes to Step 2.

2. Customary and Traditional Use Determination

The board determines if there is a customary and traditional use of the game population by considering information about the use pattern or pattern(s) and applying the eight criteria found at 5 AAC 99.010. If there has been a previous positive finding, then this step is unnecessary, and the board goes to Step 3. If there has been a previous negative finding, there is no need to address subsistence uses further, unless the proposal is for reconsidering a negative finding. The board may periodically reconsider previous customary and traditional use findings.

3. Harvestable Surplus Filter

The board determines if a portion of the game population be harvested consistent with sustained yield, by considering biological information. If there is no harvestable surplus, then the board authorizes no harvest of the game under the sustained yield mandate, and there is no need to address subsistence uses further. If there is a harvestable surplus, then the board goes to Step 4.

4. Amount Reasonably Necessary for Subsistence

The board determines the amount reasonably necessary for subsistence uses, considering information about the subsistence use pattern(s). If there has been a previous determination on the amount, then the board goes to Step 5. The board may periodically reconsider and update amounts reasonably necessary for subsistence.

5. Subsistence Regulations and Reasonable Opportunity Finding

The board determines and adopts subsistence regulations that provide a reasonable opportunity for subsistence uses, which is defined as an opportunity that allows a normally diligent participant with a reasonable opportunity for success in harvesting the game [AS 16.05.258(f)].

When the harvestable surplus meets or exceeds the amount determined by the board to provide a reasonable opportunity for success in harvesting, then further harvest restrictions are not necessary. Harvest regulations for other uses may be adopted by the board after subsistence regulations are adopted that provide a reasonable opportunity for success in harvesting.

If a proposal is for a reduction in subsistence harvest opportunity, regulations allowing harvest of the game population for other uses must be restricted first before restricting a reasonable opportunity for subsistence uses.

AS 16.05.258. Subsistence use and allocation of fish and game.

(a) Except in nonsubsistence areas, the Board of Fisheries and the Board of Game shall identify the fish stocks and game populations, or portions of stocks or populations, that are customarily and traditionally taken or used for subsistence. The commissioner shall provide recommendations to the boards concerning the stock and population identifications. The boards shall make identifications required under this subsection after receipt of the commissioner's recommendations.

(b) The appropriate board shall determine whether a portion of a fish stock or game population identified under (a) of this section can be harvested consistent with sustained yield. If a portion of a stock or population can be harvested consistent with sustained yield, the board shall determine the amount of the harvestable portion that is reasonably necessary for subsistence uses and

(1) if the harvestable portion of the stock or population is sufficient to provide for all consumptive uses, the appropriate board

(A) shall adopt regulations that provide a reasonable opportunity for subsistence uses of those stocks or populations;

(B) shall adopt regulations that provide for other uses of those stocks or populations, subject to preferences among beneficial uses; and

(C) may adopt regulations to differentiate among uses;

(2) if the harvestable portion of the stock or population is sufficient to provide for subsistence uses and some, but not all, other consumptive uses, the appropriate board

(A) shall adopt regulations that provide a reasonable opportunity for subsistence uses of those stocks or populations;

(B) may adopt regulations that provide for other consumptive uses of those stocks or populations; and

(C) shall adopt regulations to differentiate among consumptive uses that provide for a preference for the subsistence uses, if regulations are adopted under (B) of this paragraph;

(3) if the harvestable portion of the stock or population is sufficient to provide for subsistence uses, but no other consumptive uses, the appropriate board shall

(A) determine the portion of the stocks or populations that can be harvested consistent with sustained yield; and

(B) adopt regulations that eliminate other consumptive uses in order to provide a reasonable opportunity for subsistence uses; and

(4) if the harvestable portion of the stock or population is not sufficient to provide a reasonable opportunity for subsistence uses, the appropriate board shall

(A) adopt regulations eliminating consumptive uses, other than subsistence uses;

(B) distinguish among subsistence users, through limitations based on

(i) the customary and direct dependence on the fish stock or game population by the subsistence user for human consumption as a mainstay of livelihood;

(ii) the proximity of the domicile of the subsistence user to the stock or population; and

(iii) the ability of the subsistence user to obtain food if subsistence use is restricted or eliminated.

(c) The boards may not permit subsistence hunting or fishing in a nonsubsistence area. The boards, acting jointly, shall identify by regulation the boundaries of nonsubsistence areas. A nonsubsistence area is an area or community where dependence upon subsistence is not a principal characteristic of the economy, culture, and way of life of the area or community. In determining whether dependence upon subsistence is a principal characteristic of the economy, culture, and way of life of an area or community under this subsection, the boards shall jointly consider the relative importance of subsistence in the context of the totality of the following socio-economic characteristics of the area or community:

(1) the social and economic structure;

(2) the stability of the economy;

(3) the extent and the kinds of employment for wages, including full-time, part-time, temporary, and seasonal employment;

(4) the amount and distribution of cash income among those domiciled in the area or community;
(5) the cost and availability of goods and services to those domiciled in the area or community;
(6) the variety of fish and game species used by those domiciled in the area or community;
(7) the seasonal cycle of economic activity;
(8) the percentage of those domiciled in the area or community participating in hunting and fishing activities or using wild fish and game;
(9) the harvest levels of fish and game by those domiciled in the area or community;
(10) the cultural, social, and economic values associated with the taking and use of fish and game;
(11) the geographic locations where those domiciled in the area or community hunt and fish;
(12) the extent of sharing and exchange of fish and game by those domiciled in the area or community;
(13) additional similar factors the boards establish by regulation to be relevant to their determinations under this subsection.

(d) Fish stocks and game populations, or portions of fish stocks and game populations not identified under (a) of this section may be taken only under nonsubsistence regulations.

(e) Takings and uses of fish and game authorized under this section are subject to regulations regarding open and closed areas, seasons, methods and means, marking and identification requirements, quotas, bag limits, harvest levels, and sex, age, and size limitations. Takings and uses of resources authorized under this section are subject to AS 16.05.831 and AS 16.30.

(f) For purposes of this section, “reasonable opportunity” means an opportunity, as determined by the appropriate board, 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 of fish or game. (§ 6 ch 52 SLA 1986; am § 2 ch 1 SSSLA 1992)

Administrative Code. — For subsistence uses, see 5 AAC 99.

Editor’s notes. — Sections 3 and 12, ch. 1, SSSLA 1992, which provided for a delayed amendment of this section, were repealed by §§ 1 and 2, ch. 1, FSSLA 1998 before the delayed amendment took effect.

NOTES TO DECISIONS

Rural residency requirement unconstitutional. — The requirement contained in the 1986 subsistence statute (ch. 52, SLA 1986), that one must reside in a rural area in order to participate in subsistence hunting and fishing, violates Alaska Const., art. VIII, §§ 3, 15, and 17. *McDowell v. State*, 785 P.2d 1 (Alaska 1989).

Prohibition of subsistence permits for residents in nonsubsistence areas invalid. — The requirements of the equal access clauses apply to both tiers of subsistence users. Just as eligibility to participate in all subsistence hunting and fishing cannot be made dependent on whether one lives in an urban or rural area, eligibility to participate in Tier II subsistence hunting and fishing cannot be based on how close one lives to a given fish or game population. Subsection (b)(4)(B)(ii), which uses the proximity of the domicile of the Tier II subsistence permit applicant to the fish or game population which the applicant wishes to harvest as a basis for the applicant’s eligibility, violates sections 3, 15, and 17 of article VIII of the Alaska Constitution. *State v. Kenaitze Indian Tribe*, 894 P.2d 632 (Alaska 1995).

Creation of nonsubsistence areas not unconstitutional. — The statutory provision in subsection (c) mandating the creation of nonsubsistence areas does not violate sections 3, 15, and 17 of article VIII of the Alaska Constitution because the provision by itself without the proximity of domicile provisions does absolutely bar subsistence uses for certain residents. *State v. Kenaitze Indian Tribe*, 894 P.2d 632 (Alaska 1995).

Authority of Board of Game. — Section 1605.258(b)(2) not only grants the Alaska Board of Game the authority to differentiate between subsistence uses, it requires the Board to adopt regulations that provide a reasonable opportunity for subsistence uses of those game populations that are customarily and traditionally taken or used for subsistence. *Alaska Fish & Wildlife Conservation Fund v. State*, 347 P.3d 97 (Alaska 2015).

Regulations adopted under former AS 16.05.257 had to be in accordance with the Administrative Procedure Act (AS 44.62). *State v. Tanana Valley Sportsmen's Ass'n*, 583 P.2d 854 (Alaska 1978). While former AS 16.05.257, which authorized the Board of Game to adopt regulations providing for subsistence hunting, did not specifically refer to the Administrative Procedure Act (AS 44.62), it appeared clear that it merely set forth an additional purpose for which regulations might be promulgated. *State v. Tanana Valley Sportsmen's Ass'n*, 583 P.2d 854 (Alaska 1978).

Considerations in adopting regulations. — The boards of fisheries and game have the discretion to adopt regulations that recognize the needs, customs, and traditions of Alaska residents, but they are not mandated to do so when formulating their subsistence regulations. *State v. Morry*, 836 P.2d 358 (Alaska 1992).

Decision of the Alaska Joint Boards of Fisheries and Game to use the non-rural boundaries as starting points for their nonsubsistence determinations was not inconsistent with subsection (c) of this section. *State v. Kenaitze Indian Tribe*, 83 P.3d 1060 (Alaska 2004).

Decision of the Alaska Joint Boards of Fisheries and Game to use large nonsubsistence starting areas or even to combine two proposed areas did not exceed their discretion; although the boundaries encompassed relatively large areas, an “area or community” as the words are used in subsection (c) of this section may encompass several subdistricts grouped together. *State v. Kenaitze Indian Tribe*, 83 P.3d 1060 (Alaska 2004).

“Sustained yield”. — The term “sustained yield” in subsection (b) is potentially broad enough to include authority in the game board to restrict even subsistence hunting in order to rebuild a damaged game population. However, the board does not have absolute discretion in this area. There must be a balance of minimum adverse impact upon rural residents who depend upon subsistence use of resources and recognized scientific principles of game management. *Kwethluk IRA Council v. Alaska*, 740 F. Supp. 765 (D. Alaska 1990).

The state has a compelling interest in maintaining a healthy and sustainable king salmon population in the Kuskokwim River, and the population would be harmed if the court granted a religious exemption to allow all Yup'ik subsistence fishers to fish for king salmon according to their sincerely held religious beliefs without regard to emergency closures or gear restrictions. *Phillip v. State*, 347 P.3d 128 (Alaska 2015).

“Area or community.” — The term “area or community” is broad enough to encompass several subdistricts grouped together. *Native Village of Elim v. State*, 990 P.2d 1 (Alaska 1999).

The subsistence law leaves the determination of which geographic boundaries constitute a subsistence area or community to the discretion of the fisheries board. *Native Village of Elim v. State*, 990 P.2d 1 (Alaska 1999).

Familial relationship not required. — In evaluating a subsistence fishery proposal, the Board of Fisheries erroneously required users of salmon in an area to have a familial relationship with prior generations of subsistence users in the area; such interpretation of 5 AAC 99.010(b) was inconsistent with subsection (a)

and the definition of “customary and traditional” in AS 16.05.940. *Payton v. State*, 938 P.2d 1036 (Alaska 1997).

Invalid regulations severable. — Invalid portions of regulations established pursuant to the mandate of this section are severable from the remaining regulations if, standing alone, the regulation can be given legal effect and the legislature intended the provision to stand. *State v. Palmer*, 882 P.2d 386 (Alaska 1994).

Issuance of permits based on verbal instructions to agents held improper. — Nothing in the Administrative Procedure Act (AS 44.62) authorizes the Board of Game to impose requirements not contained in written regulations by means of oral instructions to agents. Such verbal additions to regulations involving requirements of substance are unauthorized and unenforceable. *State v. Tanana Valley Sportsmen’s Ass’n*, 583 P.2d 854 (Alaska 1978).

Adoption of eligibility criteria. — All Alaskans are eligible to participate in subsistence hunting and fishing, and the board of game lacks the authority to adopt eligibility criteria when the resource is sufficiently abundant to satisfy all subsistence users. *State v. Morry*, 836 P.2d 358 (Alaska 1992).

The least intrusive standard applied by the superior court to board of game regulations for subsistence uses is not explicitly mentioned in the text of the subsistence preference laws nor can such a standard be reasonably implied from the fact that the subsistence law in this section accords a “preference” to subsistence users. The subsistence law provides a preference only by giving subsistence users “reasonable opportunity” to harvest the resource, and the superior court erred in its decision that the least intrusive standard was implied as a rule of construction for the term “reasonable opportunity.” *State v. Morry*, 836 P.2d 358 (Alaska 1992).

Grouping of stock. — Since manageability is the key element in the classification of a category of fish as a “stock,” it was not unreasonable for the fisheries board to group salmon stocks together where it determined that subsistence users themselves “customarily and traditionally” took the species interchangeably. *Native Village of Elim v. State*, 990 P.2d 1 (Alaska 1999).

Reasonable basis for Board of Game’s quota of caribou to be killed under former AS 16.05.257. — See *State v. Tanana Valley Sportsmen’s Ass’n*, 583 P.2d 854 (Alaska 1978).

Emergency caribou hunt allowed. — Native Alaskan villagers were granted injunctive relief permitting an emergency caribou hunt allowing the taking of 50 to 70 animals where the hunt was justified by economic conditions and would not adversely affect the herd. *Kwethluk IRA Council v. Alaska*, 740 F. Supp. 765 (D. Alaska 1990).

In affirming the grant of summary judgment to the state in a management team’s challenge to 5 AAC 85.045, the court determined that the regulation violated neither the sustained yield principle of Alaska Const. art. VIII, § 4, nor AS 16.05.255 and this section; the Board of Game acted within its discretion in adopting the regulation that allowed for the issuance of “up to” 400 hunting permits in a controlled use area because creating a controlled use area did not necessarily amount to designating a relevant animal population for management purposes, and it was reasonable not to manage moose in the region as a distinct game population. *Koyukuk River Basin Moose Co-Management v. Bd. of Game*, 76 P.3d 383 (Alaska 2003).

Regulations held valid. — 5 AAC 99.010(b) is constitutional, consistent with its enabling statute, and reasonably necessary to carry out the purposes of the subsistence state. AS 16.05.251(a)(6) and 16.05.258(a) allow the Board of Fisheries, to create regulations for classifying fish, and for identifying the

particular fish stocks that align with subsistence use patterns; the subsistence statute provides a general definition of the requirements for subsistence use, but 5 AAC 99.010(b) provides definitions of each specific component, and guidelines for how they should be applied. *Alaska Fish & Wildlife Conservation Fund v. State, Dep't of Fish & Game*, 289 P.3d 903 (Alaska 2012).

Department of Fish and Game regulations promulgated by the Alaska Board of Game managing caribou hunting, were upheld because the Board's "amount reasonably necessary for subsistence" calculation did not implicate, or violate, the equal access, uniform application, or equal protection clauses of the Alaska Constitution; the Board included a broad variety of subsistence uses, and its definition applied equally to all citizens. *Manning v. State*, 355 P.3d 530 (Alaska 2015), cert. denied.

Summary judgment in favor of the Department of Fish and Game, upholding regulations promulgated by the Alaska Board of Game managing caribou hunting, was proper because considerable evidence justified the Board's "amount reasonably necessary for subsistence" calculation; the Board reasonably concluded that there was a reasonable opportunity for subsistence uses, and managing the Nelchina caribou hunt was consistent with the statute and was reasonable and not arbitrary. *Manning v. State*, 355 P.3d 530 (Alaska 2015), cert. denied.

Regulations held invalid. — Board of game regulations establishing seasons and bag limits on the taking of moose and caribou were arbitrary and invalid, where the board did not follow or articulate its use of the statutory analytical process for adopting bag limits as to subsistence hunting, and the regulations imposed seasons not consistent with the board's findings as to established village customs and thereby unacceptably restricted the statutory preference for subsistence uses. *Bobby v. Alaska*, 718 F. Supp. 764 (D. Alaska 1989).

Trophy hunting regulations adopted by the board of game do not constitute compliance with the requirement of subsection (c) that the board adopt subsistence hunting regulations for game. *State v. Morry*, 836 P.2d 358 (Alaska 1992).

Where no hearing was ever held regarding whether regulations of the board of game were consistent with the subsistence law prior to their adoption as subsistence regulations, the challenged tag/fee and sealing regulations, as subsistence regulations applicable to the taking and use of brown/grizzly bears in the affected game management units, were invalid. *State v. Morry*, 836 P.2d 358 (Alaska 1992).

Board of Fisheries regulations that allowed the Department of Fish and Game to establish harvest limits through the permitting process held invalid; annual subsistence fishing harvest limit on sockeye salmon constitutes a "regulation" that was to be adopted by the Board of Fisheries in compliance with the Administrative Procedure Act. *Estrada v. State*, 362 P.3d 1021 (Alaska 2015).

Remand. — Where defendant was erroneously barred from challenging regulations prohibiting hunting with the aid of an artificial light and applying the prohibition against subsistence hunters, the case was remanded to allow defendant to demonstrate that the regulations were adopted without compliance with the Administrative Procedure Act, AS 44.62. *Totemoff v. State*, 905 P.2d 954 (Alaska 1995), cert. denied, 517 U.S. 1244, 116 S. Ct. 2499, 135 L. Ed. 2d 290 (1996).

Cited in *Krohn v. State, Dep't of Fish & Game*, 938 P.2d 1019 (Alaska 1997).

AS 16.05.259. No subsistence defense.

In a prosecution for the taking of fish or game in violation of a statute or regulation, it is not a defense that the taking was done for subsistence uses. (§ 7 ch 52 SLA 1986)

Revisor's notes. — Formerly AS 16.05.261. Renumbered in 1987.

NOTES TO DECISIONS

Power to challenge regulation. — A person charged with a subsistence hunting violation is not precluded by this section or by the federal Alaska National Interest Lands Conservation Act from challenging the regulation he is alleged to have violated. *Bobby v. Alaska*, 718 F. Supp. 764 (D. Alaska 1989).

Since *State v. Eluska*, 724 P.2d 514 (Alaska 1986) and this section prevent hunters who took game in the absence of any regulation authorizing them to do so from claiming a subsistence defense, a defendant was not prohibited from contesting the validity of a regulation which prohibits hunting with the aid of an artificial light. *Totemoff v. State*, 905 P.2d 954 (Alaska 1995), cert. denied, 517 U.S. 1244, 116 S. Ct. 2499, 135 L. Ed. 2d 290 (1996).

AS 16.05.940. Definitions. In AS 16.05 — AS 16.40,

- (1) "aquatic plant" means any species of plant, excluding the rushes, sedges, and true grasses, growing in a marine aquatic or intertidal habitat;
- (2) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses
 - (A) for other fish or game or their parts; or
 - (B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature;
- (3) "a board" means either the Board of Fisheries or the Board of Game;
- (4) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish, but does not include processing workers on floating fish processing vessels who do not operate fishing gear or engage in activities related to navigation or operation of the vessel; in this paragraph "operate fishing gear" means to deploy or remove gear from state water, remove fish from gear during an open fishing season or period, or possess a gill net containing fish during an open fishing period;
- (5) "commercial fishing" means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or possession of fish, shellfish, or other fish resources;
- (6) "commissioner" means the commissioner of fish and game unless specifically provided otherwise;
- (7) "customary and traditional" means the noncommercial, long-term, and consistent taking of, use of, and reliance upon fish or game in a specific area and the use patterns of that fish or game that have been established over a reasonable period of time taking into consideration the availability of the fish or game;
- (8) "customary trade" means the limited noncommercial exchange, for minimal amounts of cash, as restricted by the appropriate board, of fish or game resources; the terms of this paragraph do not restrict money sales of furs and furbearers;
- (9) "department" means the Department of Fish and Game unless specifically provided otherwise;
- (10) "domestic mammals" include musk oxen, bison, and reindeer, if they are lawfully owned;
- (11) "domicile" means the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away; domicile may be proved by presenting evidence acceptable to the boards of fisheries and game;

- (12) “fish” means any species of aquatic finfish, invertebrate, or amphibian, in any stage of its life cycle, found in or introduced into the state, and includes any part of such aquatic finfish, invertebrate, or amphibian;
- (13) “fish derby” means a contest in which prizes are awarded for catching fish;
- (14) “fish or game farming” means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and “captivity” means having the fish or game under positive control, as in a pen, pond, or an area of land or water that is completely enclosed by a generally escape-proof barrier; in this paragraph, “fish” does not include shellfish, as defined in AS 16.40.199;
- (15) “fish stock” means a species, subspecies, geographic grouping, or other category of fish manageable as a unit;
- (16) “fish transporter” means a natural person who holds a fish transporter permit issued under AS 16.05.671;
- (17) “fishery” means a specific administrative area in which a specific fishery resource is taken with a specific type of gear; however, the Board of Fisheries may designate a fishery to include more than one specific administrative area, type of gear, or fishery resource; in this paragraph
- (A) “gear” means the specific apparatus used in the harvest of a fishery resource; and
- (B) “type of gear” means an identifiable classification of gear and may include
- (i) classifications for which separate regulations are adopted by the Board of Fisheries or for which separate gear licenses were required by former AS 16.05.550 — 16.05.630; and
- (ii) distinct subclassifications of gear such as “power” troll gear and “hand” troll gear or sport gear and guided sport gear;
- (18) “fur dealing” means engaging in the business of buying, selling, or trading in animal skins, but does not include the sale of animal skins by a trapper or hunter who has legally taken the animal, or the purchase of animal skins by a person, other than a fur dealer, for the person’s own use;
- (19) “game” means any species of bird, reptile, and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of AS 16.05 — AS 16.40;
- (20) “game population” means a group of game animals of a single species or subgroup manageable as a unit;
- (21) “hunting” means the taking of game under AS 16.05 — AS 16.40 and the regulations adopted under those chapters;
- (22) “nonresident” means a person who is not a resident of the state;
- (23) “nonresident alien” means a person who is not a citizen of the United States and whose permanent place of abode is not in the United States;
- (24) “operator” means the individual by law made responsible for the operation of the vessel;
- (25) “person with physical disabilities” means a person who presents to the department either written proof that the person receives at least 70 percent disability compensation from a government agency for a physical disability or an affidavit signed by a physician licensed to practice medicine in the state stating that the person is at least 70 percent physically disabled;
- (26) “personal use fishing” means the taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;
- (27) “resident” means
- (A) a person who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person’s domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country;
- (B) a partnership, association, joint stock company, trust, or corporation that has its main office or headquarters in the state; a natural person who does not otherwise qualify as a resident under this

paragraph may not qualify as a resident by virtue of an interest in a partnership, association, joint stock company, trust, or corporation;

(C) a member of the military service, or United States Coast Guard, who has been stationed in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made;

(D) a person who is the dependent of a resident member of the military service, or the United States Coast Guard, and who has lived in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made; or

(E) an alien who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person's domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country;

(28) "rural area" means a community or area of the state in which the noncommercial, customary, and traditional use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area;

(29) "seizure" means the actual or constructive taking or possession of real or personal property subject to seizure under AS 16.05 — AS 16.40 by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(30) "sport fishing" means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(31) "subsistence fishing" means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources by a resident domiciled in a rural area of the state for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(32) "subsistence hunting" means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game;

(33) "subsistence uses" means the noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area 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 fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in this paragraph, "family" means persons related by blood, marriage, or adoption, and a person living in the household on a permanent basis;

(34) "take" means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(35) "taxidermy" means tanning, mounting, processing, or other treatment or preparation of fish or game, or any part of fish or game, as a trophy, for monetary gain, including the receiving of the fish or game or parts of fish or game for such purposes;

(36) "trapping" means the taking of mammals declared by regulation to be fur bearers;

(37) "vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but does not include aircraft. (§ 2 art I ch 95 SLA 1959; § 9 art III ch 94 SLA 1959; am §§ 1 — 4 ch 131 SLA 1960; am § 23 ch 131 SLA 1960; am § 1 ch 21 SLA 1961; am §§ 1, 2 ch 102 SLA 1961; am § 1 ch 160 SLA 1962; am §§ 13, 14 ch 31 SLA 1963; am § 2 ch 32 SLA 1968; am § 3 ch 73 SLA 1970; am § 1 ch 91 SLA 1970; am § 4 ch 110 SLA 1970; am § 1 ch 90 SLA 1972; am § 5 ch 82 SLA 1974; am §§ 26, 82 ch 127 SLA 1974; am §§ 18 — 20 ch 206 SLA 1975; am § 12 ch 105 SLA 1977; am §§ 14, 15 ch 151 SLA 1978; am § 1 ch 78 SLA 1979; am § 1 ch 24 SLA 1980; § 4 ch 74 SLA 1982; am § 24 ch 132 SLA 1984; am §§ 9 — 11 ch 52 SLA 1986; am § 5 ch 76 SLA 1986; am § 1 ch 114 SLA 1988; am § 9 ch 145 SLA 1988; am § 3 ch 6 SLA 1989; am § 15 ch 211 SLA 1990; am § 18 ch 30 SLA 1992; am § 2 ch 49 SLA 1992; am § 3 ch 90 SLA 1992; am § 4 ch 1 SSSLA 1992; am § 4 ch 9 SLA 1994; am § 3 ch 38 SLA 1997; am § 4 ch 112 SLA 2003)

Revisor's notes. — Reorganized in 1983, 1986, 1989, 1992, 2003, and 2012 to alphabetize the defined terms and to maintain alphabetical order. Former paragraph (13) was renumbered as AS 16.05.662(b) in 1992.

Both § 2, ch. 49, SLA 1992, and § 3, ch. 90, SLA 1992 amended former paragraph (12), now paragraph (17) of this section, defining “fishery”. Because the latter amendment took effect first and included the former amendment, paragraph (17) is set out as amended by § 3, ch. 90, SLA 1992.

Editor's notes. — Sections 5 and 12, ch. 1, SSSLA 1992, which provided for a delayed repeal of former paragraphs (36) and (37), now paragraphs (7) and (8) of this section, defining “customary and traditional” and “customary trade” respectively, were themselves repealed by §§ 1 and 2, ch. 1, FSSLA 1998 before the delayed repeal took effect.

Legislative history reports. — For report on ch. 32, SLA 1968 (HCSCSSB 50 am), see 1968 House Journal, p. 169. For report on the 1974 amendment of former paragraph (2), now paragraph (4) of this section, defining “commercial fisherman,” ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

For legislative letter of intent in connection with the amendment to (4) of this section, defining “commercial fisherman,” by § 1, ch. 114, SLA 1988 (CSSB 309 (Res)), see 1988 Senate Journal 2027. For an explanation of the 1994 amendment of (10) of this section, defining “domestic mammals,” see 1994 House Journal Supplement No. 12, February 22, 1994, page 2.

Opinions of attorney general. — The paragraph defining “resident” did not grant special resident privileges to military personnel. 1964 Op. Att’y Gen. No. 2.

Term “customary trade” as used in the definition of “subsistence uses” allows for limited exchanges for cash other than for purely personal or family consumption. 1981 Op. Att’y Gen. No. 11.

Definition of “subsistence uses” in terms of “customary and traditional uses of wild, renewable resources” reflects the equating of “subsistence use” with use by rural residents. 1981 Op. Att’y Gen. No. 11.

A domestic or nondomestic animal becomes feral when it returns to a wild state. In the case of a partially domesticated or captive wild animal such as a fox that escapes, this generally means when the animal is no longer under the control of its owner or the owner is not in direct pursuit. In the case of a domestic animal such as a cow or pig that escapes, it is “feral” when it is living as a wild creature, and this may take more or less time depending on the circumstances. In the case of a domestic animal trespassing upon public lands, it could be declared “feral” under statute or regulation. July 30, 1987 Op. Att’y Gen.

The statutory term “feral domestic animal” found in the definition of “game” now (19) is a contradiction in terms; any regulatory clarification should focus on what is a “feral animal” and explain that the term “feral domestic animal” is interpreted to mean a domestic or domesticated animal that has become feral. July 30, 1987 Op. Att’y Gen.

If factual information supported the proposition that it is “customary and traditional” to make handicraft articles from sea otter skins, and if sea otters are or have been taken customarily and traditionally for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, then skins of sea otters could be used for making handicrafts, even if the meat were not eaten. If sea otters were not customarily and traditionally taken for food, shelter, fuel, clothing, tools, or transportation, it would arguably not be permissible to harvest the animals only for handicraft purposes under subsistence regulations. Mar. 14, 1988 Op. Att’y Gen.

A member of the military who claims Alaska residency, and who is transferred to another state, may be allowed to obtain a “resident” rather than a “nonresident” hunting or fishing license in that state, based upon the service member’s military status. Alaska statutes allow for such a limited availability of resident licenses for military personnel who are stationed in Alaska but claim residency elsewhere. Determination of each service member’s status must be made on a case by case basis, but where the licensing and

residency laws of other jurisdictions mirror Alaska's, a service member may obtain a "resident" license in the other jurisdiction without forfeiting Alaska residency. 2003 Op. Att'y Gen. 14.

NOTES TO DECISIONS

Rural residency requirement unconstitutional. — The requirement contained in the 1986 subsistence statute (ch. 52, SLA 1986), that one must reside in a rural area in order to participate in subsistence hunting and fishing, violates Alaska Const., art. VIII, §§ 3, 15, and 17. *McDowell v. State*, 785 P.2d 1 (Alaska 1989).

Intent. — 5 AAC 99.010(b) is consistent with AS 16.05.940 because AS 16.05.940 is not intended to grant subsistence rights to any long-term users of an area, and it was proper to consider the cultural, social, and economic context in which a harvest takes place; even if personal use fisheries met the subsistence statute's consistency and duration requirements, they might not have carried the cultural, social, spiritual, and nutritional importance that the subsistence statute protects. *Alaska Fish & Wildlife Conservation Fund v. State, Dep't of Fish & Game*, 289 P.3d 903 (Alaska 2012).

"Customary and traditional." — In evaluating a subsistence fishery proposal, the Board of Fisheries erroneously required users of salmon in an area to have a familial relationship with prior generations of subsistence users in the area; such interpretation of 5 AAC 99.010(b) was inconsistent with AS 16.05.258(a) and the definition of "customary and traditional" in this section. *Payton v. State*, 938 P.2d 1036 (Alaska 1997).

Since manageability is the key element in the classification of a category of fish as a "stock," it was not unreasonable for the fisheries board to group salmon stocks together where it determined that subsistence users themselves "customarily and traditionally" took the species interchangeably. *Native Village of Elim v. State*, 990 P.2d 1 (Alaska 1999).

Movement of bison. — In an appeal that challenged the efforts of the Board of Game to control, by regulation, the movement of bison that strayed outside the boundaries of two game ranches on Kodiak Island, the Board's failure to consider AS 16.05.940(10) fell short of what was required under the Supreme Court's standard, which examines whether the regulation conflicts with other statutes. *Ellingson v. Lloyd*, 342 P.3d 825 (Alaska 2014).

Single and multiple fisheries distinguished. — Alaska fisheries board erred in finding that the differences in equipment the board authorized for open and cooperative fishers did not create two distinct fisheries under the definition of "fishery" in this section; the fishery at issue was a single fishery within the statutory definition, and the board did not alter that fact by making detail changes to the type of equipment used by the cooperative fishers. *Alaska Bd. of Fisheries v. Grunert*, 139 P.3d 1226 (Alaska 2006).

Regulation held invalid because inconsistent with statutory law. — See *Madison v. Alaska Dep't of Fish & Game*, 696 P.2d 168 (Alaska 1985).

Quoted in *United States v. Skinna*, 915 F.2d 1250 (9th Cir. 1990); *Peninsula Mktg. Ass'n v. State*, 817 P.2d 917 (Alaska 1991); *Kodiak Seafood Processors Ass'n v. State*, 900 P.2d 1191 (Alaska 1995); *Koyukuk River Basin Moose Co-Management v. Bd. of Game*, 76 P.3d 383 (Alaska 2003). Stated in *State v. Carlson*, 65 P.3d 851 (Alaska 2003).

Cited in *Starry v. Horace Mann Ins. Co.*, 649 P.2d 937 (Alaska 1982); *State v. Eluska*, 698 P.2d 174 (Alaska Ct. App. 1985); *Arkanakyak v. State, Com. Fisheries Entry Comm'n*, 759 P.2d 513 (Alaska 1988); *Jurco v. State*, 816 P.2d 913 (Alaska Ct. App. 1991); *West v. State*, 248 P.3d 689 (Alaska 2010).

5 AAC 99.010. Boards of fisheries and game subsistence procedures

(a) In applying a subsistence law, the Board of Fisheries and the Board of Game will provide for conservation and development of Alaska's fish and game resources according to sustained yield principles.

(b) Each board will identify fish stocks or game populations, or portions of stocks or populations, that are customarily and traditionally taken or used by Alaska residents for subsistence uses by considering the following criteria:

(1) a long-term consistent pattern of noncommercial taking, use, and reliance on the fish stock or game population that has been established over a reasonable period of time of not less than one generation, excluding interruption by circumstances beyond the user's control, such as unavailability of the fish or game caused by migratory patterns;

(2) a pattern of taking or use recurring in specific seasons of each year;

(3) a pattern of taking or use consisting of methods and means of harvest that are characterized by efficiency and economy of effort and cost;

(4) the area in which the noncommercial, long-term, and consistent pattern of taking, use, and reliance upon the fish stock or game population has been established;

(5) a means of handling, preparing, preserving, and storing fish or game that has been traditionally used by past generations, but not excluding recent technological advances where appropriate;

(6) a pattern of taking or use that includes the handing down of knowledge of fishing or hunting skills, values, and lore from generation to generation;

(7) a pattern of taking, use, and reliance where the harvest effort or products of that harvest are distributed or shared, including customary trade, barter, and gift-giving; and

(8) a pattern that includes taking, use, and reliance for subsistence purposes upon a wide diversity of fish and game resources and that provides substantial economic, cultural, social, and nutritional elements of the subsistence way of life.

(c) When circumstances such as increased numbers of users, weather, predation, or loss of habitat may jeopardize the sustained yield of a fish stock or game population, each board will exercise all practical options for restricting nonsubsistence harvest of the stock or population and may address other limiting factors before subsistence uses are restricted below the level the board has determined to provide a reasonable opportunity. If all available restrictions for nonsubsistence harvests have been implemented and further restrictions are needed, the board will eliminate nonsubsistence consumptive uses, and reduce the take for subsistence uses in a series of graduated steps under [AS 16.05.258 \(b\)\(4\)\(B\)](#) - the "Tier II" distinction - by distinguishing among subsistence users through limitations based on

(1) the customary and direct dependence on the fish stock or game population by the subsistence user for human consumption as a mainstay of livelihood; and

(2) repealed 2/23/2014;

(3) the ability of the subsistence user to obtain food if subsistence use of the stock or population is restricted or eliminated.

History: Eff. 5/30/82, Register 82; am 1/17/91, Register 117; am 5/15/93, Register 126; am 2/23/2014, Register 209

Authority: [AS 16.05.251](#)

[AS 16.05.255](#)

[AS 16.05.258](#)

5 AAC 99.015. Joint Board nonsubsistence areas

(a) The following areas are found by the Joint Board of Fisheries and Game to be nonsubsistence use areas:

(1) The Ketchikan Nonsubsistence Area is comprised of the following: within Unit 1(A), as defined in 5 AAC [92.450\(1\)](#) (A), all drainages of the Cleveland Peninsula between Niblack Point and Bluff Point, Revillagigedo, Gravina, Pennock, Smeaton, Bold, Betton, and Hassler Islands; all marine waters of Sections 1-C, as defined by 5 AAC [33.200\(a\)](#) (3), 1-D, as defined by 5 AAC [33.200\(a\)](#) (4), 1-E, as defined by 5 AAC [33.200\(a\)](#) (5), that portion of Section 1-F, as defined by 5 AAC [33.200\(a\)](#) (6), north of the latitude of the southernmost tip of Mary Island and within one mile of the mainland and the Gravina and Revillagigedo Island shorelines; and that portion of District 2, as defined by 5 AAC [33.200\(b\)](#) , within one mile of the Cleveland Peninsula shoreline and east of the longitude of Niblack Point.

(2) The Juneau Nonsubsistence Area is comprised of the following: within Unit 1(C), as defined by 5 AAC [92.450\(1\)](#) (C), all drainages on the mainland east of Lynn Canal and Stephens Passage from the latitude of Eldred Rock to Point Coke, and on Lincoln, Shelter, and Douglas islands; within Unit 4, as defined by 5 AAC [92.450\(4\)](#) , that portion of Admiralty Island that includes the Glass Peninsula, all drainages into Seymour Canal north of and including Pleasant Bay, all drainages into Stephens Passage west of Point Arden, the Mansfield Peninsula, all drainages into Chatham Strait north of Point Marsden; all marine waters of Sections 11-A and 11-B, as defined in 5 AAC [33.200\(k\)](#) (1) and (k)(2), Section 12-B, as defined in 5 AAC [33.200\(l\)](#) (2), and that portion of Section 12-A, as defined in 5 AAC [33.200\(l\)](#) (1), north of the latitude of Point Marsden and that portion of District 15, as defined in 5 AAC [33.200\(o\)](#) , south of the latitude of the northern entrance to Berners Bay, and including Berners Bay.

(3) The Anchorage-Matsu-Kenai Nonsubsistence Area is comprised of the following: Units 7, as defined by 5 AAC [92.450\(7\)](#) (except the Kenai Fjords National Park lands), 14, as defined by 5 AAC [92.450\(14\)](#) , 15, as defined by 5 AAC [92.450\(15\)](#) (except Kalgin Island and that portion south and west of a line beginning at the mouth of Rocky River up the Rocky and Windy Rivers across the Windy River/Jakolof Creek divide and down Jakolof Creek to its mouth, including the islands between the eastern most point of Jakolof Bay and the eastern most point of Rocky Bay), 16(A), as defined by 5 AAC [92.450\(16\)](#) (A); all waters of Alaska in the Cook Inlet Area, as defined by 5 AAC [21.100](#) (except those waters north of Point Bede which are west of a line from the eastern most point of Jakolof Bay north to the western most point of Hesketh Island including

Jakolof Bay and south of a line west from Hesketh Island; the waters south of Point Bede which are west of the eastern most point of Rocky Bay; and those waters described in 5 AAC [01.555\(b\)](#), known as the Tyonek subdistrict).

(4) The Fairbanks Nonsubsistence Area is comprised of the following: within Unit 20(A), as defined by 5 AAC [92.450\(20\)](#) (A), east of the Wood River drainage and south of the Rex Trail but including the upper Wood River drainage south of its confluence with Chicken Creek; within Unit 20(B), as defined by 5 AAC [92.450\(20\)](#) (B), the North Star Borough and that portion of the Washington Creek drainage east of the Elliot Highway; within Unit 20(D) as defined by 5 AAC [92.450\(20\)](#) (D), west of the Tanana River between its confluence with the Johnson and Delta Rivers, west of the east bank of the Johnson River, and north and west of the Volkmar drainage, including the Goodpaster River drainage; and within Unit 25(C), as defined by 5 AAC [92.450\(25\)](#) (C), the Preacher and Beaver Creek drainages.

(5) The Valdez Nonsubsistence Area is comprised of the following: within Unit 6(D), as defined by 5 AAC [92.450\(6\)](#) (D), and all waters of Alaska in the Prince William Sound Area as defined by 5 AAC [24.100](#), within the March 1993 Valdez City limits.

(b) Repealed 2/23/2014.

History: Eff. 5/15/93, Register 126; am 4/28/94, Register 130; am 2/23/2014, Register 209; am 7/1/2016, Register 218

Authority: [AS 16.05.251](#)

[AS 16.05.255](#)

[AS 16.05.258](#)

5 AAC 99.016. Activities permitted in a nonsubsistence area

(a) A nonsubsistence area is an area or community where dependence upon subsistence is not a principal characteristic of the economy, culture, and way of life of the area of community. In a nonsubsistence area, the following activities will be permitted if so provided by the appropriate board by regulation:

(1) general hunting, including drawing and registration permit hunts;

(2) personal use, sport, guided sport, commercial fishing, and other fishing authorized by permit.

(b) Subsistence hunting and subsistence fishing regulations will not be adopted by a board for a nonsubsistence area and the subsistence priority does not apply in a nonsubsistence area.

History: Eff. 5/15/93, Register 126; am 2/23/2014, Register 209

Authority: [AS 16.05.251](#)

[AS 16.05.255](#)

[AS 16.05.258](#)

5 AAC 99.021. Definitions

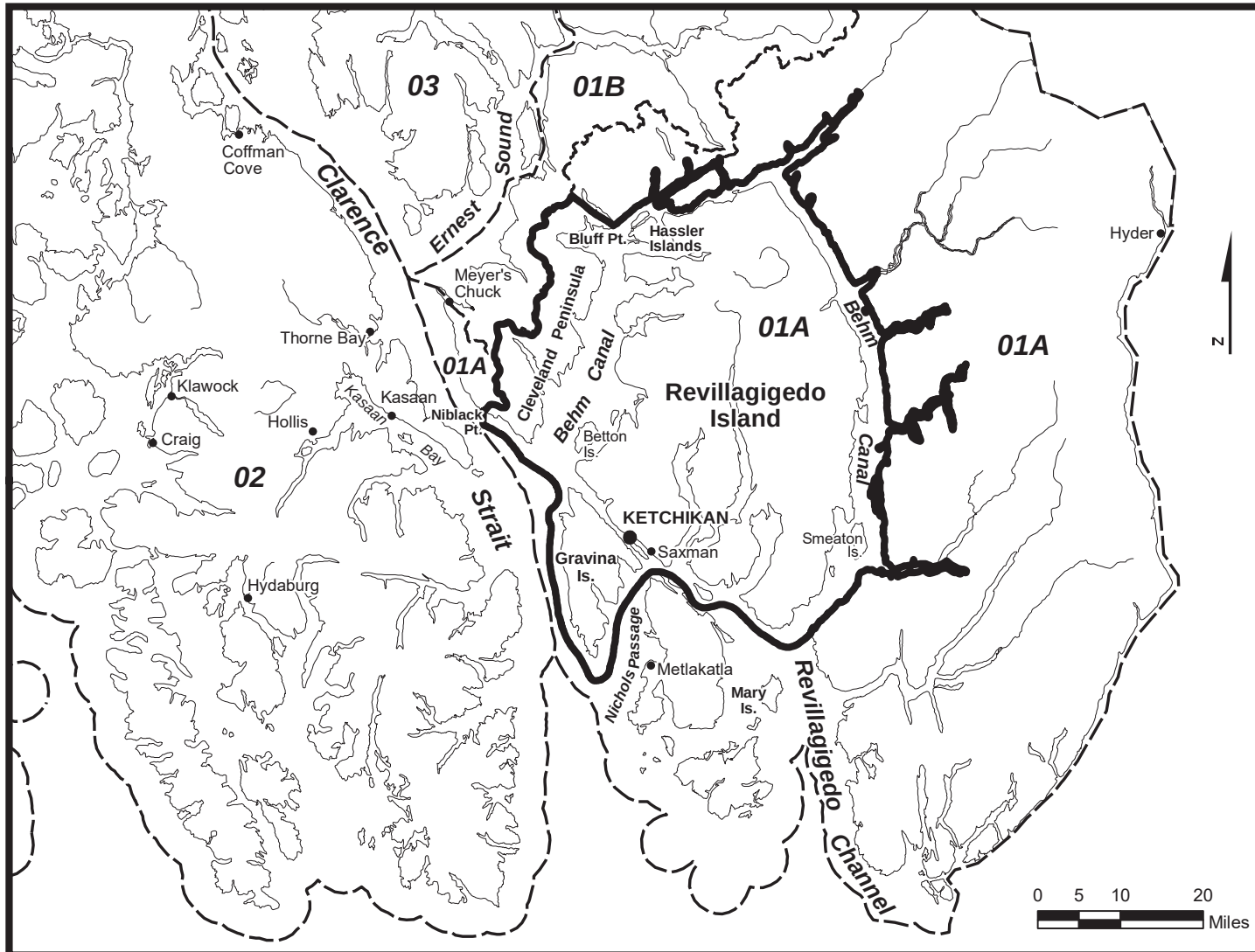
In addition to the definitions in [AS 16.05.940](#) , in this chapter,

- (1) "road-connected area" means the location of domiciles that are normally accessed by motorized highway vehicles operating on constructed roads that connect to the main highway system in the relevant area, including roads that can be negotiated during all portions of the year; in this paragraph, "normally accessed" means that it is reasonably feasible to transport persons, food, and other supplies to domiciles by motorized highway vehicles;
- (2) "subsistence fishing" means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources by a resident of the state for subsistence uses with a gillnet, seine, fish wheel, longline, or other means defined by the Board of Fisheries;
- (3) "subsistence hunting" means the taking of, hunting for, or possession of game by a resident of the state for subsistence uses by means defined by the Board of Game;
- (4) "subsistence uses" means the noncommercial, customary and traditional uses of wild, renewable resources by a resident 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 fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in this paragraph, "family" means persons related by blood, marriage, or adoption, and a person living in the household on a permanent basis.

History: Eff. 7/31/87, Register 103; am 2/23/2014, Register 209

Authority: [AS 16.05.258](#)

Ketchikan Nonsubsistence Area



The Ketchikan Nonsubsistence Area is comprised of the following: within Unit 1(A), as defined in 5 AAC 92.450(1) (A), all drainages of the Cleveland Peninsula between Niblack Point and Bluff Point, Revillagigedo, Gravina, Pennock, Smeaton, Bold, Betton, and Hassler Islands; all marine waters of Sections 1-C, as defined by 5 AAC 33.200(a) (3), 1-D, as defined by 5 AAC 33.200(a) (4), 1-E, as defined by 5 AAC 33.200(a) (5), that portion of Section 1-F, as defined by 5 AAC 33.200(a) (6), north of the latitude of the southernmost tip of Mary Island and within one mile of the mainland and the Gravina and Revillagigedo Island shorelines; and that portion of District 2, as defined by 5 AAC 33.200(b), within one mile of the Cleveland Peninsula shoreline and east of the longitude of Niblack Point.

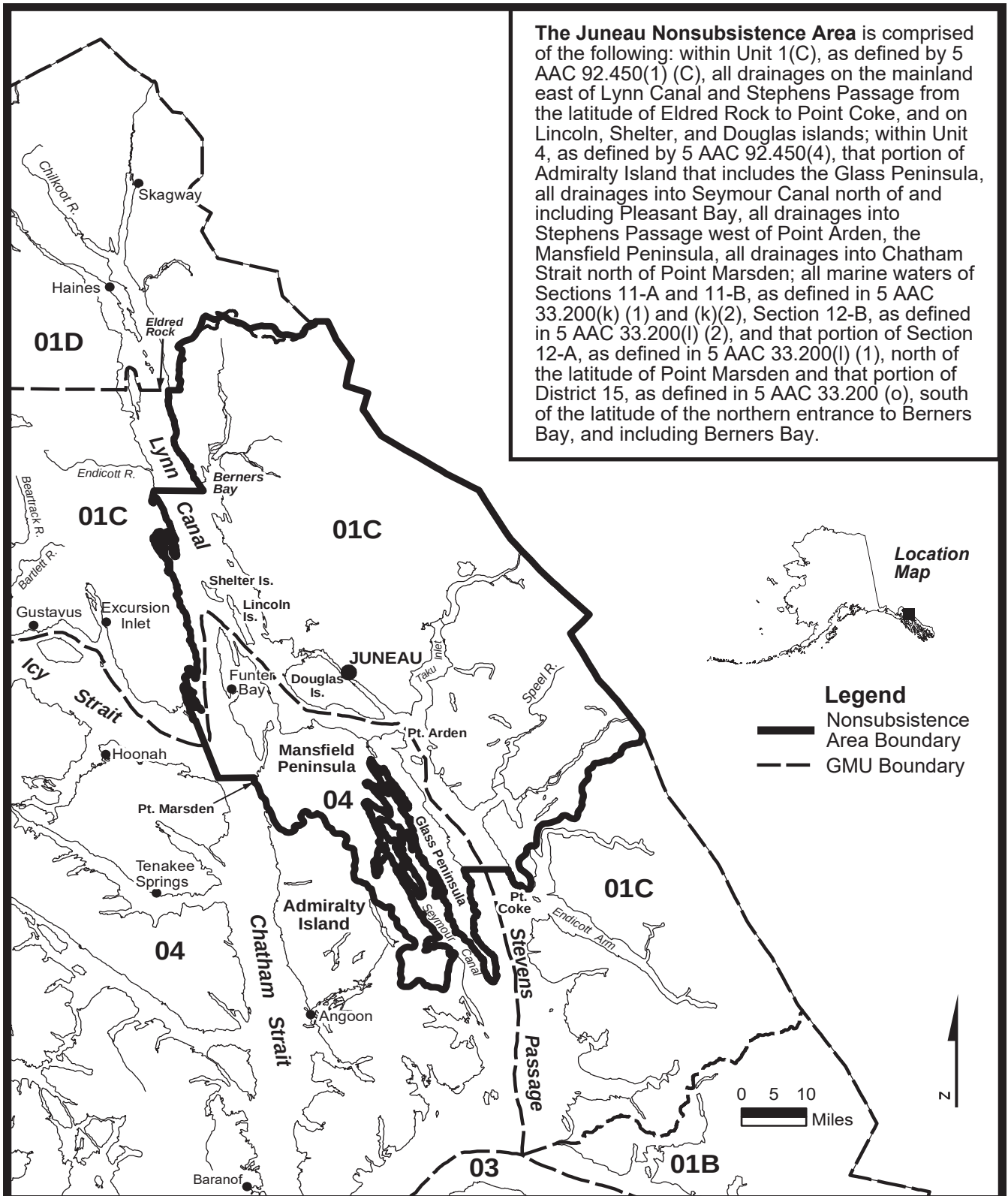


Legend

- Nonsubsistence Area Boundary
- GMU Boundary



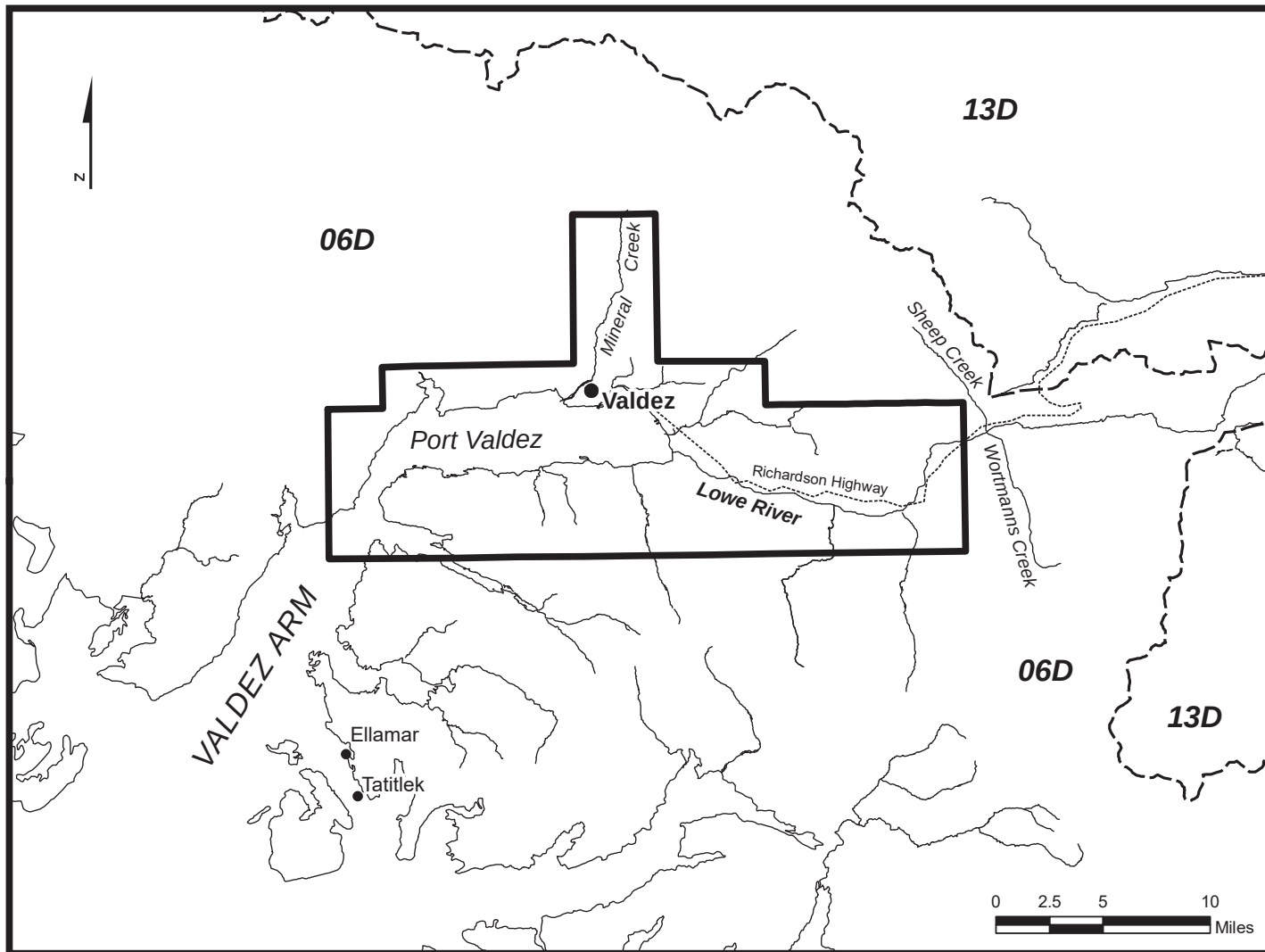
Juneau Nonsubsistence Area



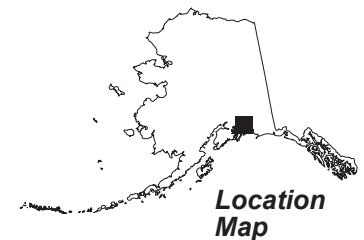
Alaska Department of Fish and Game
Division of Subsistence and Boards

September 2007

Valdez Nonsubsistence Area



The Valdez Nonsubsistence Area is comprised of the following: within Unit 6(D), as defined by 5 AAC 92.450(6) (D), and all waters of Alaska in the Prince William Sound Area as defined by 5 AAC 24.100, within the March 1993 Valdez City limits.



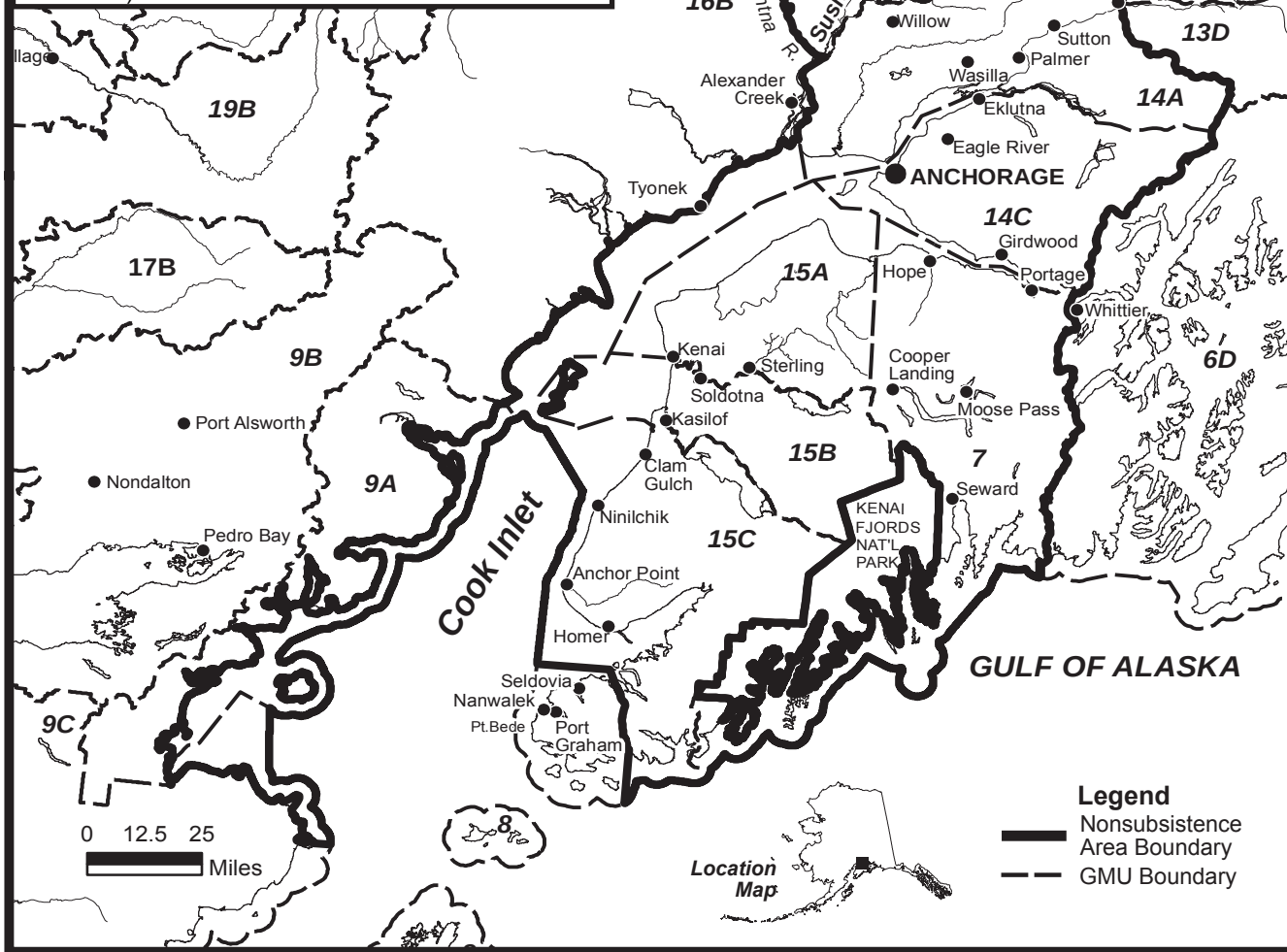
Legend

- Nonsubsistence Area Boundary
- GMU Boundary
- Roads



Anchorage Nonsubsistence Area

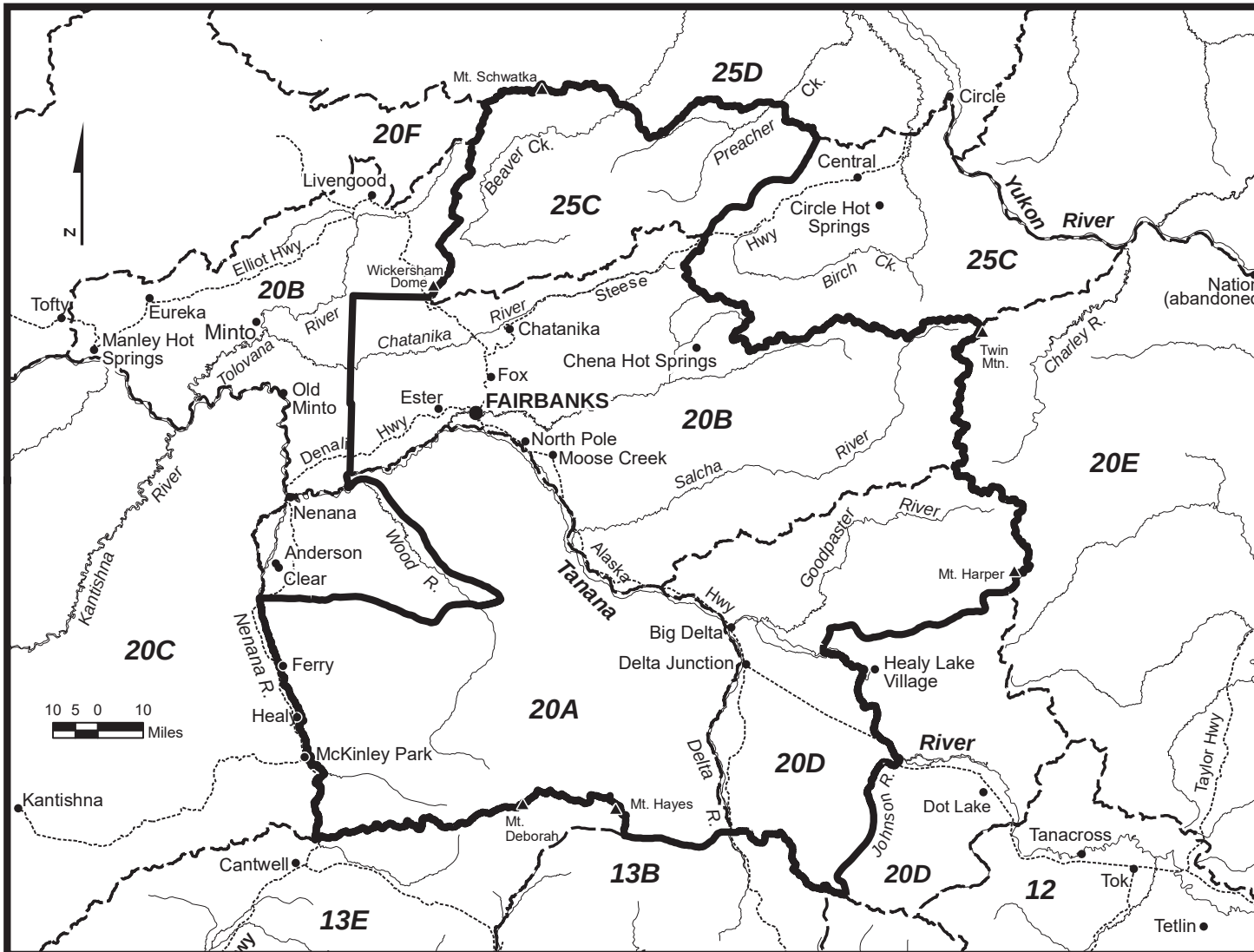
The **Anchorage-Matsu-Kenai Nonsubsistence Area** is comprised of the following: Units 7, as defined by 5 AAC 92.450(7) (except the Kenai Fjords National Park lands); 14, as defined by 5 AAC 92.450(14); 15, as defined by 5 AAC 92.450(15) (except Kalgin Island and that portion south and west of a line beginning at the mouth of Rocky River up the Rocky and Windy rivers across the Windy River/Jakolof Creek divide and down Jakolof Creek to its mouth, including the islands between the easternmost point of Jakolof Bay and the easternmost point of Rocky Bay); 16(A), as defined by 5 AAC 92.450(16) (A); all waters of Alaska in the Cook Inlet Area, as defined by 5 AAC 21.100 (except those waters north of Point Bede which are west of a line from the easternmost point of Jakolof Bay north to the westernmost point of Hesketh Island, including Jakolof Bay and south of a line west from Hesketh Island; the waters south of Point Bede which are west of the easternmost point of Rocky Bay; and those waters described in 5 AAC 01.555(b), known as the Tyonek subdistrict).



Alaska Department of Fish and Game
Division of Subsistence and Boards

December 2016

Fairbanks Nonsubsistence Area



The Fairbanks Nonsubsistence Area is comprised of the following: within Unit 20(A), as defined by 5 AAC 92.450(20) (A), east of the Wood River drainage and south of the Rex Trail but including the upper Wood River drainage south of its confluence with Chicken Creek; within Unit 20(B), as defined by 5 AAC 92.450(20) (B), the North Star Borough and that portion of the Washington Creek drainage east of the Elliot Highway; within Unit 20(D) as defined by 5 AAC 92.450(20) (D), west of the Tanana River between its confluence with the Johnson and Delta Rivers, west of the east bank of the Johnson River, and north and west of the Volkmar drainage, including the Goodpastor River drainage; and within Unit 25(C), as defined by 5 AAC 92.450(25) (C), the Preacher and Beaver Creek drainages.



Legend

- Nonsubsistence Area Boundary
- GMU Boundary
- Roads



MEMORANDUM

State of Alaska Department of Law

TO: Kari Winkel
Executive Director
Board of Game

DATE: July 13, 2026

FROM: Kimberly K. Del Frate
Assistant Attorney General
Natural Resources Section
KD 7/13/26

SUBJECT: 2026 Special Board Meeting
(Fairbanks, AK)

****CONFIDENTIAL – ATTORNEY/CLIENT PRIVILEGE**¹**

GENERAL COMMENTS

In general, ethics disclosures: Before staff reports begin on any new agenda item, or, if preferred, at the very beginning of the meeting, Ethics Act disclosures and determinations must be made under AS 39.52.

In general, record-making: It is very important that Board members carefully explain and clearly summarize on the record the reasons for their actions and the grounds upon which the actions are based. The Alaska Supreme Court has stressed the importance of a clear record to facilitate the courts in determining that the Board's actions are within its authority and are reasonable. A clear record also assists the public in understanding the Board's rationale. If Board members summarize the reasons for their actions before they vote, it will help establish the necessary record.

In considering each proposal, and the specific requirements that apply in some cases, such as with the subsistence law, it is important that the Board thoroughly discuss and summarize on the record the basis and reasons for its actions. Consistency with past approaches is another important point for discussion. If a particular action does not appear to be consistent, Board members should discuss their reasons for a different approach.

The Alaska Administrative Procedure Act requires that State agencies, including the Board of Game, "[w]hen considering the factual, substantive, and other relevant matter, ... pay special attention to the cost to private persons of the proposed regulatory

¹ Waiver of the privilege cannot be done by individual board members; it requires a majority vote of the entire board.

action.” AS 44.62.210(a). This requirement to pay special attention to costs means, at a minimum, that the Board should address any information presented about costs, or explicitly state that no such information was presented, during deliberation of any proposal likely to be adopted. In our view, this requirement does not go so far as to mandate that the Board conduct an independent investigation of potential costs, nor does it require that cost factor into the Board’s decision more than, for example, conservation concerns might. However, it does require the Board to address and “pay special attention to” costs relevant to each regulation adopted.

In general, written findings: If any issue is already in court, or is controversial enough that you believe it might result in litigation, or if it is complex enough that findings may be useful to the public, the Department, or the Board in the future, it is important that the Board draft and adopt written findings explaining its decisions. From time to time, the Department of Law will recommend that written findings be adopted, in order to better defend the Board’s action. Such recommendations should be carefully considered, as a refusal to adopt findings, in these circumstances, could mean that the Board gets subjected to judicial oversight and second-guessing which might have been avoided. The Alaska Supreme Court has stressed the importance of an adequate decisional document, or written finding, to a determination that the Board has acted within its authority and rationally in adopting regulations, and has deferred to such findings in the past.

In general, subsistence: For each proposal the Board should consider whether it involves or affects identified subsistence uses of the game population or sub-population in question. If action on a proposal would affect a subsistence use, the Board must be sure that the regulations provide a reasonable opportunity for the subsistence uses, unless sustained yield would be jeopardized. If the Board has not previously done so, it should first determine whether the game population is subject to customary and traditional uses for subsistence and what amount of the harvestable portion, if any, is reasonably necessary for those uses. *See* 5 AAC 99.025 for current findings on customary and traditional uses and amounts reasonably necessary for subsistence uses. The current law requires that the Board have considered at least four issues in implementing the preference:

- (1) Identify game populations or portions of populations customarily and traditionally taken or used for subsistence; *see* eight criteria at 5 AAC 99.010(b);
- (2) determine whether a portion of the game population may be harvested consistent with sustained yield;
- (3) determine the amount of the harvestable portion reasonably necessary for subsistence uses; and

- (4) adopt regulations to provide a reasonable opportunity for subsistence uses.

Reasonable opportunity is defined to mean “an opportunity, as determined by the appropriate board, 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 of fish or game.” AS 16.05.258(f). It is not to be construed as a guarantee of success.

The amount of the harvestable portion of the game population that is reasonably necessary for subsistence uses will depend largely on the amount of the game population used for subsistence historically and the number of subsistence users expected to participate. This may require the Board to determine which users have been taking game for subsistence purposes, and which ones have not. Once the Board has determined the amount reasonably necessary for subsistence uses, the Board should by regulation provide an opportunity that allows the predicted number of normally diligent participants a reasonable expectation of success in taking the subject game. The Board may base its determination of reasonable opportunity on all relevant information including past subsistence harvest levels of the game population in the specific area and the bag limits, seasons, access provisions, and means and methods necessary to achieve those harvests, or on comparable information from similar areas.

If the harvestable portion of the game population is not sufficient to provide for subsistence uses and any other consumptive uses, the Board is required to eliminate non-subsistence uses in order to provide a reasonable opportunity for subsistence uses. If the harvestable portion of the game population is still not sufficient to provide a reasonable opportunity for all subsistence uses, the Board is required to eliminate non-subsistence consumptive uses and distinguish among the subsistence users based on the following Tier II criteria:

- (1) The customary and direct dependence on the game population by the subsistence user for human consumption as a mainstay of livelihood; and
- (2) the ability of the subsistence user to obtain food if subsistence use is restricted or eliminated. AS 16.05.258.

SPECIFIC COMMENTS ON INDIVIDUAL PROPOSALS

Proposal 1 would reauthorize a non-intensive management predator control plan for Unit 26(b) musk oxen. The Board may adopt regulations addressing “methods, means, and harvest levels necessary to control predation and competition among game in the state.” AS 16.05.255(a)(6). While the Board does not have to make the same findings as it would for an intensive management plan under AS 16.05.255(e)-(g), the Board will need to ensure bear removal under the regulation will not threaten the long-term sustained yield of the relevant bear population. Alaska Const. Art. VIII, Sec. 4.

Proposal 4 would create a corridor along and including the planned Ambler Road in Units 23 and 24 that is closed to hunting and trapping, but does not restrict the use of the corridor to access otherwise open areas.

The Board will need to address the state subsistence statute. AS 16.05.258. The Board has made a number of C&T findings in GMU 23 and 24. 5 AAC 99.025 (see table below). Closing areas to hunting and trapping where the Board has made C&T findings may result in a reduction in subsistence opportunity. If this closed area is adopted, the Board should address if the remaining opportunity, in light of the change, would still provide “reasonable opportunity for subsistence uses” as defined in AS 16.05.258(f). See general comments regarding subsistence findings above.

Species	GMU 23	GMU 24
Brown Bear	X	X
Black Bear		X
Caribou	X	X
Moose	X	X
Musk Oxen	X	
Dall Sheep	X	X
Wolves	X	X
Grouse	X	X
Ptarmigan	X	X
All Migratory Birds	X	X
All Furbearers	X	X
Snowshoe Hares	X	
Alaska Hares	X	
Cormorant	X	
Snow Owl	X	

“X” denotes a positive C&T finding