

ROAD ACCESSIBLE CARIBOU HERDS

Central Arctic:

Herd size - 67,000

ANS - 250 - 400

Harvest objective - 3,350

Reasonable subsistence opportunity provided during year long State general hunt

Fortymile:

Herd size - 45,000

ANS = 350 - 400

Harvest objective - 850

Reasonable subsistence opportunity provided by Federal hunt fall and winter, and State registration hunt, fall and winter

Nelchina:

Herd size = 45,000

ANS = 600 - 1,000

Minimum harvest objective = 2,300

Reasonable subsistence opportunity provided by Federal hunt fall and winter, and State hunt fall and winter

RC 14

Submitted by Mike Kramer

9/9 1/8

	Fortymile – Registration	Nelchina – Tier II
Population	45,000	45,000
Harvest objective	850	2,300
ANS	350 – 400	600 – 1,000
Permit Applicants (avg)	4,157	7,455
Percentage of Permit Holders Who Actually Hunt	64%	81%
Success Rate of Hunters	33%	50%
Length of Season, 2004-2008	88 days	84 days

RC

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	1996 Tier I Nelchina Hunt	1997 Tier I Nelchina Hunt
Registration Permits issued	36,601	25,367
Registered hunters who actually hunted	39%	29%
Total caribou harvested in all State and Federal hunts	5,628	4,027

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3 YEARS WITH UNRESTRICTED LOCAL (AHTNA) OPPORTUNITY

	1996 Registered & Tier II	1997 Registered & Tier II	2009 CHP & Tier I
Total State Harvest	115	109	112
Total Federal Harvest	277	164	164
Total Harvest w/ Unrestricted Opportunity	392	273	348

	Restricted Opportunity 15-Year Average	Unrestricted Opportunity 3-Year Average
Average State Harvest	103	112
Average Federal Harvest	244	201
Total Harvest	357	337

RC

5 AAC 99.025. Customary and traditional uses of game populations

(b) In order to establish an amount reasonably necessary for subsistence uses under this section and whether a reasonable opportunity for subsistence uses exists, the Board of Game will, as the board determines is appropriate, attempt to integrate opportunities offered under both state and federal regulations.

(c) In this section,

(i) "amount reasonably necessary for subsistence uses" includes the total amount of animals from a population that must be available for subsistence hunting in order to provide a reasonable opportunity for subsistence uses, under state and federal subsistence hunting regulations, where both exist;

RC

9/5/8

16.05.258. Subsistence use and allocation of fish and game

“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.

RC



Ahtna, Inc., is one of the thirteen regional corporations established under the Alaska Native Claims Settlement Act (ANCSA). The purpose of ANCSA was to settle Native claims to the land that they had lived on for centuries. In exchange for the extinguishment of aboriginal title, Alaska Natives would receive fee simple title to 44 million acres of land and a cash settlement of \$962.5 million to be paid out over a number of years.

[Section 4 (b) of ANCSA states: 'All aboriginal titles, if any, and claims of aboriginal title in Alaska based on use and occupancy ... and including any aboriginal hunting and fishing rights that may exist, are hereby extinguished.']

Within the Ahtna Region, lands have been classified under ANCSA to accomplish the settlement process. The eight villages within Ahtna were allocated 714,240 acres of land surrounding the villages. Based on population, the villages are entitled to the aforementioned acreage. Additionally, Ahtna, Inc. received close to 45,000 acres in bonus selections to be distributed among the eight villages based upon their historic use and subsistence needs. With regional entitlements, the total land area to be managed is 1.77 million acres.

RC

CONCLUSION

The ANS for local residents, Ahtna and non-Ahtna, assuming all local residents "walk the walk" of a "communal pattern of subsistence", does not exceed 357 caribou. A reasonable opportunity to harvest 103 caribou should be made available in the State hunt.

From 2002-2008, the average amount of permits awarded to local residents was 298. An average of 204 permits were actually hunted. The average success rate for all hunters has historically been 50%. For AHTNA hunters, success is only 37% despite living closer to the resource and having access to AHTNA private property (25% of Unit 13) from which other hunters are excluded. If local residents were as diligent with their harvest opportunities as non-locals, they should meet their "communal" needs of 103-112 caribou with either an open registration hunt or a rotational drawing so long as that drawing provided enough local residents (206) permits each year to provide a reasonable opportunity to harvest 103 caribou

The 2006 Board findings are not supported by fact. AHTNA, Inc. employees testify and claim extreme reliance, yet only 68% of the local residents who are awarded a permit even bother hunting on that permit, and only 37% of those who do hunt are successful.

Presumably those who obtain the permit are those with the highest need, with the longest dependence, and are most willing to do what it takes to harvest their meat.

The actual statistics directly contradict the Board's 2006 findings, and those findings should be revoked.

RC

Pa 8/8



ADF&G Division of Subsistence
 Deliberation material for October 2010 meeting of the Alaska Board of Game

Nelchina caribou herd options for C&T pattern findings and ANS findings
 10/7/10

Options for customary and traditional use patterns

- A. Single pattern as described in 2006 BOG finding (2006-170-BOG).
- B. Finding of two subpatterns within pattern described in 2006 BOG finding. Each accommodated by set of regulations providing reasonable opportunity; each potentially with separate ANS findings:
1. Subpattern 1. Community-based (or "communal") pattern in which hunting and sharing are organized and managed by a central authority.
 2. Subpattern 2. Patterns based on a way of life established by residents of a community, area, or region and are followed by households and extended families within and outside the area or region. The pattern is "community based" in that it is local in origin and it integrates the community or area by linking people through sharing of traditions, knowledge, effort, and harvests, but it is not "communal" in being centrally organized and managed.

Options for ANS

NOTE: data sources and limitations for ANS options. The only reliable time series of data about Nelchina caribou hunters and harvests are harvest ticket and permits records maintained by ADF&G. As a data source for ANS for Nelchina caribou, the data set has at least two limitations:

1. Since 1977, participation in hunting in most years has been limited by drawing permit or by Tier II permit. The data set may therefore *underestimate* the number of Alaskans who would hunt Nelchina caribou under a given set of hunt conditions.
2. For most years, the data set cannot be used to determine how many permittees hunted, or would *choose* to hunt, according to a C&T pattern, even one enforced through hunt conditions. In any year, the number of participants may exceed the number who are hunting, or who would *choose* to hunt, in accordance with a C&T pattern.

The following options based on two premises:

1. ANS findings need to be based on "factual evidentiary support" in the BOG record; and
2. ANS findings can be modified in the future as harvest and participation data under a given set of hunt conditions (such as requiring hunters to conform to a C&T pattern) become available.

A. "100% of the allowable harvest"

This was the ANS determination from 1993 through 2008; it was based on the conclusion, after review of hunter and harvest data, that an open hunt in which all Alaskans could participate is not sustainable for the Nelchina caribou herd.

B1. Range = 500 – 4,500

Long-term average (1959–2009) harvest by all Alaskans (3,000 caribou); bounded by the standard deviation of the mean over that period = 2,500.

-continued-

B2. Range = 2,250 – 3,750

Long-term average (1959–2009) harvest by all Alaskans (3,000 caribou); bounded by 25%.

B3. Range = 1,250 – 3,000

Long-term average harvest by all Alaskans (3,000 caribou) as the high end of the range; lowest harvest when herd has been within management objectives of 35,000 – 40,000 as the low end of the range.

C1. Range = 1,250 – 4,250

Average harvest by all Alaskans from 1990–2009 (2,750 caribou) bounded by standard deviation of the mean = 1,500.

C2. Range = 1,900 – 3,500

Average harvest by all Alaskans in years since 1990 that herd size has been within the management objectives of 35,000– 40,000 (2,700 caribou; 1990, 1998, 2004, 2005, 2006); bounded by standard deviation of the mean = 820.

C3. Range = 1,300 – 2,700

Average harvest by all Alaskans in years since 1990 that herd size has been within management objectives of 35,000–40,000 (2,700 caribou) as the high end of the range; lowest harvest within these years as the low end of the range.

D. Range = 250 – 600 (plus others) OR Range = 260 – 922 (plus others)

A minimum ANS based on local (GMUs 11 and 13) residents' harvest in state and federal hunts since 1986, to which should be added a range for other Alaska residents. Mean = 424 caribou. Bounded by standard deviation of the mean = 170. Second option = low and high harvests by local residents in those hunts since 1986.

E. Range = 340 – 680 (plus others) OR Range = 278 – 922 (plus others)

A minimum ANS based on local (GMUs 11 and 13) residents' harvest in state and federal hunts plus other federal hunts since 1986, to which should be added a range for other Alaska residents. Mean = 509 caribou. Bounded by standard deviation of the mean = 170. Second option = low and high harvests by local and other residents in those hunts since 1986.

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United States Department of the Interior

OFFICE OF THE SECRETARY
1689 C Street, Suite 100
Anchorage, Alaska 99501-5151

RC 16

October 5, 2010

Dear Interested Party:

As you know, the Secretary announced a review of the federal subsistence program last October. Comments were solicited, and a number of meetings with stakeholders were held across the state. Updates on the review and a summary of comments received were posted on a Departmental website. Last spring comments and recommendations were analyzed, and provided to the Secretary for his review and possible action.

Unfortunately, due to events in the Gulf of Mexico, recommendations from the review were not finalized until recently. On August 31, 2010, the Secretary along with the Secretary of Agriculture announced actions to be taken pursuant to the review. They also announced the appointment of Tim Towarak as the new Chair of the Federal Subsistence Board.

A public report on the review and the detailed actions to be taken is now available. The press release and the report can be accessed through the Department's website at <http://www.doi.gov/whatwedo/subsistencereview>.

Thank you for your interest and participation in this review. If you have any further questions, please feel free to contact this office.

Sincerely,

Pat Pourchot
Special Assistant for Alaska Affairs

Attachment

REVIEW OF FEDERAL SUBSISTENCE MANAGEMENT PROGRAM, ALASKA

U.S. Department of the Interior

September, 2010

Summary

In 1992 the federal government took over the management of subsistence wildlife uses on federal lands when the State of Alaska did not meet the requirements of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) for the granting of a preference to rural residents. After a court judgment in 1998 the federal government took over subsistence fishery management on certain navigable waters.

After nearly two decades, action by the State to regain management is not being pursued, and it is assumed that federal subsistence management will continue in the foreseeable future. The Secretary believed it was timely that the program be reviewed to see if the program established in 1992 is best meeting the letter and spirit of Title VIII of ANILCA and serving rural Alaskan residents. The Secretary announced his intention to conduct a review of the federal subsistence program in Alaska, in October of 2009 at the Alaska Federation of Natives Convention in Anchorage.

On August 31, 2010, the Secretary and the Secretary of Agriculture announced the findings of the review and actions that they were taking to address concerns raised in the review. Changes to the federal program included the addition of two rural subsistence users on the Federal Subsistence Board (FSB), increased deference to the recommendations of the Regional Advisory Councils (RACs), review of the Memorandum of Understanding (MOU) with the State, review of current regulations governing customary and traditional uses and rural/nonrural determinations, involvement of the FSB in the subsistence budget process, and a review of minority and diversity hire issues. Some public recommendations for statutory and legal changes were not recommended at this time.

In addition to program changes, the Secretaries announced the appointment of a new Chair of the FSB, Tim Towarak.

Background

Title VIII of ANILCA mandates a preference for "rural residents" in the taking of fish and wildlife for subsistence purposes. The State of Alaska initially implemented ANILCA Title VIII on state and federal lands but, after nearly a decade of state management, the Alaska Supreme Court ruled in 1989 that the state constitution does not allow a priority for "rural residents." As a result, the Department took over management

of the subsistence priority for wildlife on federal lands in 1992. In 1998, following further court action, federal management was extended to fish taken for subsistence purposes from certain navigable waters in or adjacent to federal lands.

Title VIII of ANILCA makes the subsistence priority a Secretarial responsibility. By regulation, the FSB runs the subsistence program. The FSB is comprised of the Alaska Directors of the Fish and Wildlife Service (FWS), Bureau of Land Management, National Park Service, Bureau of Indian Affairs, the Regional Forester for the U.S. Department of Agriculture (USDA), and a public chair appointed by the Secretary with the concurrence of the Secretary of Agriculture.

The FSB must be responsive in its rule-making functions to the 10 RACs, composed of a super majority of subsistence users. The FSB shall consider the recommendations of the RACs and can only choose not to follow RAC "taking" recommendations if they are not supported by substantial evidence, violate recognized conservation principles, or are detrimental to subsistence needs. This substantial power, granted the RACs in Title VIII, codifies a 'bottom-up' management approach that ensures subsistence users have a substantial say in the subsistence management program.

The FSB and the RACs are supported by the Office of Subsistence Management (OSM) with a staff of 41. The OSM is headed by a FWS Assistant Regional Director and is lodged administratively within the FWS. Other Department of Interior (DOI) bureaus and Forest Service staff also work within their respective agencies on subsistence issues.

The Conduction of the Review

Beginning in November 2009, the review was conducted by the Alaska Affairs Office within the Office of the Secretary. Comments were solicited from a wide range of individuals and groups having an interest and involvement in the federal subsistence program. Meetings were held with over 45 different stakeholder groups in 13 different communities throughout Alaska. Comments were received from over 115 different groups and individuals (Attachment A). Comments were categorized, posted on a Departmental website, and recommended programmatic changes analyzed. Draft recommendations were prepared for internal review (including USDA/Forest Service) and consideration by the Secretary and the Secretary of Agriculture.

Findings

A wide variety of comments was received on various aspects of the federal subsistence program. While most comments targeted Title VIII provisions of ANILCA or specific elements of the federal subsistence program, some comments focused on other federal laws, such as the Marine Mammal Protection Act, which deal with other subsistence-related programs and issues. From subsistence users, several broad themes were conveyed, including:

- The FSB is not knowledgeable and responsive to rural needs because subsistence users are under-represented on the FSB;
- State managers of fish and game exercise too much influence on behalf of non-subsistence users in federal subsistence management decisions;
- The FWS managers exert too much influence on Secretarial responsibility for the subsistence program due to the administrative location of the program within FWS;
- The RACs authorities and effectiveness have been reduced due to budget constraints and the interpretation by the FSB of what decisions require deference to the RACs;
- Many regulations adopted initially from the State's regulations are not working effectively, do not reflect the intent of Title VIII of ANILCA, and are in need of revision.

From non-subsistence users, including the State of Alaska, there were several broad categories of comments including:

- Federal subsistence managers need to work more cooperatively with the State of Alaska to reconcile conflicts inherent in the dual federal/state management responsibilities;
- The FSB process should be more open;
- The FSB implementation of Title VIII subsistence priority is often too "liberal" in its decisions, thereby constraining harvest opportunities by other users and threatening conservation principles.

Recommended Actions

All of the changes being directed can be implemented by the Secretary of the Interior, or by the Secretary with concurrence of the Secretary of Agriculture, or by the FSB. Most can be accomplished as a matter of Secretarial directive or policy. However, some would be regulatory changes requiring a formal rule-making process.

The following actions are called for by the Secretary of the Interior with the concurrence of the Secretary of Agriculture:

- Add two public members representing subsistence users to the FSB after input from the RACs (subject to regulatory procedures);
- Direct the FSB to expand deference to RAC recommendations other than just "takings" decisions;
- Direct the FSB to review, with RAC input, federal subsistence procedural and structural regulations adopted from the state in order to ensure federal authorities are fully reflected and comply with Title VIII (changes would require new regulations);
- Direct the FSB, with RAC input, to review customary and traditional use determination process to provide clear, fair, and effective determinations in accord with Title VIII goals and provisions (changes would require new regulations);
- Direct the FSB to commence a review, with RAC input, of the rural/non-rural determination process for use in determinations pursuant to the 2010 census (changes may require new regulations);
- Direct the FSB to review written policy on executive sessions and minimize the use of such sessions;
- Direct the FSB to immediately review, with RAC input, the December 2008 MOU with the State to determine either the need for the MOU, or the need for potential changes to clarify federal authorities for the subsistence program;
- Direct the FSB to ensure the Secretaries are informed when non-DOI/USDA rule-making entities develop regulations that may adversely affect subsistence users.
- Direct the FSB to review and submit recommendations for Departmental (DOI and USDA) consideration the annual budget(s) for the federal subsistence program.
- Direct the FSB to participate in the hiring of the Director of the Office of Subsistence Management (OSM) when the position is vacant, and participate in the annual evaluation of the Director;

In addition the following actions are called for by the Secretary of the Interior:

- Establish an Interior line item for the core subsistence program budget;
- Consider when building the annual budget: periodic meetings of the FSB in rural areas; reinstatement of the one-year cycle for fish and wildlife rule-making by the

FSB; increased support and training for the RAC members; and increased capacity within the OSM for research and analysis;

- Direct an Interior or interagency task force evaluation of the OSM and related agency subsistence budgets, organizational issues and diversity issues;
- Encourage the FSB, OSM, and DOI agencies to utilize contracting and use of Section 809 cooperative agreements with local tribes and other entities to fulfill program imperatives;
- Direct FSB DOI directors to prioritize their responsibilities for subsistence management; attend FSB meetings whenever possible, while also allowing designation of high-ranking, knowledgeable alternates.

Recommended Actions Not Being Pursued at This Time

Some commenters proposed changes requiring significant statutory changes to Title VIII of ANILCA or other federal laws including:

- Redefine in ANILCA the eligibility for a subsistence priority to either “Native only” or “rural residents plus urban Natives”;
- Expand the definition of public lands in ANILCA to allow federal subsistence management on Native-owned lands;
- Exempt the RACs from the requirements of Federal Advisory Commission Act to only permit participation by subsistence users;
- Clarify in statute that Title VIII of ANILCA is “Indian legislation.”

These proposals fall outside the direct authorities of the Secretary of the Interior or Agriculture and are not being proposed at this time. These recommendations will be forwarded to concerned Congressional committees and members for possible consideration. Should action by the Congress be proposed, the Secretaries stand ready to provide further comment.

Attachment A

Subsistence Review-- Record of Public Involvement

Total Groups and/or Individuals Providing Comments: 115

Groups Submitting Written or Verbal Comments during the Review

Ahtna Incorporated

Alaska Department of Fish and Game

Alaska Eskimo Whaling Commission

Alaska Federation of Natives

Alaska Inter-Tribal Council

Alaska Lands Act Coordination Committee (Sierra Club; Denali Citizens Council; The Wilderness Society; Alaska Wilderness League; Science Now; National Parks Conservation Association; Defenders of Wildlife; Trustees for Alaska; Alaska Wilderness League, Audubon Alaska)

Alaska Outdoor Council and Alaska Fish and Wildlife Conservation Fund

Alaska Professional Hunters Association, Inc.

Association of Village Council Presidents

Cenaliulriit Coastal Resource

Central Council of Tlingit & Haida Indian Tribes of Alaska

Council of Athabascan Tribal Governments

Emmonak Tribal Council

Federal Subsistence Board Staff Committee

Federal Subsistence Regional Advisory Council Chairs
Gates of the Arctic National Park Subsistence Resource Commission
Greater Fairbanks Chamber of Commerce
Gwichi'in Steering Committee
Icicle Seafoods
Kawerak Incorporated
Kenai-Soldotna Fish and Game Advisory Committee
Kenai Sport Fishing Association
Kenaitze Tribal Council
Ketchikan Indian Community
Kivalina City Council
Kotzebue IRA Council Tupiq
Lake Clark National Park Subsistence Resource Commission
Marine Conservation Alliance
Mt. Sanford Tribal Consortium
NANA Regional Corporation
National Park Service Subsistence Resource Commission Chairs
National Parks Conservation Association
Native American Rights Fund
Native Village of Kotzebue
Native Village of Paimiut
Ninilchik Traditional Council
North Pacific Fisheries Management Council
Northwest Arctic Borough
Northwest Arctic Strategy Group

Office of Subsistence Management
Organized Village of Kasaan
Organized Village of Saxman
Orutsararmuit Native Council
Pacific Seafood Processors Association
Petersburg Vessel Owners Association
PWS Eco-Charters
Safari Club International
Sealaska Heritage Institute
Sitka Fish and Game Advisory Committee
Sitka Tribe of Alaska
Southeast Alaska Fishermen's Alliance
Southeast Alaska Regional Dive Fisheries Association
State of Alaska Department of Law
State of Alaska Citizens' Advisory Commission on Federal Areas
State of Alaska Office of the Governor
Stebbins Community Association
Sun'aq Tribe of Kodiak
Tanana Chiefs Conference
Territorial Sportsmen
The Tatitlek Corporation
Tribal Council of Bethel
United-Cook Inlet Drift Association
United Fisherman of Alaska
Western Arctic Caribou Herd Working Group

Woody Island Tribal Council

Yukon River Drainage Fisheries Association

RC 17



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE

1011 E. Tudor Road
Anchorage, Alaska 99503-6199



OCT 04 2010

Mr. Cliff Judkins, Chairman
Alaska Board of Game
Boards Support Section
P.O. Box 115526
Juneau, Alaska 99811-5526
Fax: 907-465-6094

Dear Chairman Judkins:

The U.S. Fish and Wildlife Service (Service) appreciates the opportunity to comment on proposals and policies to be considered by the Alaska Board of Game (BOG) during its special session in October 2010 to address Nelchina caribou, black bear trapping regulations and bear and wolf management policies. We would like to provide the following comments on the *Board of Game Bear Conservation, Harvest, and Management Policy*, the *Board of Game Wolf Population Control and Management Policy*, and proposal 36 which would primarily affect management of black bear and possibly other game populations in numerous units around the State, including lands within some National Wildlife Refuges.

Regarding the bear and wolf policies, the Service would like to see the second purpose listed in the bear policy that reads "*to encourage review, comment, and interagency coordination for bear management activities*" to also be included in the wolf policy. In addition, we think there should be direction to Alaska Department of Fish and Game (ADF&G) to work with the Service and other federal agencies to describe how this "*review, comment, and interagency coordination*" would be implemented. We would be happy to work with ADF&G on this endeavor.

Proposal 36 would modify State black bear trapping regulations to expand seasons and harvest limits and allow the use of "bucket snares" and some level of incidental harvest of brown bears. Open seasons are proposed to be April 15 - June 30 and July 1 - October 15. There would be no bag limit, and the number of bucket foot snare stations a licensed trapper could maintain would be unlimited.

The FWS opposes proposal 36 as written for National Wildlife Refuge (NWR) lands. The Service is legally precluded from managing NWR's with a *singular* focus to reduce predator populations to benefit human harvest of a prey species.

The Service also opposes the proposal as written because: 1) the use of bucket footsnare stations is non-selective in terms of age class or species of harvest; 2) there are significant safety issues; 3) the provision allows for the taking of cubs and the incidental harvest of brown bears including cubs; 4) the high likelihood for incidental harvest of other non-target species; and 5) the provision allows same-day airborne harvest of black bears whether they are caught in a footsnare or free roaming.



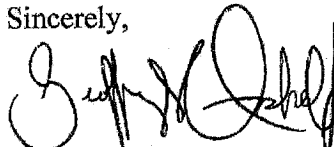
The Service is concerned that the proposal does not include any quantitative information on target or expected black bear harvest levels resulting from this proposal, nor does it include any quantitative information on expected responses of ungulate populations. Since both black bear cubs and sows with cubs could be snared, the take of cubs would be legal. Also, the potential for snaring other non-target wildlife species is not discussed, but is an issue of concern.

Significant safety issues surface with incidental take of grizzly bears, particularly in situations where a sow and cub could be involved. The primary justification given for the 16 year old minimum age requirement cites safety considerations associated with approaching and dispatching a snared bear or a snared bear cub with a sow in vicinity. We agree that trappers could easily encounter situations where a grizzly sow has been snared and her young (up to 2.5 years old) are with her. During breeding season, a snared grizzly or black bear sow may be accompanied by one or more free ranging adult males. These situations are dangerous even for the experienced trapper. Public safety issues related to this activity, involving both the licensed trappers and other refuge users, would require careful consideration on refuges.

Another aspect of this proposal of considerable concern to the Service is the provision for allowing remuneration for use of black bear bait and bucket footsnare stations; remuneration would be considered a commercial activity on NWR lands subject to additional review and permitting. It is also unclear why the proposed regulation allows for remuneration in GMUs (13, 15 and 21) not proposed to be opened to black bear trapping. GMU 15 includes lands within the Kenai NWR, GMU 21 contains lands within the Innoko, Nowitna and Koyukuk NWRs.

Thank you for your time to review our comments on these important issues.

Sincerely,



Regional Director