

Request to Alaska Board of Game to Hold a Special Meeting to Address the Unexpected and Significant Increase in Participation in the Moose Community Subsistence Hunt for the Copper Basin

Submitted by Ahtna Tene Nene'

Ahtna Tene Nene' requests the Board of Game exercise its authority under AS 16.05.310 and hold a special meeting to address issues related to a 70 percent increase in the number of groups enrolled in the 2016 Copper Basin Community Subsistence Hunt for moose (CM300). In 2015, 43 groups enrolled in the CSH. Seventy-three groups are enrolled for the 2016 CSH. The number of households similarly increased from 1039 in 2015 to 1542 in 2016, an increase of 67%.

The any bull allocation, up to 100, does not provide a reasonable subsistence opportunity for the 3357 individuals and 1542 households that have been allowed to enroll in the 2016 CHS. There will be 485 any bull tags issued among these groups for the 100 available any bull moose. Five tags per moose is significantly above the usual ratio of permits to desired harvest set by ADF&G. The ratio for a subsistence permit hunt is normally not more than three to one and often closer to two to one.

The Board's record in developing the any bull harvest for the community hunt reflects that the original any bull harvest was set at 100 moose, and that this hunting opportunity and a longer season, were established to provide the eight communities included in the hunt with a reasonable opportunity to meet the subsistence needs identified for the customary and traditional use pattern identified by the Board for the community hunt. The first year of the community hunt, the eight communities and the 427 individuals who participated took 66 any bulls and 27 additional bulls that satisfied the antler requirements for the general hunt. This was the first time in decades that the communities actually had enough to provide for the C&T uses of the communities. The greatly reduced moose harvested by these same communities and households over the past several years has fallen far short of this level needed to meet subsistence needs. The

dramatic increase in number of groups and household for the 2016-17 season will result in far less any bull harvest opportunity.

The harvest success rate will also drop for bulls with antler restrictions. The large increase in hunters, from 1984 in 2015 to 3357 in 2016, means that many more CSH hunters will be in the field during the early part of the season going after all available moose. The moose populations have not significantly changed in number. So there will be far more hunters after the same number of moose.

As the State acknowledged in its briefing to the superior court in *Manning v. Alaska Dept. Fish & Game*, 3KN-09-178 Civ.: “The community harvest moose hunting aspects of the August-September moose hunt were adopted by the Board in obedience to a summary judgment decision by the Hon. Jack Smith in case no. 3 AN-07-8072 CI in which he remanded the Board’s Unit 13 2008 moose hunting regulations back to the Board ‘for compliance with AS 16.05.258(b)’. Essentially, the Court had concluded that the Board needed to adopt regulations that clearly provided a preference for the subsistence uses of the moose population, and directed the Board to make sure that it had done so.”

The facts of the 2016 moose CSH require a Tier II hunt for the 100 any bull opportunity. It appears that 100 is the number of the “any bull” moose population that the Department believes is the harvestable surplus. The Department should confirm this number or increase the allowable harvest if possible. Any increase in harvestable any bulls will almost surely not be enough to provide all households in the 2016 CSH with a reasonable opportunity. The subsistence statute requires Tier II in this situation. AS 16.06.258(b)(4).

Only those household enrolled in the moose CSH would be eligible to participate in the Tier II permitting process. The Alaska Supreme Court held in *Alaska Fish and Wildlife Conservation Fund v. State of Alaska and Ahtna Tene Nene*, 347 P.3d 97 (Alaska 2015), that the statute requiring the Board to provide “reasonable opportunity” for subsistence, AS 16.05.258, permits the Board to differentiate among various patterns of use of a subsistence resource, and provide a distinct and different reasonable

opportunity for each subsistence use pattern identified. In reaching this conclusion, the court relied on Board findings describing two very different use patterns, with different hunting areas and seasons, different parts of the animal consumed, and different cultural and social traditions associated with the hunt. The Court confirmed that because both patterns are “subsistence uses,” the Board was required to provide “a reasonable opportunity” for each of them.

Therefore, in implementing Tier II for the 100 any bull opportunity, the Board is dealing solely with the inability to provide a reasonable opportunity to all those enrolled in the CSH. Only the 1542 households enrolled in the 2016 CSH would be eligible to apply for an any bull Tier II permit. Dealing with this limited number of permit applications significantly lessens the administrative burden on the Department. Any CSH household awarded a Tier II permit would be able to allow other hunters in the group to harvest under that permit. This is consistent with the hunt conditions already established by the Department for designating community harvesters.

The Board has a long history of classifying the any bull” part of the GMU 13 moose population as a distinct population for the purposes of determining harvestable surplus, reasonable opportunity and Tier II. Prior to the establishment of the CSH in 2009, for decades, the Board and Department held a Tier II hunt (TM300) for the GMU 13 any bull moose population. It appears that in 2007, 150 Tier II permits were issued and about 60 moose taken under these permits.

A special Board meeting to consider this issue need not be a budget buster. The meeting could be telephonic and, although open to the public for listening, all public comments could be required to be in writing and submitted a reasonable time before the meeting. The meeting should be held as soon as allowed consistent with public notice requirements and Board members’ schedules.

Thank you for your consideration of this request,

Here are the CSH group numbers etc..2009-2016.

CM300	Groups	Individuals	Households	Any-Bull Tags
2009	1	378	246	
2010	n/a			
2011	9	753	407	
2012	19	961	459	
2013	45	2066	955	
2014	43	1771	893	281
2015	43	1984	1039	334
2016	73	3357	1542	485

CC001	Groups	Individuals	Households
2009	1	n/a	477
2010	n/a	n/a	
2011	6	n/a	322
2012	17	n/a	402
2013	28	n/a	689
2014	25	n/a	569
2015	26	n/a	659
2016	45	n/a	1011

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