

February 14, 2015

RC 037

ADDRESS BLOCK

Dear Mr. Frost,

The Alaska Board of Game (Board) has strong reservations regarding the National Park Service's (Service) proposed rulemaking for hunting and trapping in national preserves in Alaska. The Board did not submit an official communication on this subject during the initial comment period because it fell outside the Board's meeting calendar, at which time such matters would normally be considered. The Board appreciates this timely opportunity to share its concerns and to request the rulemaking be withdrawn. The Board is deeply troubled by a number of aspects of the proposed rulemaking, and offers the following for consideration.

The Board is responsible for providing harvest opportunities consistent with the constitutional sustained yield principle. Where conservation concerns arise, the Board also has emergency and other authorities to limit or prohibit seasons, bag limits, methods and means. Along with the Alaska Department of Fish and Game (ADFG), the Board provides a fundamental service towards the sound management of wildlife in Alaska and satisfying the State's obligations to its residents.

The state regulations at issue were adopted by the Board *to provide harvest opportunities* via season extensions (for wolves and coyotes), or use of traditional methods and means (harvest of swimming caribou, use of artificial light for black bear harvest at den sites, brown bear harvest at black bear bait stations) at the request of local residents. In doing so, the Board acted completely within its authority to provide these opportunities, based on scientific and responsible resource management principles.

These regulations are not "predator reduction efforts" as misrepresented by the proposed rule and associated outreach materials and presentations. No attempt by this body or others involved in the decision making has been successful at disabusing the Service of this erroneous assumption, which is perhaps the most disconcerting aspect of the Service's rulemaking effort. In addition to encumbering the regulations at issue, this mischaracterization causes significant concerns about the likelihood that the Service will similarly mischaracterize legitimate harvest opportunities in the future. Under the proposed rule, a decision to preempt a harvest opportunity provided by the State depends on the Service's subjective interpretation of the Board's intent, regardless of the actual purpose of the regulation. Once the Service decides an

action by the Board constitutes predator control, based on criteria that could be satisfied by *any* harvest regulation, it is automatically prohibited on Service lands. The Board concurs with the Department of Fish and Game regarding the Service's failure to engage in meaningful dialogue and inform the State of the criteria or metrics that are used to determine harvest methods, seasons, or bag limits that will be prohibited. This scenario makes it impossible to know when or under what circumstances the Board will be unable to function effectively, since the Service exerts veto action with no perceivable guidelines, sideboards or opportunity for discussion.

Hunting and trapping regulations adopted by the Board that apply on both state and federal lands are intended to provide harvest opportunities for residents and non-residents that are reasonable and sustainable. Section 1314 of the Alaska National Interest Lands Conservation Act (ANILCA) clearly intended this capacity and practice continue in Alaska's National Preserves. While implementation of ANILCA is not the direct responsibility of the Board, we have honored both the spirit and the letter of ANILCA since its passage in 1980, consistent with the Master Memorandum of Understanding (MMOU) between ADFG and the Service. The Service's proposed rule presents a significant departure from the relationship between the State and the Service envisioned in ANILCA and is inconsistent with the long standing spirit of cooperation and coordination described throughout the MMOU, which neither party has terminated.

Service news releases associated with the proposed regulations state that these changes will not impact federally qualified subsistence users. For example, the public notice of the proposed rule states that, "[R]estrictions do not affect subsistence harvest under Federal Subsistence Regulations." This statement does not accurately reflect the real and potential impacts to subsistence users in Alaska. Federally qualified subsistence users harvest fish and wildlife in both parks and preserves under state and federal regulations. Where state regulations are prohibited, and no corresponding federal regulation exists for a state season/bag limit, federally qualified subsistence users will be required to petition the Federal Subsistence Board to grant approval and authorize a federal season/bag limit before such harvest opportunities will be legal—an outcome which is not guaranteed.

Further, the situation created by the proposed rule for Alaska residents, including rural residents and those living a subsistence lifestyle, is significantly more complex than the Service presents. Harvest opportunities in the preserves which the Board provides for all Alaskans, regardless of whether they "qualify" under federal regulations as subsistence users, will be significantly restricted and in some instances eliminated because of a Service employee's unilateral interpretation of what traditional practices comport with the Service's subjective mandate. To say "subsistence harvest" will not be affected is disingenuous to the realities of

hunting in Alaska and to all of the Service's constituencies who are concerned about these real and potential impacts.

The Board believes the proposed changes will insulate Service staff from direct personal contact with Alaskans under its diminished public notification and comment process. This distance is a disservice to both the public and the Service. Pledging firmly to only the most contemporary methods of rule change notification and means of public input, while leaving the traditional, most engaging methods of communication to the Service's full discretion, will reduce public awareness of proposed rule changes and dampen the voices of Alaska's hunters and trappers. These process changes also pointedly shut out input from those rural residents whose lifestyle is protected by ANILCA, due to technology and communication challenges common in remote areas.

There is a strong probability the proposed changes will draw significant public input from interests outside the state, which can potentially dominate the overall content of public comment. While the Board realizes the Service has a national constituency, ANILCA and existing regulations respect that those most affected by the rule have significant contributions to make, and that conducting in-person public hearings in the affected vicinity was and remains the best way to integrate their experiences into sound decision making. The promise of ANILCA is irreparably undermined through the diminishment of public engagement by the people - and their harvest practices - which the law intended to protect.

Affected users already comprise a minority of Alaskans, and a virtually insignificant minority of Americans with an interest in federal conservation system units. While the Service hopes to create more engagement opportunities for its larger constituency, those voices are not at risk of silence, and adding outreach tools to engage the American public does not preclude maintaining those effective, longstanding and critical means of engagement necessary to reach affected user groups.

Further, during public hearings held throughout Alaska on the proposed rulemaking, Service employees conducting the meetings did not respond to questions and inquiries regarding the impact of the proposed changes. These questions sought important technical information - not argument or debate - yet were merely noted for record keeping but were left unanswered with no promise of follow-up or response. This one-way avenue of communication at public hearings makes it very challenging to effectively comment on the issues. Absent a basic understanding of how any given proposed rule will change public involvement in the process and the public's harvest and use of wildlife, it is impossible for people to have a meaningful dialogue with the Service or give the sort of constructive input that assures fair consideration of user reaction. If the Service truly wants to enhance public engagement, implementing a means

of back and forth during public hearings, or opportunities for follow-up during the comment period, could be a very meaningful step in that direction.

While this extended comment period for the proposed rulemaking happens to overlap with the Board's 2015 meeting calendar, the same is not true for many of the Alaska's fish and game regional advisory councils (RACs) and subsistence resource commissions (SRCs). Some of the SRCs and RACs specifically requested that the Service extend the comment period to April 2015 to allow their groups to hold regularly scheduled winter meetings, consider the proposals and provide detailed comments. These advisory bodies are empowered and expected to play an important role in the public fish and wildlife regulatory process, yet, because of the timing and brevity posed by the new deadline, their ability to properly discuss and comment on the proposed rule remains hindered.

The Board is aware of many requests from a surprisingly diverse group of Alaskans requesting the NPS to withdraw the proposed rulemaking process. The Alaska Federation of Natives, Alaska Outdoor Council, Wrangell-St. Elias Subsistence Resource Commission, Eastern Interior Regional Advisory Council, Native Village of Kotzebue, Ahtna Inc., Alaska Chapter of Safari Club International and many others have all requested the Service cease this process and engage the State in meaningful dialogue seeking resolution to these issues. Discussion must occur that identifies the criteria or metrics the Service will use to determine what state authorized harvest methods, seasons or bag limits conflict with the laws and policies by which the Service is bound. Such dialogue is necessary for clear definitions to be developed, and for managers and the public to understand why they are being implemented and how they will affect future use of fish and wildlife.

Once again and in closing, the Board requests this proposed rulemaking be withdrawn.

Sincerely,

Board of Game