

PROPOSAL 91 – 5 AAC 99.025. Customary and traditional uses of fish and game populations. Modify the amount reasonably necessary for subsistence for caribou and moose in Unit 13 as follows:

I. Conduct a current ADF&G public “Customary and Traditional Use Public Survey” of sport, public personal use, and subsistence users residing in Units 7, 11, 12, 13, 14, 15, 16, and 20, including personal use and subsistence harvest of: (1) all big game including moose, caribou, sheep, goat, and bears; (2) harvests of fresh water and salt water fish including trout, grayling, Dolly Varden, salmon, halibut, cod, red snapper, and rock fish; and (3) small game harvest including spruce grouse, ptarmigan, rabbits, ducks, and geese.

II. Re-calculate the ANS for Unit 13 caribou and moose:

A current public survey of customary and traditional use of Tier-I, sport, personal use, and community subsistence harvest (CSH) subsistence use, is necessary and overdue for the determination of ANS for big game populations, to determine the increased number of subsistence users of fish and game, the current harvest rates, and to determine and update the stocks of fish and game populations that are presently used for subsistence use. AS 16.05.258(b) *et. seq*

What is the issue you would like the board to address and why? A current and updated public survey of customary and traditional use is necessary and lawfully required to maintain sustainable use management of fish and game resources, and to protect subsistence use priority benefits of fish and game resources, as well as prior to Board of Game (board) imposing restrictive regulations on bag limits and seasons. 5 AAC 99.010; 5 AAC 92.072(b)(1)-(4); AS 16.05.258(b) *et. seq*

The 2009 board determinations of ANS for Unit 13 caribou was struck down as **arbitrary and capricious** by Judge Bauman in *Manning v. State ADFG, Ahtna*, Case No. 3KN-09-178CI. The board has NOT completed any public survey of “Customary and Traditional Use” after the Judge Bauman decision. Prior to implementing regulation restrictions on harvests of fish and game, the board is required by law to identify customary and traditional uses by **Alaska residents** [i.e., NOT just the Ahtna tribal members]. 5 AAC 99.010(b)(1)-(8). [Note: Nothing in the regulations and statutory enabling authority AS 16.05.258 allow the board to impose limitations and bar the customary and traditional subsistence use based only on Ahtna **racial** customs and traditions, nor grant **racial** permit priority preferences to residents of the eight Ahtna Athabaskan villages, all in violation of Alaska Native Claims Settlement Act (ANCSA) 43 U.S.C. 1601 Section 4b terminating all future aboriginal native priority rights, Alaska Constitution Article VIII Section 3 common use, and U.S. Constitutional 14th Amendment equal protections. *Zobel v. Williams, 455, U.S. 55 (1982); McDowell v. State, 785 P.2d 1 (Alaska 1989); and Manning, Id.]*

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