

Proposal 215

5 AAC 84.270. Furbearer trapping.

State owned lands in the Stampede Road corridor should be closed to hunting and trapping of wolves, coyotes, wolverine, and lynx as follows:

What solution do you recommend? In other words, if the board adopted your solution, what would the new regulation say?

State owned lands in the Stampede Road corridor should be closed to hunting and trapping of wolves, coyotes, wolverine, and lynx. These lands are referred to hereinafter as the "Stampede Road Townships." These lands are specifically described as follows:

(a) Unit 20(C), that portion west of a line beginning at 63° 48.146' N. lat., 148° 59.934' W. long., north to 63°49.445' N. lat., 148° 59.935' W. long., then west to 63° 49.445' N. lat., 149° 12.699' W. long., then north to 63° 54.642' N. lat., 149° 12.699' W. long., and bounded on the south, west, and north by Denali National Park.

A map depicting these lands is provided. The legal description and the map are taken from an emergency closure order issued by Commissioner Sam Cotton on April 2, 2018.

A regulation to implement this proposal should provide as follows:

5 AAC 84.180 Areas Closed to Hunting and Trapping. Hunting and trapping of wolves, coyotes, and wolverine, and lynx is closed in the area known as the Stampede Road Townships, which are described in subpart (a) of this regulation, as follows:

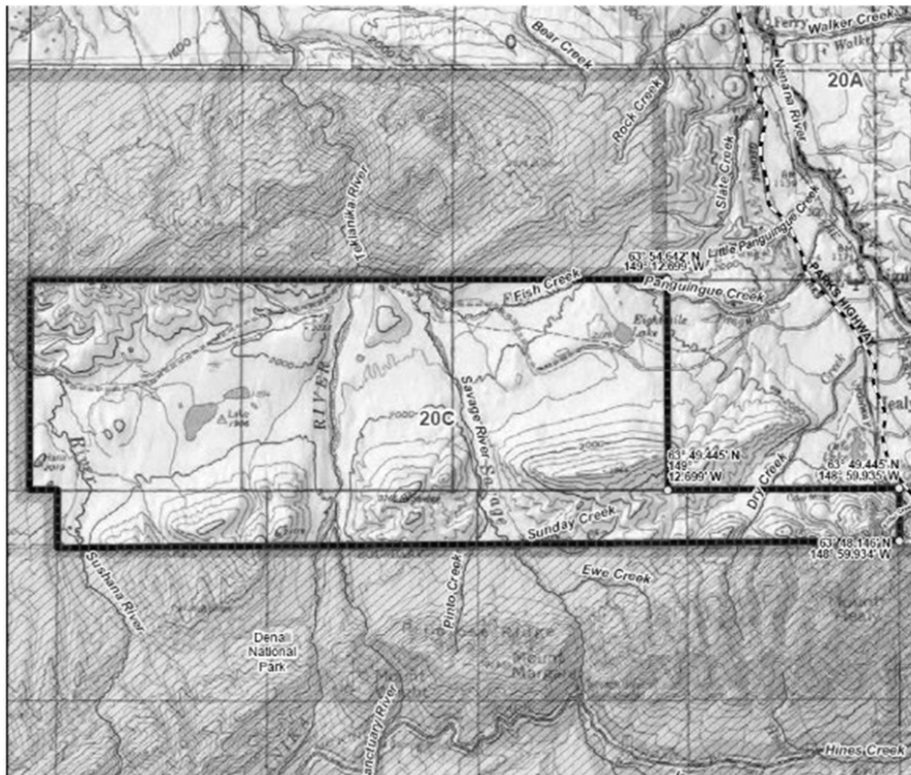
(a) Unit 20(C), that portion west of a line beginning at 63° 48.146' N. lat., 148° 59.934' W. long., north to 63°49.445' N. lat., 148° 59.935' W. long., then west to 63° 49.445' N. lat., 149° 12.699' W. long., then north to 63° 54.642' N. lat., 149° 12.699' W. long., and bounded on the south, west, and north by Denali National Park.

(b) Exceptions:

(1) Use of a firearm to kill one of the listed species in self defense, or in defense of private property, for instance companion animals, poultry or livestock, is not prohibited by this section.

(2) Lands owned by or administered by the National Park Service are excluded from areas to be closed by this section.

A map depicting the lands proposed to be closed is provided. Areas proposed to be closed are within the area outlined in red. Lands administered by the National Park Service are shown in blue.



Areas proposed to be closed are within the area outlined in red. Lands administered by the National Park Service are shown in blue. A color version of this map is available at <https://www.adfg.alaska.gov/index.cfm?adfg=gameboard.proposalbook>

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

As recently as 2010 part of the lands located in the Stampede Road Townships were closed to the hunting and trapping of wolves by regulation at 5 AAC 84.180. But the Board of Game subsequently repealed those closures, and at the current time there are no regulations providing for year round closures of these lands to the hunting and trapping of wolves, coyotes, wolverine, and lynx. Hunting and trapping of wolves, coyotes, wolverine, and lynx in the Stampede Road Townships negatively impacts the viewing of these species by Alaskans on wildlife viewing tours inside the Denali National Park. Wildlife viewing is a use of wildlife protected by Article VIII, Section 3 of the Alaska Constitution, This section is commonly referred to as “the Common Use Clause”. The fact that wildlife viewing is protected by the Common Use Clause was expressly found to be the law in *Michelle Stone Bittner v. State of Alaska, et al*, Case No. 3AN-23-07487 CI, where the Superior Court in a decision dated March 12, 2026, held at page 12 as follows:

"Article VIII provides that '[w]herever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.' The clause does not limit use to consumption or to

consumptive users. As the United States Supreme Court has recognized, aesthetic and environmental well being - like economic well being - are essential components of the quality of life. Non-consumptive use advances those interests just as consumptive use advances economic ones. The term 'common use' is broad enough to encompass both. In sum, wildlife is reserved 'to the people,' not merely to those who consume it."

The Superior Court continued in its decision to explain that a Court reviewing a challenge to a regulation should not second guess the Board's decision, but should "ensure that the Board has taken a hard look at all factors relevant to the public interest before making that decision"; and that in regard to wildlife viewing, the Board did not take a hard look at the public's interest in viewing wolves when in 2022 it modified 5 AAA 92.111(c), and for that reason and others, declared the regulation arbitrary and invalid: stating at page 18 of the decision as follows:

"As discussed above, non-consumptive use is a form of common use reserved to the people of Alaska under Article VIII. Because it is constitutionally protected, it is a factor relevant and material to the public interest. The hearing transcripts show that the Board did not consider the impact expanded predator control would have on non-consumptive users of wolves. By failing to consider the impacts of wolf control on non-consumptive users, the Board failed to take a hard look."

For that reason and others, the Court on April 12, 2026 declared the regulation invalid, and entered final judgment in favor of Ms. Bittner and authorized her to file a motion for attorneys fees.

The decision by the Superior Court in the Bittner case, and the authorities upon which the Court relied, establishes that the loss of viewing by Alaskans is an important, constitutionally protected use. With that clear statement of this constitutional law, we know now that the repeal after 2010 of closures of wolf hunting and trapping in the Stampede road townships was arbitrary and voidable.

This instant proposal if adopted by the Board would provide a remedy for the previous arbitrary and voidable decisions of the Board of Game, where the Board opened all state owned land in the Stampede Road Townships to hunting and trapping of wolves..

The number of people who ride the buses on wildlife tours along the Park Road substantially exceed 100,000 every year, while only a handful of hunters and trappers consume these watchable wildlife species in the Stampede Road Townships. Closing state lands in these limited areas to hunting and trapping of the listed species is highly likely to increase the aesthetic enjoyment of non-consuming Alaskan visitors to the Park.

The Board needs to take a hard look at the numbers of consumptive users vs. non-consumptive users, the frequency of sightings before and after the repeal of the previous closures, the economic impact of allowing hunting and trapping in this limited area, and abide by the constitutional mandate that wildlife is reserved for both non-consumptive and consumptive users.

Did you develop your proposal in coordination with others, or with your local fish and game advisory committee?

Yes. I consulted with individuals familiar with the history of efforts to close the townships and the Superior Court's decision.

PROPOSED BY: Kneeland Taylor

(OI-F26-076)
