



Alaska Office

333 West 4th Avenue, #302 | Anchorage, AK 99501 | tel 907.276.9453 | fax 907.276.9454
www.defenders.org

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ATTN: Board of Game Comments
Alaska Department of Fish and Game
Boards Support Section
P.O. Box 115526
Juneau, AK 99811-5526
FAX: (907) 465-6094

To Whom It May Concern:

Defenders of Wildlife, The Alaska Center for the Environment and The Alaska Wildlife Alliance appreciate the opportunity to submit these written comments on proposals that will be considered at the January 13-17, 2012 Board of Game (BOG) meeting in Anchorage, Alaska.

Established in 1947, Defenders of Wildlife (Defenders) is a non-profit membership based organization dedicated to the protection of all native wild animals and plants in their natural communities. Defenders focuses on the accelerating rate of species extinction and associated loss of biological diversity and habitat alteration and destruction. Defenders also advocates for new approaches to wildlife conservation that will help prevent species from becoming endangered. We have field offices around the country, including in Alaska where we address conservation issues affecting wolves, black bears, brown bears, wolverines, Cook Inlet beluga whales, sea otters, polar bears, Pacific walrus and impacts to wildlife from climate change. Our Alaska program seeks to increase recognition of the importance of, and need for the protection of, entire ecosystems and interconnected habitats while recognizing the role that predators play as indicator species for ecosystem health. Defenders represents more than 3,000 members and supporters in Alaska and more than one million nationwide.

Defenders of Wildlife along with The Alaska Center for the Environment and The Alaska Wildlife Alliance are resubmitting comments below that were previously provided to the Board of Game for proposals 35 and 36 since discussion regarding these proposals were postponed until the State-wide Board of Game meeting in January 2012.

Proposal 35. We *oppose* this proposal and urge the BOG to reject it.

This proposal, if adopted, would approve an intensive management plan for moose in 15A.

Firstly, we have substantial concerns over the fact that the BOG has inhibited public participation by providing ADF&G insufficient time for this plan to be developed thus preventing its inclusion in the November proposal book. The BOG has further hampered participation by considering this proposal in Barrow far from the communities that will be directly affected by the BOG's decision. We

National Headquarters

1130 17th Street, N.W.
Washington, D.C. 20036-4604
tel 202.682.9400 | fax 202.682.1331

have outlined such concerns in past comments to the BOG and consider the continuation of such practices to be detrimental to the public process through which such controversial proposals are adopted. We request, in the very least, that consideration of this plan be moved to the January meeting in Anchorage in order to allow for participation of individuals who will be directly impacted should the proposal pass.

During the March 2011 meeting, the BOG directed the ADF&G to develop an intensive management plan that included aerial wolf control for 15A. The preliminary plan was released October 17th, 2011 and included aerial control of wolves. We vigorously oppose aerial wolf control in Unit 15A. Wolf control is not biologically warranted, appropriate, or feasible in Unit 15A.

At the March meeting, ADF&G supplied a Feasibility Assessment (FA) for intensive management in 15A (see attached Record Copy 23 and Proposal 174). Though the FA was conducted with the goal of describing the feasibility of a habitat based intensive management plan, it also addressed the limitations of conducting a predator control program in 15A.

In the FA, ADF&G biologists recognized that habitat was limiting moose population growth in 15A. Further, ADF&G recognized that the current moose population objectives for 15A were too high. A proposal recommending the moose population objectives be lowered was submitted by ADF&G for the March meeting and, despite extensive biological evidence that such a reduction was necessary, was rejected by the BOG. Due to the widely recognized habitat limitations in 15A, ADF&G also stated in their FA that “if predator densities were reduced to increase moose numbers without concomitant wide-spread improvements to the habitat any increases to moose survival would further increase the nutritional stress of the moose population thereby reducing productivity.”

The recognition that habitat, rather than predation, is limiting moose population growth in 15A is also demonstrated by recent media coverage of this issue. The regional ADF&G biologist who was responsible for drafting the plan stated “The reason we had conducted the survey [in 15A] was due to the chronic decline in moose numbers, which was predicted by the department based on changes in habitat. Fifteen A has a rich history in wildfires that changes the habitat. This greatly benefits moose browse and increases moose numbers,” further, “The main cause keeping moose at their present level of abundance is the lack of a major fire to improve the quality of the habitat,” adding, “The problem is that there hasn’t been a fire of any significant size in 15A for over 40 years. Without the regeneration, moose numbers are at a relatively low density. We know it’s definitely because of the habitat.”

The plan states that the goal of the wolf control program is to “reduce calf mortality to reverse the long term decline of the bull: cow ratio and increase calf survival.” However, ADF&G’s plan also clearly recognizes that habitat is limiting the population and includes data presenting poor nutritional condition. Further,

the original habitat plan for this program states that bull: cow ratios have been stable since the 1990's (see proposal 174). Reducing calf mortality through control of wolves, in the hopes of improving the bull: cow ratio when neither low bull: cow ratios, nor excessive calf predation, have been identified as limiting factors is scientifically unfounded.

Section 3c of the plan states that, "with limited habitat, reducing predation will allow for possible reallocation of moose from predators to harvest." We question whether such a reallocation is achievable. Further, attempting to reallocate moose from predators to humans would necessitate calves surviving beyond the very young age at which they would be taken by predators. Also, considering that the nutritional stress currently experienced by this population is likely to continue for some time, and that predation in this area is likely compensatory, it is questionable whether such calves would survive to a harvestable age. Further, promoting even a temporary increase in the population is not sustainable under current conditions and could lead to a crash in the moose population.

As recently as March of 2011, ADF&G was promoting a reduction in the moose population objective for 15A. ADF&G staff biologists also indicated during that meeting that they doubted even the lower population objectives could be met. Considering ongoing nutritional stress, we seriously question the rationality of introducing methods meant to increase survival in advance of adequate habitat improvement and in advance of determining if habitat improvement alone would be adequate to allow the moose population to recover. We support development of population objectives which are based on realistically achievable goals.

In section 6c., the plan states that the program will be reviewed and suspended if, after 3 years, any measure consistent with significant levels of nutritional stress [e.g., twinning rates less than 20%, adult female pregnancy rates less than 80%] fails to improve to levels no longer showing significant levels of nutritional stress. While this plan includes habitat improvement, such improvements will take numerous years to achieve. Since nutritional parameters are currently below target, reducing predation and allowing the population to increase could be detrimental to moose and their habitat in this unit.

In addition to ecological concerns, we also have concerns that the program would be ineffective based on land management patterns. The Kenai National Wildlife Refuge, whose primary mission is "to conserve fish and wildlife populations and habitats in their natural diversity," makes up much of Unit 15A. As part of the National Wildlife Refuge system, lands within the Kenai Refuge are subject to federal laws and mandates and are precluded from Alaska's Intensive Management Statute. Aerial wolf control would not be allowed on the Refuge; implementing a program on the remaining lands in 15A would be insufficient to achieve the desired but unsustainable landscape level moose population increase.

This recognition was clearly demonstrated by ADF&G biologist testimony at the March, 2011 BOG meeting, as well as in the 15A FA. The regional ADF&G biologist was again recently quoted in the Homer Tribune stating that, because

most of Unit 15A near Kenai is in the wildlife refuge, aerial wolf control is unlikely to have a detectable effect on the estimated 41-45 wolves. Further he stated that, "It's a difficult plan given the limitations of the available land and where the moose population is in respect to the habitat."

Despite the realities of land ownership, the plan states that the predation control area includes all lands within Unit 15A and will be initiated on certain lands pending authorization by land managers/owners. Though authorization may be sought, ADF&G is well aware that any proposal to conduct control on the Kenai Refuge would be subject to NEPA review. We oppose the initiation of such a review. The Unimak Island decision has already clearly demonstrated that the Intensive Management Statute is inconsistent with federal refuge policy. We are therefore confident that aerial control of wolves would ultimately be rejected on Kenai Refuge lands. Initiation of a NEPA review would be an unnecessary waste of taxpayer dollars in a time of fiscal constraint.

In addition to the program being subject to NEPA review on refuge lands, any request to conduct aerial control on 22G lands within the refuge would be subject to a compatibility determination. Intensive management is not compatible with the purposes of the Kenai Refuge, the mission of the National Wildlife Refuge System, nor federal laws and policies which govern refuge management. We would therefore consider the time dedicated to such a review to also be a waste of public tax dollars.

As noted in our March 2011 BOG comments, Defenders is also concerned about the practicality of conducting an aerial wolf control program in 15A. Unit 15A is poorly suited to aerial shooting of wolves due to the forested nature of much of the terrain. Wolves are very difficult to track and shoot in this area and pilots cannot land to retrieve carcasses. Aerial shooting would therefore likely be ineffective in influencing overall wolf numbers in this unit and would result in the waste of a valuable wildlife resource.

Considering that 15A is relatively populated and heavily visited by a variety of recreational users, allowing aerial wolf control would also create a human safety risk and would likely result in increased conflict between user groups. As stated by the regional biologist, "It's likely this will be a highly visible program if it's implemented." The concern over public safety is exacerbated by ADF&G's plan to allow privately permitted citizens to participate in the program. Defenders has long opposed the involvement of private citizens in Alaska's aerial wolf control programs. Allowing private citizens to participate in this program would be especially controversial.

Both the Alaska Constitution and the Intensive Management Statute require the Board of Game to manage wolves on a sustained yield basis. *West v. State, Bd. of Game*, 248 P.3d 689, 696-98 (Alaska 2010). According to the Fish and Wildlife Service, recent and robust wolf population surveys have not been completed in 15A; however, ADF&G's plan states that the wolf population is estimated at 41-45

wolves. Despite the professional difference of opinion with regards to robustness of the available population data, we question the basis for the population target of 15 wolves absent an analysis of the implications for the wolf population.

Considering that the Kenai is relatively isolated from interior populations, we are also concerned that the genetic diversity of these populations will be threatened in the long term; especially considering that the programs – once initiated – do not typically end. Absent an evaluation of the affect wolf control would have on wolf population sustainability in 15A, passage of proposal 35 would violate the BOG's constitutional responsibility to manage wolves on a sustained yield basis. In addition to the significant concerns addressed above, current conditions in 15A do not meet the predator control implementation criteria of the Intensive Management Statute.

Alaska law requires the Board of Game to:
adopt regulations to provide for intensive management programs to restore the abundance or productivity of identified big game prey populations as necessary to achieve human consumptive use goals of the board in an area where the board has determined that: ... (2) depletion of the big game prey population or reduction of the productivity of the big game prey population has occurred and may result in a significant reduction in the allowable human harvest of the population; *and* (3) enhancement of abundance or productivity of the big game prey population *is feasibly achievable* utilizing recognized and prudent active management techniques AS 16.05.255(e)(2), (3) (emphases added).

However, the Board of Game is not to implement intensive management programs where such programs would be “ineffective, based on scientific information” or “inappropriate due to land ownership patterns.” AS 16.05.255(f)(1)(A), (B). Both of these provisions apply here and, therefore, intensive management is not an appropriate solution to declining moose populations in unit 15A. First, proposal 35 is not supported by scientific information. The record is clear that habitat, not predation, is currently limiting moose populations in Unit 15A. The record is also clear that the potential for moose populations to again reach historic levels is unlikely due in part to increasing human settlement on the peninsula. Further, as habitat is currently limiting, increasing the moose population could negatively affect population productivity.

Second, proposal 35 is inappropriate due to land ownership patterns. The land ownership patterns in 15A erode the potential success of aerial wolf control and again preclude such a program from meeting the criteria of the Intensive Management Statute. Due to constraints of land ownership, the plan could only be implemented on the < 3% of lands in the unit managed by the state. At the March, 2011 meeting ADF&G biologists stated on the record that they did not believe that an aerial wolf control program would feasibly achieve the objective of increasing moose abundance in 15A due to the small scale at which it could be conducted. The state is well aware of the limitations on conducting this program in an area

whose land base is mostly under federal management. Passing a plan that includes refuge lands when it is well known that it cannot be implemented on such lands does not overcome the requirements of the Intensive Management Statute that the program be deemed appropriate under land ownership patterns.

Because current biological circumstances do not warrant predator control, and because the feasibility and potential effectiveness of aerial wolf control are in doubt, an aerial wolf control program cannot be instituted in 15A under the Intensive Management Statute.

<http://homertribune.com/2011/10/aerial-wolf-hunt-proposed-on-peninsula/>
http://www.homernews.com/stories/100511/news_awct.shtml

Proposals 36. We *oppose* this proposal and urge the BOG to reject it.

This proposal, if adopted, would approve an intensive management plan for moose in 15C.

Again, we have substantial concerns over the fact that the BOG has inhibited public participation by providing ADF&G insufficient time for this plan to be developed thus preventing its inclusion in the November proposal book. The BOG has further hampered participation by considering this proposal in Barrow far from the communities that will be directly affected by the BOG's decision. We have outlined such concerns in past comments to the BOG and consider the continuation of such practices to be detrimental to the public process through which such controversial proposals are adopted. We request, in the very least, that consideration of this plan be moved to the January meeting in Anchorage in order to allow for participation of individuals who will be directly impacted should the proposal pass.

During the March 2011 meeting, the BOG directed the ADF&G to develop an intensive management plan that included aerial wolf control for Unit 15C. The preliminary plan, which included aerial wolf control, was released October 17th, 2011. We vigorously oppose aerial wolf control in this unit. Wolf control is not biologically warranted, appropriate, or feasible in Unit 15C.

Like 15A, implementing aerial wolf control in Unit 15C is not supported by current biological conditions. For this reason, ADF&G recommended "Do Not Adopt" for March meeting proposals 172 and 173 which called for aerial taking of wolves in all of Unit 15 under intensive management. The agency's rationale was that "Unit 15C is currently within intensive management objectives for both population size and harvest."

In addition to recommendations on these proposals, ADF&G's extensive testimony regarding 15C during the March meeting clearly demonstrate the agency's belief that the current low bull: cow ratio in Unit 15C is not the result of predation but of an insufficient harvest strategy which failed to protect an adequate number of young bulls. As a result, the bull: cow ratio has declined. The BOG appropriately responded to this decline by implementing new harvest restrictions. During their testimony, ADF&G indicated that illegal harvest may also be playing

a role in the current moose population conditions in the unit.

Despite the fact that overharvest of bulls was implicated as the cause for decline in the bull: cow ratio in prior ADF&G testimony and documents, the recently released plan does not refer to overharvest of bulls as being a factor. Rather, the plan states that the goal of wolf control is to “reduce calf mortality to reverse the long-term decline of the bull: cow ratio.” The plan goes on to state that the three major predators in the unit are brown bears, black bears, and wolves; significantly, humans are missing from the list. We find the omission of the human element to this decline disconcerting considering that all actions by ADF&G and the BOG to date indicate that overharvest of bulls was the primary cause of the decline.

Just as the low bull: cow ratio cannot be traced to wolf predation, evidence has not been presented that productivity and calf survival has been influenced by predation. Unfortunately, during the March meeting, several BOG members continually contended that moose productivity and calf survival have declined in Unit 15C; however, the facts simply do not support these assertions. According to testimony and evidence presented by ADF&G, productivity remains stable in the unit and low calf survival is not implicated as a cause for a decline in the bull: cow ratio.

In addition to factors outlined above, the population of moose is well within population objectives in 15C. In fact, according to the plan, the population increased 40% between 1992 and 2010. Though the moose harvest will be temporarily limited due to new harvest restrictions, clearly the population continues to grow. Considering that the recently initiated harvest strategy is expected to protect a sufficient number of bulls, there is no reason to believe that productivity of this population will decline. Controlling wolf predation to improve productivity is simply not warranted.

The plan indicates that the predation control area includes “all lands within Unit 15C north of Kachemak Bay including the Fox River Flats.” As in 15A, a portion of 15C consists of the Kenai National Wildlife Refuge which would be exempt from this program. Though authorization to conduct aerial control may be sought, ADF&G is well aware that any proposal to conduct control on the refuge would be subject to NEPA review. We oppose the initiation of such a review. The Unimak Island decision has already clearly demonstrated that the Intensive Management Statute is inconsistent with federal refuge policy. We are therefore confident that aerial control of wolves would ultimately be rejected on Kenai Refuge lands. Initiation of a NEPA review would be an unnecessary waste of taxpayer dollars in a time of fiscal constraint.

As noted in our comments on proposal 35, Defenders also has concerns over the practicality of conducting an aerial control program in 15C. Unit 15C is poorly suited to aerial wolf control due to the forested nature of much of the terrain. Wolves are very difficult to track and shoot in this area and pilots cannot land to retrieve carcasses. Allowing aerial shooting would therefore likely be ineffective in influencing overall wolf numbers in this unit and result in the waste of a valuable

wildlife resource. Considering that 15C is relatively populated and heavily visited by a variety of recreational users, allowing aerial wolf control would also create a human safety risk and would likely result in increased conflict between user groups. As stated by the regional biologist, "It's likely this will be a highly visible program if it's implemented." The concern over public safety is exacerbated by ADF&G's plan to allow privately permitted citizens to participate in the program. Defenders has long opposed the involvement of private citizens in Alaska's aerial wolf control programs. Allowing private citizens to participate in this particular program would be especially controversial.

Section 3c. of the plan states that "a reduction of predation can reasonably be expected to aid in continuing to meet the intensive management harvest objectives at a higher level than have previously been achieved through both bull and antlerless harvest." However, the limitations of likely success of the program, given the terrain as well as social factors, throw this opinion into question. Further, the highly productive nature of this moose population does not warrant control of predation to improve moose harvest.

In addition to concerns over the potential for the program to achieve stated goals, we also question the 15C plan's reliance on the operational plan and FA for proposal 35 (see section 7). Both the plan and FA were developed solely for Unit 15A where population concerns are substantially different than those of 15C. Since ADF&G has only recently developed the FA process in order to facilitate proper evaluation of intensive management programs, and considering that ADF&G biologists have been working to complete the FAs since March of this year, we are disappointed that an FA is not yet available for 15C. We are equally concerned that a full independent plan is not yet available.

Both the Alaska Constitution and the Intensive Management Statute require the Board of Game to manage wolves on a sustained yield basis. *West v. State, Bd. of Game*, 248 P.3d 689, 696-98 (Alaska 2010). According to ADF&G, recent and robust wolf population surveys have not been completed in 15C. While we are pleased to see that wolf surveys are being planned, ADF&G indicated during their testimony at the March 2011 BOG meeting that the timeframe imposed for developing the wolf control plan limited their ability to complete a wolf census to include in the plan.

Though a population of 40-75 wolves is estimated to exist in the 15C, this number is based on extrapolation from other areas on the peninsula where the robustness of the data is also in question (see comments on proposal 35). Without robust data on wolf populations in 15C, the BOG will be unable to evaluate the affect wolf control would have on wolf population sustainability. Further, as in our comments on proposal 35, we question the basis for determining a population target of 15 wolves would adequately insure persistence of wolves in the unit. Passage of proposal 36, absent information on how the wolf population will be affected by the planned reduction, would violate the BOG's constitutional responsibility to manage wolves on a sustained yield basis.

The current conditions in 15C do not meet the predator control implementation criteria under the Intensive Management Statute and regulations. Alaska law requires the Board of Game to: adopt regulations to provide for intensive management programs to restore the abundance or productivity of identified big game prey populations as necessary to achieve human consumptive use goals of the board in an area where the board has determined that: ... (2) *depletion of the big game prey population or reduction of the productivity* of the big game prey population has occurred and may result in a significant reduction in the allowable human harvest of the population; *and* (3) enhancement of abundance or productivity of the big game prey population *is feasibly achievable* utilizing recognized and prudent active management techniques. AS 16.05.255(e)(2), (3) (emphases added).

However, the Board of Game is not to implement intensive management programs where such programs would be “ineffective, based on scientific information.” AS 16.05.255(f)(1)(A). When implementing the Intensive Management Statute, AS 16.05.255(e) - (g), the Board of Game “will ... (3) find that depletion of a big game prey population or reduction of the productivity of a big game prey population has occurred when (A) the number of animals, estimated by the department, that can be removed by human harvest from a population, or a portion of a population, on an annual basis without reducing the population below the population objective, preventing growth of the population toward the population objective at a rate set by the board, or altering a composition of the population in a biologically unacceptable manner *is less than the harvest objective for the population; and (B) the population size is less than the population objective* for the population...(5)*not* consider as significant...(B) any reduction in taking that is *intended or expected to be of a short-term and temporary nature* and is necessary for the conservation of the population. 5 AAC 92.106(3)(A)-(5)(B) (emphases added).

Moose population concerns in 15C are not driven by wolf predation but the result of an insufficient harvest strategy which has potentially been exacerbated by illegal harvest. The current low bull: cow ratio has resulted in recent temporary harvest restrictions which are necessary to prevent the continued overharvest of bulls and promote the conservation of the population. The moose population in this region cannot be considered depleted and there is no indication that productivity has declined. Though ADF&G does not believe that productivity has declined, if bulls are not adequately protected, a decline could occur. Because local biologists currently consider productivity and calf survival to be within acceptable levels, and the moose population remains within population objectives, this temporary closure can be expected to improve the bull: cow ratio and conserve a healthy moose population.

The ADF&G and BOG explicitly recognized the temporary nature of this closure during the harvest restriction testimony and subsequent discussion at the March meeting. The BOG further recognized the closure as temporary by adding a sunset clause to the harvest restriction; stating that they would reevaluate population

parameters and reconsider the regulations at the March 2013 meeting. Control of predation would not achieve the desired result of increasing bull recruitment because wolves do not selectively prey on bull moose and problems with calf productivity have not been identified. Under current circumstances aerial wolf control in Unit 15C is neither warranted biologically nor is it appropriate under the Intensive Management Statute or regulations.

GENERAL COMMENTS

Defenders has monitored BOG actions and has regularly provided detailed technical comments for more than a decade. Throughout that time, we have witnessed a steady expansion of predator control programs as well as an expansion of allowable methods and means of harvesting predators. These changes are epitomized in the recently approved BOG wolf and bear management policies. Several proposals which will be considered at the January, 2012 BOG meeting – including proposals 101, 109, 114, 118, 119, 120, 122, and 123 – further demonstrate the disturbing trend regarding the means by which residents and non-residents propose, are allowed, or are encouraged to, harvest predators in Alaska.

Defenders has long argued that intensive management plans developed through the BOG process fail to meet basic biological and social recommendations set forth by the National Research Council (NRC) in 1996. While predator control may be an effective means of attaining higher game populations in some Game Management Units, the same is not true throughout Alaska. Unfortunately, the state continues to maintain that reducing predation in the hopes of attaining more game is effective and appropriate everywhere game is considered depleted, whether or not predation is a cause of the depletion and whether or not reduction of predators results in game increases. Further, currently approved predator control programs are not designed to monitor or test whether increases that do occur are the result of predator control or some other variable.

Regardless of whether or not the expansion of controversial harvest methods has a significant impact on the sustainability or viability of certain predator populations, we continue to question the scientific principles on which utilizing such methods are based. We also question whether these trends are good for Alaska; and whether these actions will serve both hunters and non-hunters in the long term.

Alaskans value wildlife for numerous reasons in addition to consumption, including aesthetic, intrinsic and ecological; these values tend to be ignored under Alaska's current wildlife management regime. While the non-hunting majority in the state generally respects and supports the rights of the hunting minority, it is equally important that the reverse be true. Overwhelming evidence suggests it is not.

By allowing or promoting the continual expansion of controversial wildlife management tools, the BOG has demonstrated disdain for the opinions of certain hunters, non-consumptive users, and numerous wildlife professionals. Such expansion of allowable means to kill predators is working to eliminate the respect the general public holds for hunting traditions in Alaska.

Whether a hunter or not, most Alaskans want wildlife managed scientifically to insure long-term population viability and the maintenance of ecosystem function. The majority also feel that wildlife should be respected and that the utility of harvested wildlife should be maximized. Without such standards, all predator management programs will continue to be met with a lack of trust and support by the much of the public.

COMMENTS ON SPECIFIC ALASKA BOARD OF GAME PROPOSALS

Proposal 44. We *oppose* this proposal and urge the BOG to reject it.

Passage of this proposal would allow hunters who win governor permit tags to hunt out of season with modifications to methods and means of harvest.

Proposal 48. We *support* this proposal and urge the BOG to adopt it.

This proposal aims to prohibit the sale of bear parts harvested on National Park Service (NPS) lands.

Legal sale of bear parts is intended to incentivize increased harvest of black bears with the hope that reductions in bear populations will translate to an increase in ungulates. However, evidence that such incentives will achieve the goal of increasing ungulate harvest is lacking. Further, incentivizing the sale of wildlife parts runs counter to a long-standing tradition of preventing wildlife commercialization. Such allowances also complicate enforcement of laws banning the sale of bear gall bladders. Finally, we agree with the proponent that the intentional manipulation of wildlife populations is contrary to NPS policy and therefore inappropriate on NPS managed lands.

Proposal 51. We *support* this proposal and urge the BOG to adopt it.

Passage of this proposal would allow ADF&G to require the latitude and longitude of kill locations on the harvest report for drawing and registration hunts.

We agree that more precise information on harvested populations will allow more effective harvest management. Being more sensitive to signs of overharvest is one of the primary management recommendations of the NRC. This proposal would provide managers with one of the tools necessary to meet the NRC's recommendation.

Proposal 94. We *support* this proposal and urge the BOG to adopt it.

This proposal aims to prohibit the taking of wolf, fox, wolverine, or coyote during May, June and July on NPS lands.

In recent years, the BOG has made numerous regulatory changes aimed at increasing the take of predators with the goal of decreasing predator populations and increasing ungulates for human harvest. We agree with the proposal's proponent that purposeful manipulation of wildlife populations is not appropriate for NPS lands. We also agree that

furbearing mammals should not be harvested during denning periods and when pelts are not prime.

Proposal 97. We *support* this proposal and urge the BOG to adopt it.

This proposal aims to prohibit the use of artificial light for taking game on all lands managed by NPS.

Defenders does not support methods and means of wildlife harvest which do not adhere to the principles of fair chase. While we would prefer that such methods not be allowed in any part of the state, we agree with the proponent that such methods are especially inappropriate on NPS lands.

Proposal 108. We *support* this proposal and urge the BOG to adopt it.

This proposal, if passed, would prohibit the taking cubs and sows with cubs on NPS lands.

We agree with the proposal's proponent that the sole purpose of allowing the taking of cubs and sows with cubs is to decrease bear population with the hopes that ungulate populations will increase. Such manipulation of wildlife populations runs counter to NPS policy and is not appropriate for NPS lands.

Proposal 109. We *oppose* this proposal and urge the BOG to reject it.

The proponent of this proposal, the "Greater Alaska Black Bear Committee" (GABBC), is a committee unknown to us prior to seeing their proposals outlined in the November proposal book. According to the proponents, the proposal consists of several consensus items from a black bear resource user's group held at the March 2011 BOG meeting. However, the proposal does not identify who organized the committee, who its members are, how its members were selected, and whether meetings held by the committee were open to the public. This information would be valuable for lending transparency to the public BOG process.

Proposal 109 puts forward several overarching regulatory changes for black bear management in Alaska including:

1. No closed season for much of the state.
2. Increasing the statewide bag limit for residents and non-residents to 3 bears.
3. No bag limit for all intensive management areas where black bears are recognized as contributing to the decline of prey species.

The GABBC claims that this proposal clarifies and removes complicated or excessively restrictive regulations and ADF&G's discretionary provisions pertaining to black bear hunting. The proponents apparently aim to allay concerns over the wide-ranging implications of the regulatory changes by stating that "All of these suggestions were approved by all members of the group." However, as stated previously, we do not know

the origins or membership of this group and therefore we do not believe that such wide-ranging liberalizations necessarily represent the wise management of Alaska's black bears.

Regulations for black bear harvest differ in part due to differences in population densities, differing access to hunters, historical harvest level and conservation concern. While it may or may not be true that populations can sustain increased level of harvest across all units, the ADF&G has not presented robust evidence which supports the GABBC's presumption. Indeed bear population data remain inadequate throughout the majority of the state due to the difficulty of censusing bear populations. Population estimates are often based on anecdotal evidence, extrapolations, and harvest composition data – none of which are appropriate substitutes for well designed research and monitoring programs.

Because hard data do not exist in much of the state, the proposed liberalized regulations could have negative consequences for the sustainability of regional bear populations. Further, the fact that the BOG has already relaxed sealing requirements in parts of the state – further thwarting the collection of valuable population data – complicates the ability of ADF&G to recognize and address regional signs of overexploitation.

In addition to concerns over black bear population sustainability, automatically allowing for year round harvest of bears with no bag limit in areas where bears have been implicated as having an impact on prey species abundance circumvents the process by which predator control programs are proposed and adopted. The BOG historically adopts predator control programs through a public review process whereby the public has the opportunity to weigh in on each plan through the comment period and through formal testimony.

Defenders also questions whether black bears harvested during certain times of the year can be fully utilized and what effect year round harvest would have on dependent young. During parts of the year, cubs are completely dependent upon the sow for survival. Allowing the take of bears during such times will result in the indirect death of dependant cubs – regulations that can result in the death of young animals is not considered sound wildlife management. In addition, bear hides and meat are not of high quality during all seasons. Therefore, allowing year-round harvest of black bears could result in the waste of a valuable resource.

Blanket regulations which allow year round bear hunting throughout the majority of the state, unlimited harvest in certain areas, and increased statewide bag limits perpetuates the viewpoint that because black bears are predators their populations are in need of reduction. We do not share this perception. Rather we view black bears as a valuable wildlife species that play an integral role in maintaining ecosystem health and function.

Proposal 114. We *oppose* this proposal and urge the BOG to reject it.

If passed, this proposal would allow black bear to be taken same-day-airborne within ¼ mile of bait station.

This proposal unnecessarily liberalizes the methods and means of taking black bears by essentially legitimizing the spotting of game while airborne. Regulations allowing for the harvest of an animal ¼ mile from a baiting site would be difficult to enforce and could be an abuse of the Airborne Hunting Act.

Proposal 118. We generally *oppose* this proposal but *support* certain sections.

The goal of this proposal is to clarify and modify the permit for hunting black bear with the use of bait and scent lures.

Defenders supports clarifying regulations regarding the harvest of all species where such clarification will promote the conservation of wildlife species and improve enforcement of wildlife regulations. Therefore, we *support* sections 1A, 1B, and 7 of this proposal. However, we *oppose*, sections 4, 10, and 13 which liberalize the use of bear baiting as an accepted harvest method and allow same day aerial harvest of bears at bait stations.

Despite claims made by the GABBC in the November 2011 BOG proposal book, bear baiting is a contentious issue in Alaska as it does not meet the principles of fair chase. It can also cause public safety concerns due to habituation of bears to human foods and the potential for humans encountering bears over bait in areas used for recreation. Further, allowing the same-day airborne taking of bears could be an abuse of the Airborne Hunting Act. Defenders of Wildlife does not oppose wildlife harvest methods that are biologically justified and those that adhere to principles of sound wildlife management and fair chase. However, we will continue to oppose practices that do not adhere to these principles.

Please see our general comments at the beginning of this comment letter.

Proposal 119. We *oppose* this proposal and urge the BOG to reject it.

This proposal aims to establish a codified location for permitted black bear bait stations and to establish seasons for all of Alaska.

Bear baiting is a contentious issue. It does not meet the principles of fair chase and can cause public safety concerns. Defenders of Wildlife does not oppose wildlife harvest methods that are biologically justified and adhere to principles of sound wildlife management and fair chase. However, we continue to oppose practices that do not adhere to these principles.

Proposal 120. We *oppose* this proposal and urge the BOG to reject it.

This proposal aims to eliminate the requirement of a predator control permit for black bear baiting in predator control areas.

As stated in our comments for proposal 118, despite claims made in the November 2011 BOG proposal book, bear baiting is a highly contentious method of harvest which does

not adhere to the principles of fair chase and can pose public safety hazards. We therefore do not support baiting being considered a general harvest method.

Further, while this proposal states that unlimited taking of sows with cubs or cubs would still be subject to a predator control permit, **proposal 109** eliminates the need for predator control permits to take sows with cubs and allows unlimited take in predator control areas. Therefore, if **proposal 109** were passed unlimited take would be allowed. It is worth noting that these two contradictory proposals were both submitted by the GABBC.

Please see our general comments at the beginning of this comment letter.

Proposal 121. We *support* this proposal and urge the BOG to adopt it.

This proposal aims to prohibit black bear baiting on all NPS lands.

We agree with the proponent of this proposal that baiting of black bears poses a risk to other wilderness users – especially in national parks and preserves where non-hunting recreationists occur in greater numbers than on adjacent state lands.

Proposal 122 and 123. We *oppose* these proposals and urge the BOG to reject them.

These proposals aim to allow the use of scent lures for black bear baiting while floating.

We do not support bear baiting as a harvest tool because it does not adhere to the principles of fair chase and poses public safety concerns. We therefore do not support proposals that would expand bear baiting practices.

Proposal 126. We *support* this proposal and urge the BOG to adopt it.

This proposal aims to prohibit the trapping of black bears on all NPS lands.

We agree with the proponent of this proposal that baiting and trapping of black bears poses a risk to other wilderness users – especially in national parks and preserves where non-hunting recreationists occur in greater numbers than on adjacent state lands. Snaring or trapping of black bears is a practice meant to reduce bear populations in the hopes of attaining higher ungulate populations. Such manipulation runs contrary to NPS policy and is therefore not appropriate on NPS lands.

Proposal 127. We *support* this proposal and urge the BOG to adopt it.

Passage of this proposal would prohibit the taking of a black bear by trap or snare.

We agree with the intent behind this proposal. Snaring and trapping of black bears requires the use of bait stations, which we oppose on fair chase principles. Though managers may be interested in developing more tools to control predation in the state,

such tools should not be considered general hunting strategies. Since adequate black bear population data do not exist across much of the state, we find it inappropriate to expand the methods and means by which bears are harvested. In general black bears should be harvested conservatively with the goal of maintaining healthy and viable populations.

While black bears have been implicated as significant predators of moose calves, there have been no studies demonstrating that increased take of black bears translates into more harvestable moose. Likewise, since snaring and trapping of black bears has not been allowed since statehood, no empirical evidence exists which demonstrates that this method will lead to increased moose harvest.

Any program that utilizes bear control as a tool must be rigorously designed and executed and the results carefully monitored in order to determine whether controlling bear populations is effective in achieving the goal of increased harvestable surplus. Any such program must incorporate the NRC's recommendations for managing predators and prey in Alaska.

Proposal 129. We *oppose* this proposal and urge the BOG to reject it.

According to ADF&G, this proposal is meant to clarify the responsibilities of the ADF&G Commissioner as they relate to wolf and bear predation. However, the proposal instead blurs the line between the Commissioner's and the BOG's respective authorities, fails to comply with applicable statutes and regulations, and is unnecessary for achieving its stated goals.

Proposal 129 overextends the Commissioner's authority. The authority to regulate predation through methods, means and harvest levels, and through the adoption of intensive management plans, rests solely with the Board. *See* AS 16.05.255(a)(6) and (e). Though imperfect, the BOG process provides at least some opportunity to consider various factors influencing ungulate populations. We oppose codifying language changes based on an interpretation that the Commissioner has the authority to take action whenever predators threaten wildlife.

Proposal 129 purports to only cover "isolated takings" "for immediate protection of wildlife populations." Almost all IM programs, if viewed generously, could fit this description. Since wolves and bears do consume moose and caribou, the Commissioner could theoretically declare a need for the *immediate protection of wildlife* at any point when bears or wolves appear in the presence of an ungulate or ungulate population. Further, the Commissioner might consider it necessary to declare an emergency whenever bull: cow or calf: cow ratios decline. Again, this authority resides with the BOG; the adoption of Proposal 129 would improperly shift that authority to the Commissioner.

Such a shift lacks statutory and regulatory basis. The BOG is vested with the authority to regulate predation through methods, means, and harvest levels, and through adoption of intensive management plans. AS 16.05.255(a)(6) and (e). The Commissioner, on the other hand, possesses the power to take predators for public safety reasons, *see* AS 16.05.050(a)(5), and, in an emergency, may open or close seasons or areas to protect fish

or game. AS 16.05.060. However, that is the extent of the Commissioner's emergency authority. The statutes cited in the proposal do not support expanding the exceptions contained in 5 AAC 92.110 (Control of predation by wolves) and 5 AAC 92.115 (Control of predation by bears).

Furthermore, such an expansion is unnecessary to achieve the stated goals of Proposal 129. First, the Commissioner already has ample legal authority to take immediate action to protect public safety. AS 16.05.050(a)(5). This authority has been exercised recently. For example, numerous wolves were taken via aerial control outside of Chignik Lake in the spring of 2010. In the spring of 2011, nine wolves were taken via trapping at the Joint Base Elmendorf Richardson. Though these actions were controversial and many members of the public felt that more emphasis should be placed on education and on providing residents with the tools to prevent human-predator conflict, at least the Commissioner tried to tie and justify its actions to a purported threat to human safety, consistent with its statutory authority. No such justification exists in the case of Proposal 129.

Second, the Commissioner can act in emergencies to protect wildlife populations by opening or closing seasons. AS 16.05.060. One example of this authority being successfully exercised is the routine emergency closure of Nelchina Caribou hunt to prevent overharvest when the herd is located too close to the road.

Third, monitoring programs exist to prevent emergencies from arising. Ungulates in Alaska are routinely monitored. Population trends and parameters including bull: cow and calf:cow ratios are routinely reported. While these parameters do not always give the full picture of population health, they are routinely relied upon by ADF&G when the agency proposes regulatory changes and intensive management programs. AS 16.05.255 and 5 AAC 92.125 already provide the needed authority to reverse negative wildlife population trends in a timely fashion. If ADF&G's monitoring programs are insufficiently detecting negative trends to the point whereby populations become threatened with extirpation then the agency needs to reconsider its monitoring priorities and protocols. Additionally, wildlife populations are sometimes threatened with numerous factors including stochastic events, habitat limitations, climate change, weather and disease. Even in such cases, trends can usually be detected prior to an emergency being declared. We find it would be inappropriate to take immediate action to control predation without understanding other factors contributing to ungulate declines.

Finally, proposal 129 states that changing the regulatory language is necessary to clarify that the Commissioner has the authority to immediately take predators to protect wildlife populations in danger of *extirpation*. However, the proposed language does not reflect the goal of protecting wildlife solely in danger of extirpation; rather the language seems to broaden the authority to include issues of immediacy whenever wildlife populations are in need of protection:

“[TO] for immediate [PROTECT] protection of [THE ANIMAL] wildlife populations or the general public or property under AS 16.05.020.” ([indicates deletions], indicates insertions).

We consider the Commissioner's authority to take predators to be limited to actions related to extirpation as outlined above; however we generally do not oppose the control of predation when control is supported by the best available science which demonstrates that there is a risk of extirpation to an imperiled species that is fulfilling a unique ecological role and where predation is demonstrated to be the primary limiting factor. The state currently lacks a process by which such actions would be approved and conducted.

Proposal 130. We *oppose* this proposal and urge the BOG to reject it.

This proposal seeks to authorize a brown bear predator control program under 5 AAC 92.125 to protect muskoxen in Unit 26B.

We do not support the control of brown bear predation to protect this herd prior to understanding the full nature of the decline and absent development of adequate monitoring and assessment protocols. We further do not support the implementation of an intensive management plan to control predation by brown bears because it contradicts one of the original purposes for which the Arctic Refuge was established by ANILCA. Section 303(2) PUBLIC LAW 96-487 - DEC. 2, 1980 94 STAT. 2389 of ANILCA states that one of the purposes was to conserve fish and wildlife populations in the "natural diversity" and grizzly bears were expressly included under this language. Therefore, launching a predator control program against brown bears would be contrary to the statutory directive to maintain such bears in their natural diversity within the refuge.

The purpose of the intensive management statute is to provide for high levels of human harvest; not to address conservation concerns over certain wildlife populations. It would therefore be inappropriate to develop such a plan under the intensive management statute and regulations. While we do not support brown bear control at this time, we recognize that ADF&G has a strong interest in conserving the Northeast Alaska muskoxen population (NEAK) and support them in developing a monitoring or conservation plan to expand their understanding of the herd's recent decline.

Brown bears occur in low densities throughout the Arctic. According to ADF&G's 2007 Brown Bear Management Report, brown bears in Unit 26B are estimated to occur at a density of 1.7 bears/100mi² which is considered low to moderate; however, a robust population assessment has not been completed. Instituting a predator control program intended to reduce predator populations in the absence of accurate predator population data potentially threatens the sustainability of the population and violates the recommendations set forth by the NRC.

In addition to concerns over sustainability of brown bear populations, we are also concerned that the root cause of the decline has not been determined. ADF&G's 2008 Muskoxen Management Report indicates that blood and tissue samples from muskoxen that had died indicated prevalence of various pathogens and concentrations of trace minerals. The study found that in addition to numerous diseases that may influence

reproduction and survival, concentrations of copper were insufficient to maintain healthy immune function, reproduction, or survival through weaning. ADF&G also indicated that female muskoxen were calving alternate years, perhaps due to nutritional limitations.

The 2008 report speculates that changes in distribution of muskoxen in 26B may be influenced by overexploitation of winter habitat. Reynolds 2011 cited overgrazing of winter habitats, weather – including icing events and deep snow, drowning, and potentially disease and parasites as factors contributing to the decline of muskoxen in the Arctic Refuge; similar factors may have contributed to the decline in 26B.

The 2008 report also states that the population has been relatively stable since 2006 and recognized that progress had been made towards stabilizing the population at ≥ 200 . The goal of maintaining a bull: cow ratio of $\geq 35:100$ animals has also been met in recent years. In their findings from an emergency meeting on 8-4-11, the BOG cites a 67% decline in the NEAK population from 1999-2006; the findings however fail to mention that the population was relatively stable from 2005-2011.

ADF&G has continued to research the NEAK. A study initiated in 2007 demonstrated high predation rates by brown bears; however, not all bears can be implicated in predation and therefore applying widespread control is unwarranted. Further, as recognized in the BOG's August findings, disease was also implicated as a source of mortality. While results assessing the prevalence of major diseases and parasites as well as nutritional status are not yet available, nutrition, disease, and extreme weather may have all played a role in the NEAK decline.

In addition to the short duration of time which has been devoted to studying this recent decline, during an August 4th, 2010 emergency teleconference the BOG took action to liberalize hunting in Unit 26B with the goal of reducing brown bear densities to protect muskoxen. We feel that insufficient time has been allowed to determine whether this action can achieve the goal of temporarily reducing brown bear predation; initiating a brown bear control program is therefore premature.

Muskoxen on the North Slope will continue to face challenges as weather and habitat conditions change due to warming temperatures. Since they are unlikely to be extirpated from this region in the near future, more time should be allowed to both understand the true nature of the decline and to determine if current management strategies are successful.

By seeking to understand the ultimate cause for declines in populations such as the NEAK, rather than simplifying the issue and addressing proximate causes, the ADF&G would better serve the conservation of the species and prevent doing undue harm to predator- prey dynamics. The role predation is playing in this particular herd may be beneficial to the ultimate survival of the NEAK especially if disease or nutritional limitations are determined to be widespread. Predators also have a positive buffering effect by preventing dramatic fluctuations in populations; such effects may be

particularly important in areas such as the Arctic which are especially prone to the effects of global warming.

In addition to the biological concerns outlined above, we also have concerns that instituting this program would be an inappropriate application of the intensive management statute.

The Intensive Management statute requires the Board of Game to:

adopt regulations to provide for *intensive management* programs to restore the abundance or productivity of *identified big game prey populations* as necessary to achieve human consumptive use goals of the board in an area where the board has determined that (1) consumptive use of the big game prey population is a preferred use; (2) depletion of the big game prey population or reduction of the productivity of the big game prey population has occurred and may result in a significant reduction in the allowable human harvest of the population; and (3) enhancement of abundance or productivity of the big game prey populations is feasibly achievable utilizing recognized and prudent management techniques. AS 16.05.255(e) (emphases added).

The statute defines “identified big game prey population” as “a population of ungulates that is identified by the Board of Game and that is important for providing *high levels of human harvest for human consumptive use.*” AS 16.05.255(k)(3) (emphasis added).

Furthermore, the statute defines “intensive management” to mean:

management of an *identified big game prey population* consistent with sustained yield through active management measures to enhance, extend, and *develop the population to maintain high levels* or provide for higher levels of human harvest, including control of predation and prescribed or planned use of fire and other habitat improvement techniques. AS 16.05.255(k)(4) (emphases added).

Regulations implementing the Intensive Management Statute, AS 16.05.255(e)-(g), establish minimum harvest levels that must be met before an ungulate population qualifies as providing a “high level [] of human consumptive use.” 5 AAC 92.106(1). The only species listed are caribou, deer, and moose. *Id.* (“For purposes of implementing AS 16.05.255(e)-(g), the Board of Game will (1) consider the following criteria when identifying big game prey populations that are important for *providing high levels of human consumptive use:* (A) harvest size: the average annual historic human harvest *meets or exceeds values* as follows: (i) caribou: 100; (ii) deer: 500; (iii) moose: 100”) (emphases added).

The only species identified in this section are caribou, moose, and deer; muskoxen are not listed. Further, the minimum historic harvest size which would make these identified

species eligible for intensive management is 100 animals. According to ADF&G's harvest statistics from 1990-2005, an average of fewer than 5 muskoxen were harvested annually from Unit 26B. This harvest level clearly falls well below the identified population levels outlined in the administrative code for all identified species. Therefore, this population of muskoxen does not qualify for intensive management under applicable laws and regulations.

In addition to not meeting standards for minimum historic harvest, the BOG has not set population and harvest objectives for this population of muskoxen. *See* 5 AAC 92.108 ("For purposes of implementing AS 16.05.255(e)-(g), the Board of Game has made ***the following findings*** on whether the listed big game prey populations, or portions of those populations, are identified as important for providing high levels of harvest for human consumptive use, ***and has established the following population and harvest objectives...***") (emphases added).

Again, the only species where such findings have been established under this section are caribou, deer, and moose. Unit 26B has a negative finding for all three of these species. Muskoxen are not listed, thus population and harvest objectives have not been set. However, even if the BOG did set population objectives and harvest levels for muskoxen, the species historic harvest would not meet the threshold of "high levels of human consumptive use" outlined under AS 16.05.255, as discussed above.

Lenart, E.A. 2009. Units 26B and 26C muskox. Pages 48-69 *in* P. Harper, editor. Muskox management report of survey and inventory activities 1 July 2006-30 June 2008. Alaska Department of Fish and Game. Project 16.0. Juneau, Alaska, USA.

Reynolds, P. 2011 precalving muskoxen census in Arctic National Wildlife Refuge 26C and adjacent regions. U.S. Fish and Wildlife Service.

Thank you for considering our comments.

Sincerely,

Theresa Fiorino
Alaska Representative
Defenders of Wildlife

On Behalf of:

Valerie Connor
Conservation Director
Alaska Center for the Environment

John Toppenberg
Executive Director
Alaska Wildlife Alliance

The Alaska Center for the Environment (ACE) is a non-profit environmental education and advocacy organization, whose mission is to enhance Alaskans' quality of life by protecting wild places, fostering sustainable communities and promoting recreational opportunities. ACE advocates for sustainable policy on behalf of over 6,000 Alaskan members.

Founded in 1978, the Alaska Wildlife Alliance (AWA) is the only group in Alaska solely dedicated to the protection of Alaska's wildlife. Our mission is the protection of Alaska's natural wildlife for its intrinsic value as well as for the benefit of present and future generations.