

INTERAGENCY STAFF COMMITTEE RECOMMENDATION

Oppose the request to reconsider WP18-11.

Justification

The Interagency Staff Committee (ISC) found the threshold analysis for request for reconsideration RFR18-02 to be a thorough evaluation of the request and that it provides sufficient information for Federal Subsistence Board (Board) action on the request.

According to regulations under Subpart B § ____.20 the Board will accept a request for reconsideration only if it is based upon information not previously considered by the Board, demonstrates that the existing information used by the Board is incorrect, or demonstrates that the Board's interpretation of information, applicable law, or regulation is in error or contrary to existing law. The ISC concurs with the following conclusions presented in the RFR18-02 threshold analysis:

- No new relevant information was presented for the Board's consideration.
- None of the information the Board relied on was shown to be factually incorrect.
- There was no demonstration that the Board's interpretation of information, applicable law, or regulation was in error or contrary to existing law.
- There are sufficient conservation concerns to warrant restriction of nonsubsistence uses, as outlined in ANILCA Section 815, while Section 804 of ANILCA establishes that subsistence is the priority consumptive use on Federal public lands.

The claims of Territorial Sportsmen, Inc. appear to be without merit. None of the claims in RFR18-02 meet the threshold for reconsideration of the Board's decision on Wildlife Proposal WP18-11.

APPENDIX A

Name: Matthew Robus, on behalf of the Territorial Sportsmen, Inc.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Organization: Territorial Sportsmen, Inc.

Regulation to be reconsidered: Adoption at the April Federal Subsistence Board (FSB) meeting of a modified version of WP18-011, Berners Bay moose drawing permit hunt. The adopted regulation would award one quarter of allowable harvest to federally qualified hunters through a federal drawing. Publication in the Federal Register has apparently not happened as of this date.

How we are affected: Hunters who reside in Juneau, who have customarily dominated permit applications for this hunt, will lose 25% of their opportunity to hunt in Berners Bay. Juneau hunters participated in the introduction of the Berners Bay moose herd (via TSI funding) and have provided the majority of the “customary use” of this herd since hunting has been allowed. It is also likely that a larger portion of the allowable take will be granted to federally qualified users in the future, so the effect on non-federally qualified hunters could well expand if this decision is allowed to stand. The FSB’s action has shifted hunting opportunity away from non-federally qualified users towards hunters from federally designated communities without the ANILCA- required conditions being satisfied.

How the FSB’s action is in error or contrary to existing law: ANILCA states that exclusion of non-federally qualified hunters can occur only if there is a conservation issue or if necessary to preserve existing customary and traditional uses. Although the limited production of this small, introduced moose herd needs to be carefully managed, there is not a conservation problem associated with this population. Since this hunt requires that a hunter spend extra resources to access the area and to pass up easier moose hunts in the area, and in view of the fact that the customary users of this introduced moose herd are strongly weighted towards urban Juneau users, there is no justification for shifting this hunt towards rural users who have tended not to participate in the past. The fact that the Berners Bay moose herd occurs primarily on federal land does not in itself justify shifting hunting opportunity away from urban hunters towards rural residents.

How we would like the regulation changed: The FSB should reverse its decision and allow the pre-existing state drawing hunt to continue without change. The existing state permit system gives a fair chance to all hunters who wish to expend the extra resources necessary to successfully complete a Berners Bay hunt.

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APPENDIX B

§100.20 Request for reconsideration.

(a) Regulations in subparts C and D of this part published in the FEDERAL REGISTER are subject to requests for reconsideration.

(b) Any aggrieved person may file a request for reconsideration with the Board.

(c) To file a request for reconsideration, you must notify the Board in writing within sixty (60) days of the effective date or date of publication of the notice, whichever is earlier, for which reconsideration is requested.

(d) It is your responsibility to provide the Board with sufficient narrative evidence and argument to show why the action by the Board should be reconsidered. The Board will accept a request for reconsideration only if it is based upon information not previously considered by the Board, demonstrates that the existing information used by the Board is incorrect, or demonstrates that the Board's interpretation of information, applicable law, or regulation is in error or contrary to existing law. You must include the following information in your request for reconsideration:

(1) Your name, and mailing address;

(2) The action which you request be reconsidered and the date of FEDERAL REGISTER publication of that action;

(3) A detailed statement of how you are adversely affected by the action;

(4) A detailed statement of the facts of the dispute, the issues raised by the request, and specific references to any law, regulation, or policy that you believe to be violated and your reason for such allegation;

(5) A statement of how you would like the action changed.

(e) Upon receipt of a request for reconsideration, the Board shall transmit a copy of such request to any appropriate Regional Council and the Alaska Department of Fish and Game (ADFG) for review and recommendation. The Board shall consider any Regional Council and ADFG recommendations in making a final decision.

(f) If the request is justified, the Board shall implement a final decision on a request for reconsideration after compliance with 5 U.S.C. 551-559 (APA).

(g) If the request is denied, the decision of the Board represents the final administrative action.