

## STAFF ANALYSIS

### WSA19-01

#### ISSUES

Temporary Wildlife Special Action WSA19-01 was submitted by the Togiak National Wildlife Refuge (Refuge). The Refuge requests that the Federal moose hunt area in the portion of Unit 18 south of and including the Kanektok River drainage to the Goodnews River drainage be enlarged to match the existing State hunt area boundary. The existing Federal hunt area consists of Federal public lands south of and including the Kanektok River to the Goodnews River drainage. The proposed addition consists of Federal public lands between the Kanektok and Eek River drainages (**Figure 1**). WSA19-01 also requests that the Federal public lands closure within this hunt area be rescinded and that a Federal season be established.

#### DISCUSSION

Currently, the hunt area that includes the Kanektok drainage of Unit 18 is different in State and Federal regulation. The State hunt area encompasses the entire area between the Eek River drainage to the north and the Goodnews River drainage to the south. Most of this area is drained by the Kanektok and Arolik Rivers. However, the northernmost portion of the hunt area is drained by several smaller creeks that are not part of the Kanektok watershed, including Kuskokwak and Tungak Creeks (**Figure 1**). The Federal hunt area excludes these drainages. Rather, these drainages are a noncontiguous portion of the Federal Unit 18 remainder moose hunt area, which occurs in northern Unit 18 and includes the lower Yukon River, and where moose abundance is very high and season and harvest limits are liberal. WSA19-01 requests that the Federal Kanektok/Arolik hunt area be enlarged to include these minor drainages, consistent with the State's hunt area.

WSA19-01 also requests that, within this newly described hunt area, the Federal public lands closure be rescinded and that a Sep. 1 – Sep. 30 season be opened with a harvest limit of 1 antlered bull by State registration permit. The Refuge notes that recent surveys show that the moose population within the Kanektok and Arolik drainages has increased significantly since 2013. The Refuge believes that the proposed changes will not have a negative impact on the moose population in the area. They also note that the changes will result in alignment of State and Federal regulation, which will allow Federally qualified subsistence users to hunt moose throughout the hunt area with a single permit, regardless of land status.

The applicable Federal regulations are found in 36 CFR 242.19(b) and 50 CFR 100.19(b) (Temporary Special Actions) and state that:

*... After adequate notice and public hearing, the Board may temporarily close or open public lands for the taking of fish and wildlife for subsistence uses, or modify the requirements for subsistence take, or close public lands for the taking of fish and wildlife for nonsubsistence uses, or restrict take for nonsubsistence uses.*

## Existing Federal Regulation

### Unit 18—Moose

*Unit 18 – south of and including the Kanektok River drainages to the Goodnews River drainage.*      *No open season*

*Federal public lands are closed to the taking of moose by all users*

*Unit 18, remainder—2 moose, only one of which may be antlered.*      *Aug. 1 – Apr. 30*  
*Antlered bulls may not be harvested from Oct. 1 through Nov. 30*

## Proposed Federal Regulation

### Unit 18—Moose

*Unit 18 – south of and including the Kanektok River drainages to the Eek River drainage and north of the Goodnews River drainage—1 antlered bull by State registration permit.*      ~~No open season~~  
*Sep. 1 – Sep. 30*

*Federal public lands are closed to the taking of moose by all users*

*Unit 18, remainder—2 moose, only one of which may be antlered.*      *Aug. 1 – Apr. 30*  
*Antlered bulls may not be harvested from Oct. 1 through Nov. 30*

## Existing State Regulation

### Unit 18—Moose

*Residents: Unit 18 – south of the Eek River drainage and RM617 north of the Goodnews River drainage— one antlered bull by permit available in Quinhagak Aug. 1 – Sep. 30.*      *Sep. 1 – Sep. 30*

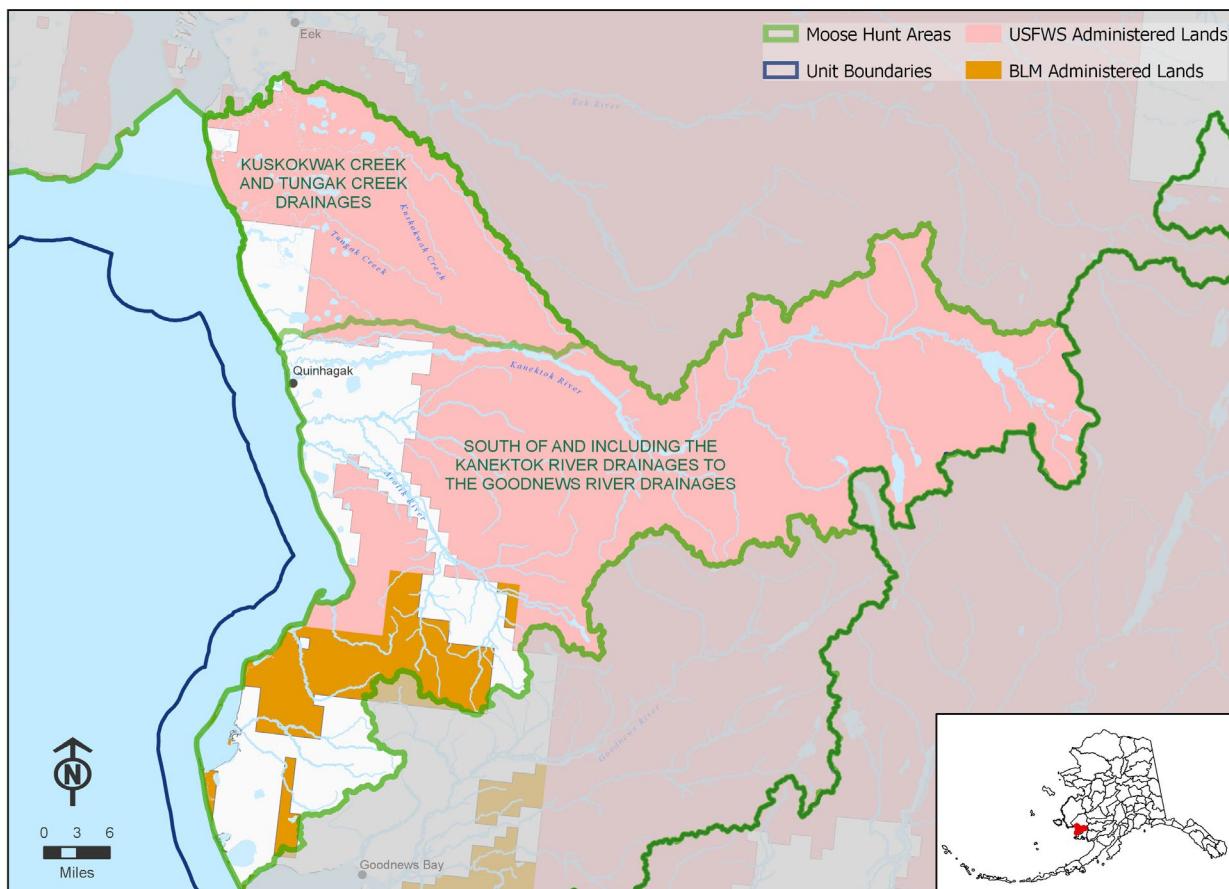
*Nonresidents: Unit 18 – south of the Eek River drainage and north of the Goodnews River drainage*      *No open season*

## Extent of Federal Public Lands/Waters

Federal public lands comprise approximately 79% of the existing Kanektok/Arolik moose hunt area, and consist of 69% U.S. Fish and Wildlife Service (USFWS) managed lands and 10% Bureau of Land Management managed lands. Federal public lands comprise approximately 87% of the proposed addition (the area including the Kuskokwak and Tungak Creek drainages), all of which are managed by USFWS (**Figure 1**).

## Customary and Traditional Use Determinations

Residents of Unit 18, Lower Kalskag and Upper Kalskag have a customary and traditional use determination for moose in Unit 18 remainder.



**Figure 1.** The existing Federal hunt area includes only the area south of and including the Kanektok River drainages to the Goodnews drainages. This temporary special action requests the addition of that area including the Kuskokwak Creek and Tungak Creek drainages to the existing Federal hunt area. These minor drainages are currently part of the Unit 18 remainder hunt area.

## Regulatory History

Federal public lands in this hunt area have been closed to the harvest of moose since 1991. That year, the Federal Subsistence Board (Board) considered Proposal P91-124, submitted by the Refuge. Proposal

P91-124 requested that the regulations for portions of Unit 18 in the Kanektok and Goodnews river drainages be consolidated with the regulation for the lower Yukon hunt area, which had no open moose season at that time. The Refuge believed that closing the season was necessary to allow for the establishment of a harvestable moose population in the Kanektok/Goodnews area. The Board adopted this proposal with modification to close Federal public lands to moose harvest throughout Unit 18.

Separate regulations were established for the Kanektok/Goodnews hunt area and the lower Yukon hunt area in 1994, when Proposal P94-45 was adopted by the Board. This proposal initiated a moose season in the lower Yukon hunt area, but Federal public lands in the Kanektok/Goodnews River hunt area remained closed.

In 1998, as a result of the Board's adoption of WP98-63, the hunt area descriptor for the Kanektok/Goodnews area was modified to include the portion of Unit 18 "south of and including the Kanektok River drainage". The change clarified that the hunt area included the Arolik River drainage, which is located between the Kanektok and Goodnews drainages, as originally intended. It did not address the minor drainages north of the Kanektok drainage, which remained part of the lower Yukon hunt area.

In 2008, the Board considered WP08-34, which requested that a season be established in the southern portion of the Kanektok/Arolik/Goodnews hunt area. The Board adopted the proposal with modification and established the contemporary Federal hunt areas. In the portion of Unit 18 in the "Goodnews River drainage and south to the Unit 18 boundary", the Federal public lands closure was rescinded and a season was established. In the portion of Unit 18 "south of and including the Kanektok River drainages to the Goodnews River drainage", the closure was retained. The Board's action followed a 2005 decision by the Alaska Board of Game (BOG) on Proposals 21 and 22 to similarly create two distinct hunt areas; the portion "south of and including the Goodnews River drainage" and the portion "south of the Eek River drainage and north of the Goodnews River drainage". While the boundary dividing the two hunt areas was identical in State and Federal regulation, discrepancies persisted in the Kanektok/Arolik hunt areas due to the existing exclusion of the minor drainages north of the Kanektok River drainage in Federal regulation.

There have been two previous attempts to establish a Federal moose season in the Kanektok/Arolik hunt area. Proposal WP10-61 and special action request WSA14-01 were both submitted by the Native Village of Kwinhagak (Quinhagak) IRA Council. Each requested the establishment of a Sep. 1 – Sep. 30 moose season, with a harvest limit of one antlered bull by State registration permit. However, these requests were rejected due to ongoing conservation concerns.

The existing Sep. 1 – Sep. 30 State resident season has been in place since 2005 and has been limited to one antlered bull since 2006.

### **Current Events Involving the Species**

As outlined in the Board's closure policy (**Appendix 1**), closures should be rescinded as soon as practicable when the conditions that originally justified the closure no longer exist. The Federal public lands closure in the Kanektok/Arolik hunt area was reviewed in 2018 with Wildlife Closure Review WCR20-40 (formerly identified as WCR18-40). At their March 12 – 13, 2019 meeting, the Yukon Kuskokwim Delta

Subsistence Regional Advisory Council (Council) supported opening Federal public lands only to Federally qualified subsistence users.

At their March 14 – 19, 2019 meeting, the BOG adopted Proposal 150, which requested that a registration permit be required for the State moose hunt in the Kanektok/Arolik hunt area, rather than the existing harvest ticket. The proposal, submitted by the Alaska Department of Fish and Game (ADF&G), was one of a series of coordinated regulatory requests made to the Federal and State boards related to this hunt area. In addition to Proposal 150, these requests include Temporary Special Action Request WSA19-01 and Wildlife Proposal WP20-32/33. Both of these requests were submitted by the Refuge and asked that the Kanektok/Arolik Federal moose hunt area be enlarged to match the existing State hunt area boundary, that the Federal public lands closure within this hunt area be rescinded, and that a Federal season be opened using a State registration permit.

On July 10, 2019, an ANCSA corporation consultation, a Tribal consultation, and a public hearing were held in Quinhagak to gather feedback on WSA19-01. Quinhagak is the sole community within the Kanektok/Arolik moose hunt area, though residents of neighboring communities of Eek and Goodnews Bay likely hunt there too.

There were no corporation representatives present for the ANCSA corporation consultation. However, OSM staff were invited to meet informally with the CEO and several board members of Qanirtuuq Inc. following the formal consultation. During this discussion, corporation representatives expressed some concern with the special action request. They noted that the popularity of the Kanektok River among sport anglers has impacted river banks. They were concerned that opening Federal land may result in an influx of non-local users that could exacerbate these impacts, including on corporation lands. They also expressed concern about the potential for increased air traffic, and the possibility that an increase in sport hunting may ultimately harm subsistence users if harvest quotas are met early.

The Tribal consultation with the Native Village of Kwinhagak was well attended, with the Tribal Administrator and eight Tribal Council members present. In addition to OSM staff, Togiak National Wildlife Refuge biological staff were also present for the discussion. Questions from Tribal Council members prompted discussion about the status of moose in the area, the geographic limits of the proposed hunt, and potential effects on subsistence users from neighboring communities, specifically residents of Eek. There was also a discussion, with staff and among Tribal Council members, about the implications of using a State registration permit for the proposed Federal hunt. Because this fall will be the first year that the State's registration permit will be implemented, there was some confusion about what the requirements for that hunt will be, and how those requirements would change with the addition of a Federal hunt. Though the Tribal Council did not offer a formal position, several individuals representing their own position expressed support for the special action request. Overall, comments included general support for more opportunity for the community to hunt moose in the area and to put food on the table. The Tribal Council members expressed appreciation for the information and for the opportunity to discuss the proposal. They also noted that if the Temporary Special Action is approved, there will be additional opportunities to make recommendations on any needed adjustments when the associated wildlife regulatory proposal is considered.

The public hearing was held in the evening, with 22 members of the public attending in-person and one joining by teleconference. In addition to OSM and Refuge Staff, ADF&G biological staff were also present. Prior to opening the floor for public comment, there was a general discussion about hunting requirements. Echoing the Tribal Consultation, much of the discussion was focused on licensing and permitting requirements for hunting under the new State permit. One notable point that came from this discussion is that the State's Area Biologist has the discretion and willingness to change how, where, and when State registration permits are issued. This resolves one concern with the special action request—that residents of Eek, who have C&T for a Federal hunt in this area, would have to travel to Quinhagak to secure permits to hunt in drainages that are relatively close to their community.

Federal and State staff fielded several questions about allowances for proxy or designated hunts, as well as funerary hunts. There were also enquiries about how enforcement pressure was expected to change, given the new State permit and, potentially, a Federal hunt. There were several questions related to private lands such as Native Allotments and Alaska Native Corporation lands, including those that are inholdings within Federal public lands. This discussion focused on which regulations were applicable on these lands and whether it would change in the fall. This was a particular concern for Qanirtuuq Inc., which has allotments along the Arolik River corridor. The community of Quinhagak is familiar with the impact of sport and commercial activity on local resources, given the popularity of the Kanektok River among anglers and rafters, and they are cautious about inviting an additional influx of non-locals.

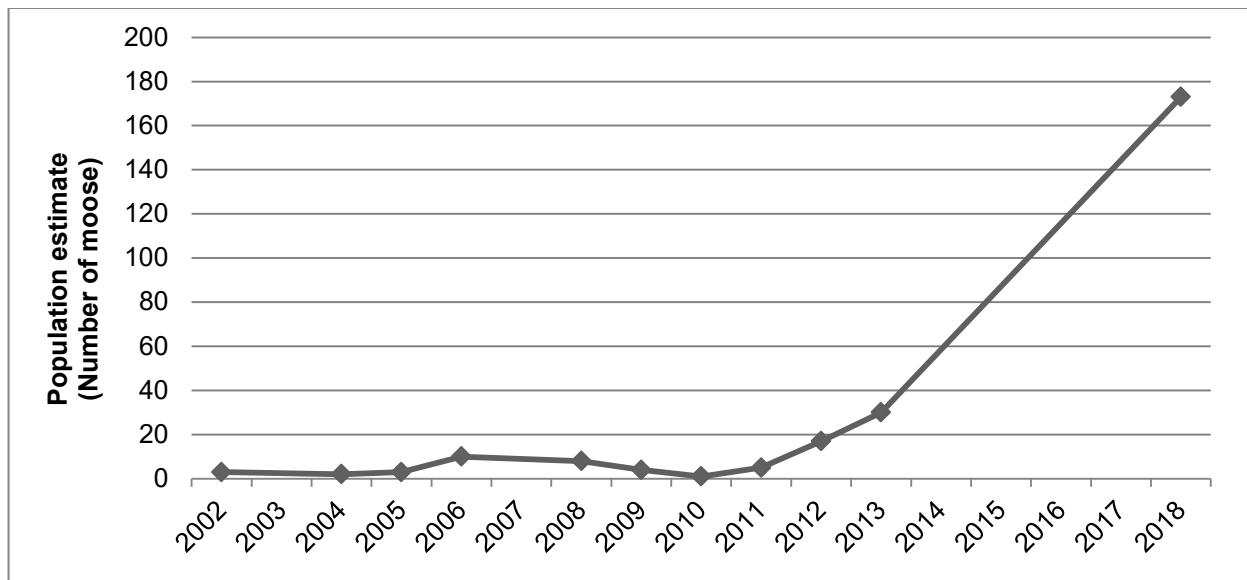
Among participants who spoke during the public comment portion of the meeting, there was support for the special action request. Participants noted that they have seen the moose population increase and that opening Federal lands would provide additional opportunities for Federally qualified subsistence users. One individual noted that this regulatory change would allow local hunters to hunt in the uplands in areas where the river is bounded by Federal lands, rather than be restricted to State-managed gravel bars. He also noted that having the same permit to hunt on Federal and State lands would allow for a seamless moose hunt during the established season, minimizing regulatory complexity. Some supporters suggested that the Federal hunt could be opened early, or that a winter hunt could be established if the moose population supported additional hunting opportunity. One teleconference participant from the Native Village of Eek said that the community has seen the moose population go up in their area. She noted that they mostly see residents of Eek and Quinhagak hunting along the river, along with a few hunters from Tuntutuliak. The Eek representative expressed her personal support for the proposal based on what she heard from the discussion, but did not offer a formal comment from the Tribe.

## **Biological Background**

Prior to the early 2000s, moose were not commonly observed in southern Unit 18. Early population growth is attributed to emigration from adjacent Unit 17A, with high calf recruitment sustaining growth (Aderman 2014). Minimum population counts, obtained by the Refuge as part of their Refuge-wide moose monitoring program, show substantial recent growth of the moose population in this area (**Figure 2**). In 2002, only 3 moose were observed in the Kanektok and Arolik drainages. More than 10 moose were observed for the first time in 2012, and at last count, in 2018, 173 moose were observed (Aderman 2018, pers. comm.). This represents a 42% annual growth rate between 2013 and 2018.

Recent composition surveys showed that there were 48 bulls:100 cows in 2016 and 43 bulls:100 cows in 2017. These surveys showed 41 calves:100 cows in 2016 and 29 calves:100 cows in 2017. Refuge biologists believe that these estimates are likely biased high for bulls and biased low for calves (Aderman 2019, pers. comm.)

Recent growth of the Kanektok/Arolik moose population is similar to that previously exhibited by the Unit 17A and Goodnews River moose populations. In these areas, early surveys revealed few to no moose. Then, over a period of several years, the population increased rapidly and now supports harvest on both Federal and State managed lands. The population in the Goodnews hunt area, in particular, may provide context for understanding when it is appropriate to modify the Federal public lands closure in the Kanektok/Arolik hunt area, given similarities in size, location, land status, and human population size. In the Goodnews hunt area, State and Federal seasons were established in 2008, when the population exceeded a threshold of 100 moose. Subsequent population growth was sufficient to establish may-be-announced winter seasons in 2017 and 2018. This appears to validate that the timing for initiating harvest was not premature in the Goodnews hunt area.



**Figure 2.** Estimated moose population size (minimum count) in the Kanektok and Arolik river drainages, 2002 – 2018 (Aderman 2014, Aderman 2018, pers. comm.).

### Cultural Knowledge and Traditional Practices

Over 20,000 rural residents, Federally qualified subsistence users, live in communities throughout Unit 18. The focus of this section is Federally qualified subsistence users harvesting moose in both the existing Federal hunt area and the proposed addition.

#### Quinhagak

Quinhagak is situated along the Kanektok River near the Bering Sea coast. About 700 people are residents of Quinhagak, the majority with Yup'ik cultural heritage (Ikuta et al. 2016). Quinhagak is the only

community within the hunt area. Quinhagak residents hunt for moose primarily in this area because of its close proximity and accessibility by boat, for example up the Kanektok River drainage where myriad historical hunting, trapping, and fishing camps exist.

Wolfe et al. describe moose hunting patterns and locations used by Quinhagak residents in 1983: “From September through October, groups of from three to six hunters go by skiffs on hunting trips up the Kanektok and Eek rivers in search of moose, brown bear, squirrel and beaver. Hunting trips last several days to several weeks. Hunters operate from traditional camps and tend to be mobile” (1984: 322–323). Wolfe et al. also note that residents of Quinhagak occasionally harvest moose during the winter (November–March) in the general area of the headwaters of the Kisaralik, Kanektok, Arolik, and Togiak Rivers (Wolfe et al. 1984: 326).

More recently, in 2013, Ikuta et al. described a Quinhagak hunting party of three people travelling inland by boat, setting up camp, and continuing on foot. Hunters recount collecting from a harvested moose, in addition to meat, the tongue, fat surrounding the gut, heart, liver, kidneys, and arteries. The moose was shared widely in Quinhagak (Ikuta et al. 2016:131–132).

### Subsistence Harvest History

Residents of Quinhagak and nearby Eek and Tuntutuliak have documented their moose search and harvest areas, marking up maps to show areas where they harvested or searched for moose in 2013. Quinhagak residents searched and harvested moose “in areas as far north as the Yukon River and as far south as the Goodnews Bay area” (Ikuta et al. 2016:145). Quinhagak moose search and harvest areas included the Kanektok River drainage, and also middle and upper Kwethluk and Eek River drainages. In 2013, Eek and Tuntutuliak search and harvest areas did not extend into the existing or proposed hunt areas. A sample of households in each community completed mapping exercises describing their search and harvest areas for a one year period, and search and harvest areas likely extend beyond those reported by these households.

Ikuta and others describe harvest patterns in 2013:

For moose, September was the most intense harvest period for Quinhagak residents. Of a total of 42 moose, 36 were harvested during this month. Two moose were harvested in the month of February. The month or months in which 4 moose were harvested were unknown. Of the moose harvested in September, 31 were bull moose, 5 were unknown, and no cow moose were reported. Quinhagak hunters did harvest 2 cow moose in February (Ikuta et al. 2016:132).

Caribou is an important alternative resource to moose, and Quinhagak residents harvested an estimated 125 caribou in 2013. Their large land mammal harvest was 58% moose and 42% caribou in pounds edible weight in 2013 (Ikuta et al. 2016). This is a contrast to 1982 reports, when their harvest was on 33% moose and 67% caribou (ADF&G 2019a).

In 2013, the Quinhagak moose harvest estimate is similar to harvest estimates in other Kuskokwim area communities when comparing harvest rates in pounds per person based on ADF&G Division of Subsistence household surveys (**Table 1**).

**Table 1.** Estimated harvest of moose based on household surveys (CI 95%, lower harvest estimate is the lower bound of the estimate or the reported harvest, whichever is larger) (Source: ADF&G 2019a).

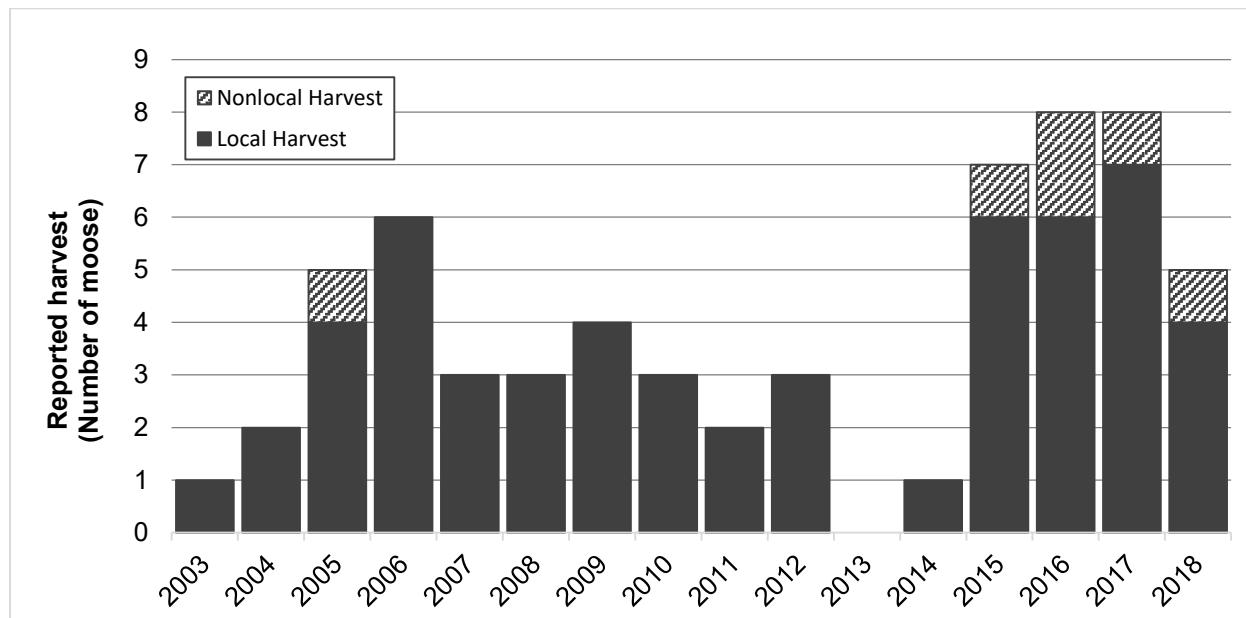
Community	Study Year	Estimated Moose Harvest (number of moose)	Lower Harvest Estimate (number of moose)	Upper Harvest Estimate (number of moose)	Harvest (pounds per person)
Tuluksak	2010	20	16	24	24.0
Akiak	2010	27	20	33	37.6
Akiachak	1998	106	93	119	145.4
Kwethluk	1986	33			45.3
Kwethluk	2010	33	25	42	25.2
Bethel	2011	279	220	338	24.5
Bethel	2012	357	294	419	33.9
Nunapitchuk	1983	12	3	22	18.9
Oscarville	2010	2	2	4	20.0
Napakiak	2011	13	13	13	28.7
Napaskiak	2011	29	29	29	43.4
Tuntutuliak	2013	17	17	0	22.3
Eek	2013	14	14	14	21.9
Quinhagak	2013	42	42	42	30.7
Quinhagak	1982	33	4	67	31.0

## Harvest History

In the existing Federal hunt area, all lands were closed to the harvest of moose in 1991. State-managed lands within this area were reopened in 2005. In the proposed Federal addition, Federal public lands were closed to the harvest of moose to all except Federally qualified subsistence users in 1991, and re-opened in 1994 as part of Unit 18 remainder. Within the proposed addition, Federal regulations currently allow the harvest of up to 2 moose during an 8 month season, by harvest ticket.

Within the State's hunt area, a harvest ticket was required for moose harvest through regulatory year 2018/19. Beginning in fall 2019, a State registration permit will be required, available in Quinhagak beginning August 1. Due to the Federal public lands closure, harvest under State regulation within Kanektok and Arolik drainages is currently limited to State managed lands. These lands comprise a significant length of the Arolik River corridor but only extend approximately 20 miles up the Kanektok River, a floatable river popular with sport anglers (BOG 2019).

Reported harvest is dominated by local users, defined here as Federally qualified subsistence users (residents of Unit 18, Upper Kalskag and Lower Kalskag). Between 2003 and 2018, reported harvest was 61 moose (**Figure 3**). Of those, 90% (55 moose) were taken by local users. Residents of Quinhagak, the only community located within the hunt area, harvested 70% (43 moose) of the total reported harvest during this time period. Only 2 moose were reported harvested by residents of Eek, the nearest community to the proposed Federal addition (ADF&G 2019b). While reported harvest is low, averaging just four moose per year, observations by local biologists in the past decade indicate that at least some illegal harvest occurs (Aderman 2014). Though the magnitude of unreported harvest is unknown, additional insights into harvest by locals can be gleaned from household harvest surveys conducted by ADF&G's Division of Subsistence. These surveys estimated that residents of Quinhagak harvested 33 moose (CI 95% 4–67) in 1983 and 42 moose (CI 95% 42–42) in 2013 (ADF&G 2019a).



**Figure 3.** Reported harvest in the Kanektok and Arolik river drainages, 2003 – 2018 (ADF&G 2019b).

### Other Alternatives Considered

Opening Federal public lands only to Federally qualified subsistence users may be a viable alternative to full rescission of the closure. This alternative was favored by the Council when they reviewed WCR20-40 (formerly identified as WCR18-40) at their March 2019 meeting in Bethel. As the Council noted, this alternative would limit opportunity to harvest moose on Federal public lands to Federally qualified subsistence users. However, practically speaking, closing Federal public lands to non-Federally qualified users is probably not necessary to limit participation. The fact that State registration permits are available only in the community of Quinhagak is likely to exclude most hunters who do not live within the hunt area.

## Effects of the Special Action

If this temporary special action is approved, the Federal Kanektok/Arolik hunt area will be expanded to include the minor drainages situated between the Eek and Kanektok River drainages, including Kuskokwak Creek and Tungak Creek. Currently, these drainages are a non-contiguous part of the Unit 18 remainder hunt area, which primarily describes the area along the lower Yukon River and which has very high moose densities. If these drainages are incorporated in the Kanektok/Arolik hunt area, the Federal harvest limit in the proposed addition will be reduced from two moose to one antlered bull, and the season will be shortened from Aug. 1 – Apr. 30 to Sep. 1 – Sep. 30. In addition, hunters from Eek who may utilize these drainages will be required to comply with the conditions of the State's registration permit, which will only be distributed in Quinhagak. The latter drawback is expected to be small, given that reported harvest is low by residents of Eek, that these drainages don't represent their primary moose search areas, and that permitting locations can be expanded if necessary to accommodate local subsistence needs.

The newly described hunt area will be consistent with the hunt area described in State regulation. This reduction in regulatory complexity will benefit subsistence users, who may not be aware of the difference between State and Federal hunt areas and are thus prone to inadvertent non-compliance. A uniform hunt area across jurisdictions will also simplify harvest management for State and Federal wildlife managers and simplify enforcement of regulations.

Opening Federal public lands and establishing a Federal season within the Kanektok Arolik hunt area will result in additional subsistence opportunity by significantly expanding the area available for moose hunting by Federally qualified subsistence users. Full rescission of the closure will also provide additional opportunity to non-Federally qualified users hunting under State harvest regulation, though participation will likely be limited due to localized permit distribution. A single permit will be required to hunt under both State and Federal regulation, which is consistent with joint State and Federal hunt administration in adjacent moose hunts in Units 17 and 18, and which should ease the burden of compliance within the dual management system. Adoption of this special action is not expected to have a negative effect on the moose population, given recent population growth.

## OSM CONCLUSION

**Support** Temporary Special Action WSA19-01.

## Justification

Dissimilar hunt areas in State and Federal regulation pose a problem for Federally qualified subsistence users. For these hunters, divergent hunt area boundaries are a burden that compounds the existing difficulty of hunting under two sets of harvest regulations in areas with complex land status. This reduction in regulatory complexity will also facilitate harvest management and reduce confusion associated with enforcement. Biologically, inclusion of these minor drainages in the Kanektok/Arolik hunt area is more appropriate than their current inclusion in the Unit 18 remainder hunt area, where harvest limits and season are liberal, due to high moose densities along the lower Yukon River.

As outlined in the Board's closure policy, closures should be rescinded as soon as practicable when the conditions that originally justified the closure no longer exist. The moose population in this hunt area has increased significantly in recent years. Given the relative newness of this population, the small area it occupies, and the lack of published population objectives, it can be difficult to find context for assessing future management actions. However, the adjacent Goodnews moose population likely provides an adequate model and suggests that additional harvest is sustainable. Assuming so, rescinding the Federal public lands closure and establishing a Federal season is appropriate at this time.

Rescinding the Federal public lands closure and establishing a season will significantly increase the land area available for moose hunting by Federally qualified subsistence users, representing an increase in subsistence opportunity. Although full rescission of the closure also provides additional opportunity to non-Federally qualified users, the conditions associated with the State registration permit are likely to limit participation by non-local users, mitigating the risk of competition with Federally qualified subsistence users.

At the outset, State registration permits may be more burdensome to Federally qualified subsistence users, who until the current regulatory year, have been required to use only a harvest ticket. However, a registration permit will be required for State hunts in the area beginning this fall. Requiring a State registration permit for the Federal hunt will further reduce regulatory complexity and will allow Federally qualified subsistence users to hunt seamlessly across Federal and State regulations. In addition, use of registration permits will allow managers to better track harvest, while use of a State permit in both Federal and State regulation consolidates reporting within a single system. These are important features, considering that this is still a small population requiring close harvest management.

An important aspect of this temporary special action request is an immediate reduction in regulatory complexity. The BOG recently implemented changes in State regulation for the Kanektok/Arolik moose hunt, requiring a State registration permit instead of a harvest ticket. Proposals to adjust the hunt area boundary, rescind the Federal public lands closure, and establish a Federal season were submitted for the Board's consideration in the 2020 regulatory cycle. However, these changes, if adopted, will not become effective until fall 2020. Approval of this request will reduce regulatory complexity, not only between State and Federal regulations, but across regulatory years, easing compliance for Federally qualified subsistence users.

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## **APPENDIX 1**

### **POLICY ON CLOSURES TO HUNTING, TRAPPING AND FISHING ON FEDERAL PUBLIC LANDS AND WATER IN ALASKA**

#### **FEDERAL SUBSISTENCE BOARD**

Adopted August 29, 2007

#### **PURPOSE**

This policy clarifies the internal management of the Federal Subsistence Board (Board) and provides transparency to the public regarding the process for addressing federal closures (closures) to hunting, trapping, and fishing on Federal public lands and waters in Alaska. It also provides a process for periodic review of regulatory closures. This policy recognizes the unique status of the Regional Advisory Councils and does not diminish their role in any way. This policy is intended only to clarify existing practices under the current statute and regulations: it does not create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its agencies, officers, or employees, or any other person.

#### **INTRODUCTION**

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) establishes a priority for the taking of fish and wildlife on Federal public lands and waters for non-wasteful subsistence uses over the taking of fish and wildlife on such lands for other purposes (ANILCA Section 804). When necessary for the conservation of healthy populations of fish and wildlife or to continue subsistence uses of such populations, the Federal Subsistence Board is authorized to restrict or to close the taking of fish and wildlife by subsistence and non-subsistence users on Federal public lands and waters (ANILCA Sections 804 and 815(3)). The Board may also close Federal public lands and waters to any taking of fish and wildlife for reasons of public safety, administration or to assure the continued viability of such population (ANILCA Section 816(b)).

#### **BOARD AUTHORITIES**

- ANILCA Sections 804, 814.815(3), and 816.
- 50 CFR Part I 00 and 36 CFR Part 242, Section .10(d)(4).

#### **POLICY**

The decision to close Federal public lands or waters to Federally qualified or non-qualified subsistence users is an important decision that will be made as set forth in Title VIII of ANILCA. The Board will not restrict the taking of fish and wildlife by users on Federal public lands (other than national parks and park monuments) unless necessary for the conservation of healthy populations of fish and wildlife resources, or to continue subsistence uses of those populations, or for public

safety or administrative reasons, or ‘pursuant to other applicable law.’” Any individual or organization may propose a closure. Proposed closures of Federal public lands and waters will be analyzed to determine whether such restrictions are necessary to assure conservation of healthy populations of fish and wildlife resources or to provide a meaningful preference for qualified subsistence users. The analysis will identify the availability and effectiveness of other management options that could avoid or minimize the degree of restriction to subsistence and non-subsistence users.

Like other Board decisions, closure actions are subject to change during the yearly regulatory cycle. In addition, closures will be periodically re-evaluated to determine whether the circumstances necessitating the original closure still exist and warrant continuation of the restriction. When a closure is no longer needed, actions to remove it will be initiated as soon as practicable. The Office of Subsistence Management will maintain a list of all closures.

## **Decision Making**

The Board will:

- Proceed on a case – by – case basis to address each particular situation regarding closures. In those cases for which conservation of healthy populations of fish and wildlife resources allows, the Board will authorize non-wasteful subsistence taking.
- Follow the statutory standard of "customary and traditional uses." Need is not the standard. Established use of one species may not be diminished solely because another species is available. These established uses have both physical and cultural components, and each is protected against all unnecessary regulatory interference.
- Base its actions on substantial evidence contained within the administrative record, and on the best available information; complete certainty is not required.
- Consider the recommendations of the Regional Advisory Councils, with due deference (ANILCA § 805 (c)).
- Consider comments and recommendations from the State of Alaska and the public (ANILCA § 816(b)).

## **Conditions for Establishing or Retaining Closures**

The Board will adopt closures to hunting, trapping or fishing by non-Federally qualified users or Federally qualified subsistence users when one or more of the following conditions are met:

- Closures are necessary for the conservation of healthy populations of fish and wildlife:
  - a) When a fish or wildlife population is not sufficient to provide for both Federally qualified subsistence users and other users, use by non-Federally qualified users may be reduced or

prohibited, or

b) When a fish or wildlife population is insufficient to sustain all subsistence uses, the available resources shall be apportioned among subsistence users according to their:

- 1) Customary and direct dependence upon the populations as the mainstay of livelihood.
- 2) Local residency, and
- 3) Availability of alternative resources, or

c) When a fish or wildlife population is insufficient to sustain any use, all uses must be prohibited.

- Closures are necessary to ensure the continuation of subsistence uses by Federally qualified subsistence users.
- Closures are necessary for public safety.
- Closures are necessary for administrative reasons.
- Closures are necessary "pursuant to other applicable law."

### **Considerations in Deciding on Closures**

When acting upon proposals recommending closure of Federal public lands and waters to hunting, trapping, or fishing. The Board may take the following into consideration to the extent feasible:

- The biological history (data set) of the fish stock or wildlife population.
- The extent of affected lands and waters necessary to accomplish the objective of the closure.
- The current status and trend of the fish stock or wildlife population in question.
- The current and historical subsistence and non-subsistence harvest, including descriptions of harvest amounts effort levels, user groups, and success levels.
- Pertinent traditional ecological knowledge.
- Information provided by the affected Regional Advisory Councils and Alaska Department of Fish and Game.

- Relevant State and Federal management plans and their level of success as well as any relationship to other Federal or State laws or programs.
- Other Federal and State regulatory options that would conserve healthy populations and provide a meaningful preference for subsistence, but would be less restrictive than closures.
- The potential adverse and beneficial impacts of any proposed closure on affected fish and wildlife populations and uses of lands and waters both inside and outside the closed area.
- Other issues that influence the effectiveness and impact of any closure.

## Reviews of Closures

A closure should be removed as soon as practicable when conditions that originally justified the closure have changed to such an extent that the closure is no longer necessary. A Regional Council, a State or Federal agency, or a member of the public may submit, during the nominal proposal period, a proposal requesting the opening or closing of an area. A closure may also be implemented, adjusted, or lifted based on a Special Action request according to the criteria in 50 CFR 100.19 and 36 CFR 242.19.

To ensure that closures do not remain in place longer than necessary, all future closures will be reviewed by the Federal Subsistence Board no more than three years from the establishment of the closure and at least every three years thereafter. Existing closures in place at the time this policy is implemented will be reviewed on a three-year rotational schedule, with at least one-third of the closures reviewed each year.

Closure reviews will consist of a written summary of the history and original justification for the closure and a current evaluation of the relevant considerations listed above. Except in some situations which may require immediate action through the Special Action process, closure review analyses will be presented to the affected Regional Council(s) during the normal regulatory proposal process in the form of proposals to retain, modify or rescind individual closures.

Chair, Federal Subsistence Board

Board Member, U.S. Fish and Wildlife Service

Board Member, Bureau of Indian Affairs

Board Member, U.S. Forest Service

Board Member, National Park Service

Board Member, Bureau of Land Management

## INTERAGENCY STAFF COMMITTEE RECOMMENDATION

**Support** Temporary Special Action request WSA19-01.

### **Justification**

The Interagency Staff Committee concurs with the OSM staff analysis that this action will provide for increased moose hunting opportunities for Federally qualified subsistence users and reduce regulatory complexity by aligning State and Federal regulations and hunt areas. This will ease compliance, simplify enforcement, and facilitate harvest management.

Concerns were expressed during tribal consultation and public meetings about the potential for more non-locals to participate in the hunt and the requirement to obtain a State registration permit versus a Federal registration permit. The State requirement to obtain registration permits in person from Quinhagak, should reduce potential increases of non-local participation in the new hunt area, while making permits available to local users. The requirement of a State registration permit will also consolidate both Federal and State reporting requirements into a single system, further reducing regulatory complexity.

The change to add Kuskokwak and Tungak Creeks to the current Kanektok/Arolik hunt area will align all Federal and State hunt unit boundaries within Unit 18 and will reduce regulatory confusion. Changes in seasons and harvest limits associated with alignment of boundaries will improve moose harvest management and enforcement. Full rescission of the closure will provide additional opportunity to both Federally qualified and non-Federally qualified users. The additional harvest by non-Federally qualified users is anticipated to be minimal due to the localized permit distribution out of Quinhagak. Limiting distribution of permits from Quinhagak may negatively affect users from Eek by requiring them to travel to Quinhagak for permits. However, this impact is expected to be small, given that reported harvest by residents of Eek is low and that permitting locations can be expanded if necessary to accommodate local subsistence needs. During the April 2020 wildlife regulatory meeting, the Federal Subsistence Board (Board) will have a chance to consider Eek's situation further when deliberating Proposal WP20-32/33 that proposes to make this special action a permanent regulation.

Rescinding the Federal public Federal lands closure is aligned with the Boards Closure Policy. The moose population has increased significantly since the closure was established in 1991 and showed a 42 % growth rate from 2013-2018. This action is not anticipated to have a negative effect on the moose population, given the rate of growth. Furthermore, the State has allowed harvest since 2006 of one antlered bull on State lands within the hunt unit area where Federal lands are currently closed, indicating additional harvest is sustainable.

Approving this temporary special action will also allow communities to assess the new hunt structure for the 2019 season prior to the Board evaluating WP20-32/33 that could make these regulations permanent.