

RC95

The Attached Document,

“Community Subsistence Harvest Hunts in the Copper Basin”

by Dr. Robert J. Wolfe

and

Submitted by the Ahtna Tene Nene’

- Demonstrates One Rationale for Requiring a Less Strict Reporting Process for Groups Like Ahtna Tene Nene’;
- Demonstrates the Inherent Tension Between the Joint Board’s Determination of Non-Subsistence Use Areas and Participation by Groups Located Within Non-Subsistence Use Areas in the Copper Basin Community Subsistence Hunt;
- If the Board has already determined that communities that are within a non-subsistence use area are communities where “dependence upon subsistence is not a principal characteristic of the economy, culture, and way of life” (AS 16.05.258(c)), a group or community wholly located within a non-subsistence use area cannot be simply assumed to be engaging in a customary and traditional community pattern of subsistence uses without requiring the group to first provide a specific plan for how it will engage in and establish this pattern of use. The inherent tension between the non-subsistence use area determinations and the pattern of community customary and traditional subsistence use demonstrates the need for the Board to require the Department to develop a process whereby group applications for the community hunt is closely evaluated and monitored according to the Board’s customary and traditional use findings.

Community Subsistence Harvest Hunts in the Copper Basin Analysis by Robert J. Wolfe, 1/31/2013

This analysis pertains to the Community Subsistence Harvest Hunts in the Copper Basin for moose and caribou. It provides ideas that might be useful for addressing the burden of report requirements and the increasing number of applicants from outside the Copper Basin area. The analysis discusses a potential relationship between “nonsubsistence area” determinations by the Joint Board and presumption standards for administering the Community Subsistence Harvest Hunts. The analysis discusses concepts such as “community,” “community benefits,” and “reasonable opportunity” in relation to the community hunt permit.

1. “Community” and the Community Subsistence Harvest Hunt Application

The Copper Basin Community Harvest Hunt Application might ask a question like the following: “What is the name of the community of the group applying for the Community Subsistence Harvest Hunt?”

The Community Subsistence Harvest Hunt Application might state that “this is the community that benefits from the harvests under the terms of the Community Subsistence Harvest Hunt.”

A community list is provided in the 2013-2014 Alaska Subsistence Permit Hunt Supplement. An applicant can choose from this list. Or, the Alaska Department of Labor also maintains a more complete list of Alaska communities (see Attachment, List_of_DOL_Places.xls). The name of an Alaska Native tribe can satisfy this question. The size of the named community (number of people and households) can be determined from Alaska Department of Labor records. The size and subsistence characteristics of the named community may be related to presumption standards for awarding permits (see below).

2. The Purpose of the Community Subsistence Harvest Hunts: Providing for “Community Benefits” of Subsistence Uses

It might be argued that the central purpose of Community Subsistence Harvest Hunts is to provide for “community benefits” of subsistence harvests (“community benefits” are in addition to “individual benefits” or “extended family” benefits). Community benefits are part of the customary and traditional uses of subsistence harvests, as identified in the Board findings (Findings for the Alaska Board of Game #2006 – 170 – BOG Game Management Unit 13, Caribou and Moose Subsistence Uses). Community benefits occur through practices such as sharing between households, the teaching of community-wide values, performing community-wide customs, community feasts, and the provision of food of economic importance to the community, among others. As an example of a community benefit, the Board’s findings for Criterion 7 state that “sharing of subsistence resources plays a key economic role in distributing essential food supplies throughout the community.”

If this is a central purpose, then “community benefits” might serve as a basis for hunt conditions, and serve as a basis for awarding hunt permits, as discussed below.

3. The Joint Board’s Nonsubsistence Area Determinations and Presumptions for Administering Hunt Permits

In its nonsubsistence area determinations, the Joint Board of Fisheries and Game identified communities without wide-spread subsistence uses. A nonsubsistence area is an area or community where dependence upon subsistence is not a principal characteristic of the economy, culture, and way of life of the area or community (AS 16.05.258(c)). The Joint Board identified five nonsubsistence areas -- Ketchikan, Juneau, Anchorage-Kenai-Matsu, Fairbanks, and Valdez (5 AAC 99.015). Communities within nonsubsistence areas are communities where dependence upon subsistence is not a principal characteristic of the economy, culture, and way of life (according to the determination).

The Joint Board’s determinations of nonsubsistence areas might provide presumption standards for administering the Community Subsistence Harvest Hunts. It might be argued that, based on the Joint Board’s determination, subsistence harvests by residents of communities in nonsubsistence areas do not contribute significantly to the economy, culture, and way of life of their communities. That is, subsistence harvests do not provide significant community-wide benefits. The presumption is that applicants from communities in nonsubsistence areas may not meet the principal condition of the hunt permit, which is to provide for community benefits. According to this argument, subsistence harvests by residents of nonsubsistence areas may provide significant individual benefits or extended family benefits, but because of the size and character of the communities in which the uses occur, the subsistence harvests cannot provide significant community benefits of the sort identified by the Game Board findings.

Greater evidence might reasonably be required from applicants from nonsubsistence communities to overcome the presumption that derives from the Joint Board determinations.

4. Reduction of Report Burden on Subsistence Users

It might be argued that subsistence users should not be burdened unnecessarily by permit report requirements. Reducing administrative burden on hunters and on administrators whenever it is possible is a reasonable goal of a subsistence permit system.

A simple affirmation by an applicant that hunt conditions will be met may be satisfactory when there is no presumption that an applicant cannot meet the conditions of a hunt permit. If there is a presumption (or some other indication) that an applicant may not meet hunt permit conditions, then additional reporting requirements may be reasonably justified, even though it increases the burden on the applicant and administrator.

Coupled with presumption standards from the Joint Board nonsubsistence determinations (see above), it might be argued that fewer reports might be required from applicants in communities in subsistence areas, compared with communities in nonsubsistence areas.

5. Community Benefits -- Food

Measurable standards of “community benefits” from subsistence harvests might be developed by administrators to assess whether permit conditions have been met.

The Game Board findings for Criterion 7 states that “sharing of subsistence resources plays a key economic role in distributing essential food supplies throughout the community” (Findings for the Alaska Board of Game #2006 – 170 – BOG Game Management Unit 13, Caribou and Moose Subsistence Uses). To assess this, a measurable standard might be established, such as “ten percent of households receive food” from a community hunt permit. Questions might be asked on the permit application, such as, “about how many households will receive food from the harvests of this permit?” Before awarding a permit, administrators can make a judgment whether the ten percent condition is likely to be met by an applicant, using ADOL estimates of the size of the applicant’s community (people and households). For example, if the applicant’s answer is 30 households will likely receive food and there are 120 households in a named community, then the 10 percent standard is met to receive a permit. But if the applicant’s answer is 30 households will likely receive food and there are 1,200 households in a named community, then the 10 percent standard will not be met and a permit not awarded.

A potential problem with any standard like this is that it can be challenged as being arbitrary. There is little quantitative data on sharing, other than the community studies done by the Division of Subsistence for particular villages and years. How are resources shared by sport hunters in urban areas? I’ve never seen systematic studies on this question on which to base cutoffs.

Standards like these are subject to a “liar’s game,” which plagued the Tier II permit. Some applicants would claim anything to get a permit if there was no way to adequately check.

6. Subsistence-Dependent Communities in Nonsubsistence Areas

It might be argued that it was not the intent of the Game Board’s Community Subsistence Harvest Hunt system to create new, subsistence-dependent communities within nonsubsistence areas. The issuance of Community Subsistence Harvest Hunt Permits to groups in nonsubsistence areas may imply that there exist subsistence-dependent communities within nonsubsistence areas, contrary to Joint Board determinations. Or, it might be argued that, over time, the permit program might come to recognize subsistence-dependent communities in nonsubsistence areas.

7. Reasonable Opportunity and Tier I Permits

The Community Subsistence Harvest Hunt Permit seems to be a type of Tier I subsistence permit. The permit is issued alongside other Tier I subsistence permits for moose and caribou in the Copper Basin area. A recipient cannot be awarded two Tier I permits for the same species, according to permit rules.

In theory, Tier I subsistence hunt permits provide a reasonable opportunity for subsistence uses, otherwise a Tier II permit system is required.

A “reasonable opportunity” argument might be that while some subsistence users may not qualify for the Community Subsistence Harvest Hunt Permit (because they cannot meet the community benefits condition), these same subsistence users have a reasonable opportunity for subsistence uses through the other Tier I permits (which do not have a community benefits condition).

8. Some Concepts and Definitions

A population is a set of people identified by geographic or community boundaries.

A geographic area is a bounded space, described as lines connecting a series of geographic coordinates, and visually represented as a closed polygon on a map.

A community is a named human population forming a distinct segment of society by virtue of a common government, common interests, a pattern of sharing, participation, fellowship, or other factors (American Heritage Dictionary of the English Language, 4th Edition 2000: 374). In Alaska, community boundaries commonly are defined by governmental jurisdictions, such as municipal borders or local tribal membership roles. Communities also may be indicated by measures of economic or social integration, such as commuting patterns for work.

A society is a group of people broadly distinguished from other groups by mutual interests, participation in characteristic relationships, shared institutions, and a common culture.

Culture may be defined as the socially-transmitted behavior patterns, arts, beliefs, institutions, and other products of human work and thought shared within a particular period, class, community, or population. (These come from Wolfe and Fisher 2003: 47)

Wolfe, Robert J. and Victor Fischer

2003 Methods for Rural/Non-Rural Determinations for Federal Subsistence Management in Alaska. Robert J. Wolfe and Associates and the Institute of Social and Economic Research, University of Alaska, Anchorage, for the U.S. Fish and Wildlife Service, Region 7, Alaska Region, Anchorage. A study analyzing demographic, economic, and sociocultural information, and developing methodologies for defining “rural” and “non-rural” communities in Alaska, for the purpose of defining rural subsistence fishing and hunting eligibility under the federal subsistence management program.

9. Nonsubsistence Areas

“Nonsubsistence areas” were identified by the Joint Board of Fisheries and Game, applying factors and procedures identified in subsistence regulations (*AS 16.05.258(c)*):

“The boards may not permit subsistence hunting or fishing in a nonsubsistence area. The boards, acting jointly, shall identify by regulation the boundaries of nonsubsistence areas. A nonsubsistence area is an area or community where dependence upon subsistence is not a principal characteristic of the economy, culture, and way of life of the area or community. In determining whether dependence upon subsistence is a principal characteristic of the economy, culture, and way of life of an area or community under this subsection, the boards shall jointly consider the relative importance of subsistence in the

context of the totality of the following socio-economic characteristics of the area or community:

- (1) the social and economic structure;
- (2) the stability of the economy;
- (3) the extent and the kinds of employment for wages, including full-time, part-time, temporary, and seasonal employment;
- (4) the amount and distribution of cash income among those domiciled in the area or community;
- (5) the cost and availability of goods and services to those domiciled in the area or community;
- (6) the variety of fish and game species used by those domiciled in the area or community;
- (7) the seasonal cycle of economic activity;
- (8) the percentage of those domiciled in the area or community participating in hunting and fishing activities or using wild fish and game;
- (9) the harvest levels of fish and game by those domiciled in the area or community;
- (10) the cultural, social, and economic values associated with the taking and use of fish and game;
- (11) the geographic locations where those domiciled in the area or community hunt and fish;
- (12) the extent of sharing and exchange of fish and game by those domiciled in the area or community;
- (13) additional similar factors the boards establish by regulation to be relevant to their determinations under this subsection."

Applying these factors, five nonsubsistence areas have been identified by the Joint Board -- Ketchikan, Juneau, Anchorage-Kenai-Matsu, Fairbanks, and Valdez (cf., 5 AAC 99.015).

