

Second Request

To the Alaska Board of Game to Hold a Special Meeting to Address Restricted Hunting Opportunity and Inability to Meet Vital Subsistence Needs due to the Extraordinary Increases in Participation in the Moose and Caribou Community Subsistence Hunts for the Copper Basin

**Submitted by Ahtna Tene Nene'
August 30, 2017**

Ahtna Tene Nene' hereby requests that the Board of Game and ADF&G Commissioner Cotten exercise their authority under AS 16.05.310 and hold a special meeting as soon as possible to address the lack of opportunity to meet subsistence needs related to a 70 percent increase in the number of groups enrolled in the 2016 Copper Basin Community Subsistence Hunt for Moose and a corresponding increase in the groups and individuals participating in the CSH for Nelchina Caribou. Ahtna hereby incorporates by reference its first request for a special meeting and the documents supporting the request.

Tables available through ADF&G demonstrate that only 6 days after the opening of the CSH for moose, the subunit 13E quota of 26 any bulls was fully taken and the subunit was accordingly closed on August 26. As of August 29, only 4 any bulls remained in both the 30 any bull quota for 13B and the 14 any bull quota for 13D. Both of these subunits are expected to close within days. These three subunits account for 70 of the 100 bulls without antler restrictions allocated to the CSH. The remaining allocation in 13A east, 13C and GMU 11, 27 moose as of August 29, are harder to access and provide less meaningful subsistence opportunity. Immediate action is required to address this situation and provide greater subsistence opportunity.

In 2015, 43 groups enrolled in the CSH. Seventy-three groups are enrolled for the 2016 CSH. The number of households similarly increased from 1039 in 2015 to 1542 in 2016, an increase of 67%. The CSH for moose now includes 3357 individuals. Despite the increase in participating groups, households, and individuals, the 100 any bull allocation remains the same as when the CSH was established in 2009.

The record in establishing the 100 any bull allocation demonstrates that the BOG determined this allocation was necessary to provide a reasonable opportunity to meet the subsistence needs of the eight Ahtna communities that established the CSH. The first year of the community hunt, these eight communities and the 427 individuals who participated in the CSH took 66 any bulls and 27 bulls that satisfied the antler requirements for the general hunt. This was the first time in decades that the Ahtna villages actually had enough to provide for their customary and traditional needs and uses. The moose harvest of these same communities and households over the past several years has fallen far short of this level of harvest, and the subsistence needs of the villages have gone unmet. In 2015, with far fewer groups and hunters participating in the CSH, Ahtna only harvested 14 any-bulls and 11 antler legal bulls. As best as Ahtna can determine, to date members of the Ahtna community hunt have only taken 3 any bull moose in 2016.

The loss of subsistence opportunity will not be limited to the any bull allocation. The large increase in hunters means that there will be many more CSH hunters in the field throughout the season hunting for all available moose. The CSH success rate will drop even further than last year for any bulls and bulls with antler restrictions. The hardship and lack of subsistence hunting opportunity will likely continue through the season and throughout the year as communities go without this essential subsistence resource.

In addition to the lack of subsistence moose opportunity, there is also an increasing possibility that the CSH quota for caribou, 300, will be taken before the season ends on September 20. The number of caribou hunters in the CSH has also nearly doubled from 2015 to 2016. According to ADF&G, about 100 caribou have already been taken in GMU 13 under the CSH. This is a significantly greater harvest for this period of the season than in previous years. If this rate of harvest continues, the 300 CSH quota will be filled before September 20 and there will not be a spring season for the CSH. This would compound the failure to provide for a reasonable subsistence opportunity to meet the needs of the Ahtna communities.

Ahtna asked in its first request to the Board on March 23, 2016, that a Tier II hunt be established for the 100 any bull opportunity in the CSH. Ahtna proposed that only those household enrolled in the moose CSH would be eligible to participate in the Tier II permitting process. The Board refused to act, and the time has long past to grant this relief. At this point, Ahtna suggests the following:

- Increase the CSH any bull quota in closed subunits and extend the CSH season for all moose through at least September 25.
- Increase the CSH quota of caribou and the household bag limit from 1 to 2, and extend the season to at least September 25.

Ahtna requests this relief on behalf of those communities and households participating in the Ahtna group. Ahtna believes that the BOG has the authority to limit any action it takes in response to this request for a special meeting to the Ahtna group. Ahtna is the only group requesting this relief, and the Ahtna communities are the only communities that have developed a record before the BOG demonstrating the need for the any bull allocation and an extended season in order to meet subsistence needs. This does not invoke any local or rural residency concerns since there are members of the Ahtna CSHs that are from urban areas and yet remain closely connected to the Ahtna villages' customary and traditional subsistence way of life.

Additionally, Ahtna requests that the BOG and Commissioner call for a second special meeting prior to the November 1 opening of the application period for groups to apply to for the 2017 CSH for caribou and moose. The call for a second special meeting should include sufficient public notice and opportunity for comment to allow the BOG to revise the current CSH regulations to conform to the intent of the Board when it first adopted the CSH and eliminate the abuse that has occurred since that time.

Request to Alaska Board of Game to Hold a Special Meeting to Address the Unexpected and Significant Increase in Participation in the Moose Community Subsistence Hunt for the Copper Basin

Submitted by Ahtna Tene Nene'

Ahtna Tene Nene' requests the Board of Game exercise its authority under AS 16.05.310 and hold a special meeting to address issues related to a 70 percent increase in the number of groups enrolled in the 2016 Copper Basin Community Subsistence Hunt for moose (CM300). In 2015, 43 groups enrolled in the CSH. Seventy-three groups are enrolled for the 2016 CSH. The number of households similarly increased from 1039 in 2015 to 1542 in 2016, an increase of 67%.

The any bull allocation, up to 100, does not provide a reasonable subsistence opportunity for the 3357 individuals and 1542 households that have been allowed to enroll in the 2016 CHS. There will be 485 any bull tags issued among these groups for the 100 available any bull moose. Five tags per moose is significantly above the usual ratio of permits to desired harvest set by ADF&G. The ratio for a subsistence permit hunt is normally not more than three to one and often closer to two to one.

The Board's record in developing the any bull harvest for the community hunt reflects that the original any bull harvest was set at 100 moose, and that this hunting opportunity and a longer season, were established to provide the eight communities included in the hunt with a reasonable opportunity to meet the subsistence needs identified for the customary and traditional use pattern identified by the Board for the community hunt. The first year of the community hunt, the eight communities and the 427 individuals who participated took 66 any bulls and 27 additional bulls that satisfied the antler requirements for the general hunt. This was the first time in decades that the communities actually had enough to provide for the C&T uses of the communities. The greatly reduced moose harvested by these same communities and households over the past several years has fallen far short of this level needed to meet subsistence needs. The

dramatic increase in number of groups and household for the 2016-17 season will result in far less any bull harvest opportunity.

The harvest success rate will also drop for bulls with antler restrictions. The large increase in hunters, from 1984 in 2015 to 3357 in 2016, means that many more CSH hunters will be in the field during the early part of the season going after all available moose. The moose populations have not significantly changed in number. So there will be far more hunters after the same number of moose.

As the State acknowledged in its briefing to the superior court in *Manning v. Alaska Dept. Fish & Game*, 3KN-09-178 Civ.: “The community harvest moose hunting aspects of the August-September moose hunt were adopted by the Board in obedience to a summary judgment decision by the Hon. Jack Smith in case no. 3 AN-07-8072 CI in which he remanded the Board’s Unit 13 2008 moose hunting regulations back to the Board ‘for compliance with AS 16.05.258(b)’. Essentially, the Court had concluded that the Board needed to adopt regulations that clearly provided a preference for the subsistence uses of the moose population, and directed the Board to make sure that it had done so.”

The facts of the 2016 moose CSH require a Tier II hunt for the 100 any bull opportunity. It appears that 100 is the number of the “any bull” moose population that the Department believes is the harvestable surplus. The Department should confirm this number or increase the allowable harvest if possible. Any increase in harvestable any bulls will almost surely not be enough to provide all households in the 2016 CSH with a reasonable opportunity. The subsistence statute requires Tier II in this situation. AS 16.06.258(b)(4).

Only those household enrolled in the moose CSH would be eligible to participate in the Tier II permitting process. The Alaska Supreme Court held in *Alaska Fish and Wildlife Conservation Fund v. State of Alaska and Ahtna Tene Nene*, 347 P.3d 97 (Alaska 2015), that the statute requiring the Board to provide “reasonable opportunity” for subsistence, AS 16.05.258, permits the Board to differentiate among various patterns of use of a subsistence resource, and provide a distinct and different reasonable

opportunity for each subsistence use pattern identified. In reaching this conclusion, the court relied on Board findings describing two very different use patterns, with different hunting areas and seasons, different parts of the animal consumed, and different cultural and social traditions associated with the hunt. The Court confirmed that because both patterns are “subsistence uses,” the Board was required to provide “a reasonable opportunity” for each of them.

Therefore, in implementing Tier II for the 100 any bull opportunity, the Board is dealing solely with the inability to provide a reasonable opportunity to all those enrolled in the CSH. Only the 1542 households enrolled in the 2016 CSH would be eligible to apply for an any bull Tier II permit. Dealing with this limited number of permit applications significantly lessens the administrative burden on the Department. Any CSH household awarded a Tier II permit would be able to allow other hunters in the group to harvest under that permit. This is consistent with the hunt conditions already established by the Department for designating community harvesters.

The Board has a long history of classifying the any bull” part of the GMU 13 moose population as a distinct population for the purposes of determining harvestable surplus, reasonable opportunity and Tier II. Prior to the establishment of the CSH in 2009, for decades, the Board and Department held a Tier II hunt (TM300) for the GMU 13 any bull moose population. It appears that in 2007, 150 Tier II permits were issued and about 60 moose taken under these permits.

A special Board meeting to consider this issue need not be a budget buster. The meeting could be telephonic and, although open to the public for listening, all public comments could be required to be in writing and submitted a reasonable time before the meeting. The meeting should be held as soon as allowed consistent with public notice requirements and Board members’ schedules.

Thank you for your consideration of this request,

Here are the CSH group numbers etc..2009-2016.

CM300	Groups	Individuals	Households	Any-Bull Tags
2009	1	378	246	
2010	n/a			
2011	9	753	407	
2012	19	961	459	
2013	45	2066	955	
2014	43	1771	893	281
2015	43	1984	1039	334
2016	73	3357	1542	485

CC001	Groups	Individuals	Households
2009	1	n/a	477
2010	n/a	n/a	
2011	6	n/a	322
2012	17	n/a	402
2013	28	n/a	689
2014	25	n/a	569
2015	26	n/a	659
2016	45	n/a	1011

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