



May 29, 2009

To: House Energy Committee

From:  Greg Roczicka, Director – Natural Resource Dept.

Though perhaps not in a direct line of what your current hearings are after or anticipating, the attached is highly relevant and directly related to energy savings and cost reduction in the long term (in addition to its primary intent). A basic fact here is that the less time and distance someone has to spend or travel in pursuit of subsistence harvest activities, the less energy is burned or monetary costs incurred. We strongly urge and appreciate your positive consideration and support for the attached legislation when it comes before you next session. Quiana.

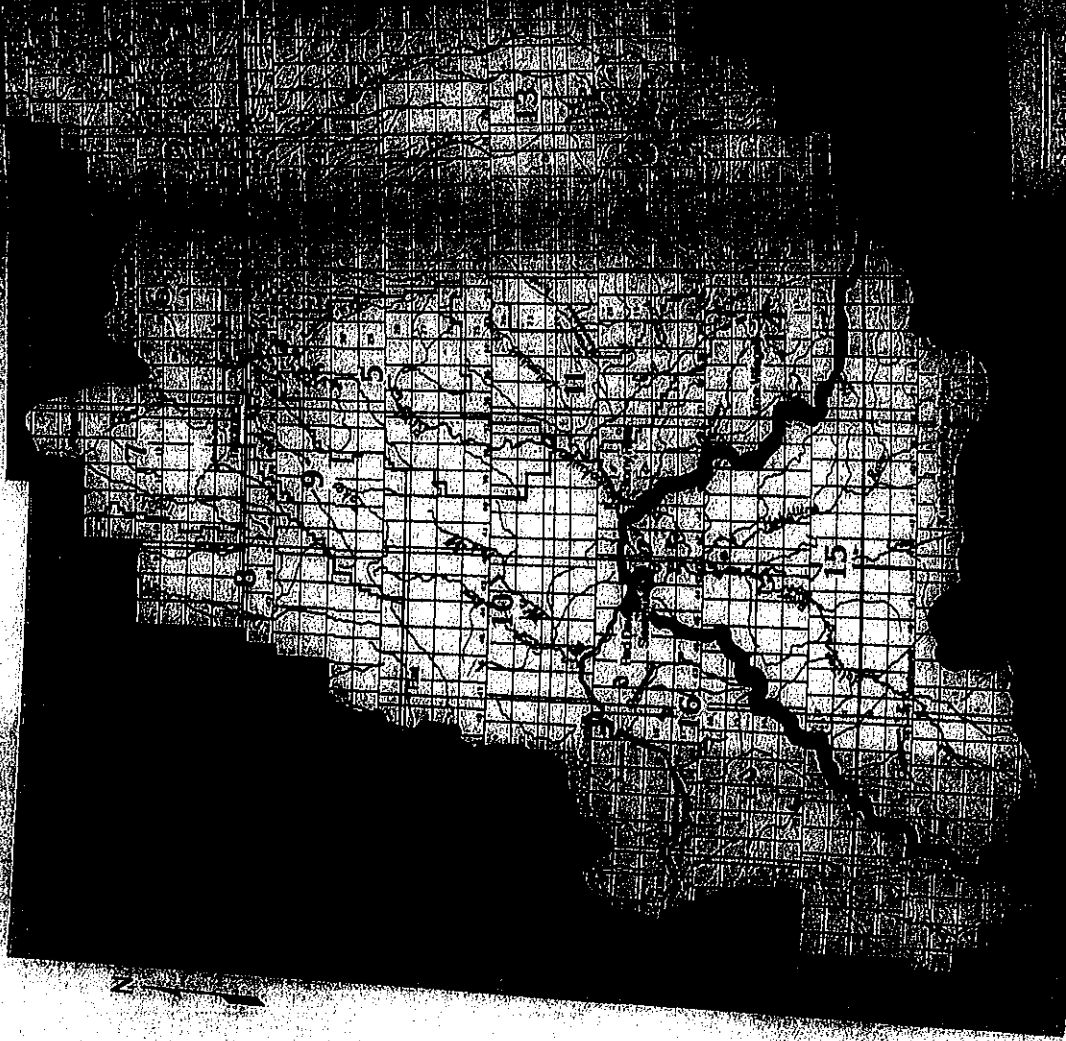
# Kuskokwim Area Plan

## Management Unit

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Proposed  
Holitna Basin Hunting, Fishing  
Trapping Reserve, (HB#227)



**HOUSE BILL NO. 227**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE HERRON

Introduced: 4/10/09

Referred:

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act establishing state fish and game reserves; creating the Holitna River Basin**  
2   **Hunting, Fishing, and Trapping Reserve; and providing for an effective date."**

3   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4    \* **Section 1.** AS 16.20 is amended by adding new sections to read:

5                   **Article 6. Fish and Game Reserves.**

6           **Sec. 16.20.700. Purpose.** The purpose of AS 16.20.700 - 16.20.720 is to  
7           promote management activities to rebuild or enhance fish and wildlife populations and  
8           habitats to maintain historical and sustainable harvest levels for continued high levels  
9           of human consumptive use of these resources.

10          **Sec. 16.20.710. Regulations.** The Board of Fisheries or the Board of Game,  
11          where appropriate, shall adopt regulations identifying areas each considers advisable  
12          for conservation and protection purposes to carry out the purpose of AS 16.20.700.

13          **Sec. 16.20.720. Holitna River Basin Hunting, Fishing, and Trapping**  
14          **Reserve established.** (a) All state-owned surface and subsurface water and all land

1 acquired in the future by the state within the watershed of the Holitna River and  
2 Hoholitna River is designated as the Holitna River Basin Hunting, Fishing, and  
3 Trapping Reserve.

4 (b) The Holitna River Basin Hunting, Fishing, and Trapping Reserve is  
5 established to

6 (1) ensure management and protection of fish and wildlife populations  
7 and habitat to perpetuate subsistence, commercial, and sport use of the area's fish and  
8 wildlife;

9 (2) implement maximum use and benefit, sustained yield, and common  
10 use principles by using effective management techniques for conserving and  
11 developing the area's natural resources to regain or maintain historical harvest levels  
12 with human consumptive use of these resources as a priority;

13 (3) maintain and enhance healthy and abundant fish and wildlife  
14 populations commonly used for consumption by humans to provide high levels of  
15 human consumptive use in keeping with amounts determined by the Board of  
16 Fisheries and the Board of Game to be reasonably necessary to provide for subsistence  
17 uses and with other population and use goals or objectives set by the appropriate  
18 board.

19 (c) In order to fulfill the purposes of this section, and notwithstanding any  
20 other provision of law, the Department of Fish and Game, the Board of Fisheries, and  
21 the Board of Game shall manage the fish and game resources of the area to provide for  
22 high levels of human harvest and, as necessary, shall

23 (1) control predation and adjust predator and prey population ratios  
24 through whatever methods or means are considered appropriate to particular  
25 circumstances;

26 (2) conduct management actions designed to further the purposes of  
27 this section so long as the appropriate board has not found, based upon substantial  
28 evidence, that the challenged management actions are counterproductive or ineffective  
29 in maintaining or enhancing healthy and abundant fish or wildlife populations  
30 commonly used for consumption by humans for food to provide for high levels of  
31 human consumptive use;

1                   (3) use the information the department or the appropriate board  
2 considers to be the most credible for conducting management activities, including  
3 historic information, scientific information, and traditional environmental knowledge.

4                   (d) The Department of Natural Resources may not acquire by eminent domain  
5 privately owned land within the Holitna River Basin Hunting, Fishing, and Trapping  
6 Reserve but may acquire privately owned land by purchase, exchange, or other means  
7 for inclusion in the reserve.

8                   (e) Public access to the Holitna River Basin Hunting, Fishing, and Trapping  
9 Reserve by boat, aircraft, dog team, snow machine, all-terrain vehicle, or other means  
10 consistent with the purposes of this section may not be prohibited but may be  
11 regulated by either the Board of Fisheries or Board of Game as necessary to meet the  
12 purposes of this section.

13                  (f) Access to and from private property within the Holitna River Basin  
14 Hunting, Fishing, and Trapping Reserve shall be guaranteed through access corridors  
15 established through agreement among the Department of Fish and Game, Department  
16 of Natural Resources, and a private property owner.

17                  (g) Entry upon the Holitna River Basin Hunting, Fishing, and Trapping  
18 Reserve for purposes of exploration and development of oil and gas resources is  
19 subject to final approval by the Department of Fish and Game and may not be  
20 permitted unless a person fully demonstrates that exploration and development is  
21 compatible with the purpose of this section.

22                  (h) Except as otherwise provided in this section, the Department of Fish and  
23 Game and the Department of Natural Resources shall exercise each department's  
24 respective authority over the Holitna River Basin Hunting, Fishing, and Trapping  
25 Reserve through a management plan prepared by the Department of Fish and Game in  
26 consultation with the Department of Natural Resources.

27   \* **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

### **Holitna Basin Hunting Fishing Trapping Reserve Summary Statement:**

Although provided for in AS 16.05.251 & 255 giving BOG & BOF authority for “setting aside reserve areas, refuges and sanctuaries...subject to the approval of the legislature;” the only areas created to date under 16.020., Articles 1-5 are for refuges, sanctuaries, ranges & critical habitat areas. No “reserve” has ever yet been actually designated. In essence – a blank slate as to identifying the purpose and intent for what a “reserve” is...

A primary purpose for this legislation is to address significant conflicts caused by Animal Welfare Groups’ legal challenges that suspend or pre-empt active management programs (e.g. predator control) regarding the issue of managing fish or game populations for human harvest benefit. It intends to switch the burden of proof to their shoulders, so they must first conclusively and scientifically show or prove them as ineffective prior to their being suspended or curtailed. It seeks to further block legal avenues for “process challenges” in designated Reserve areas by such animal welfare entities, who work to embed their singular/ philosophic/political differences of opinion into the state’s management structure to the detriment of all other uses.

Although some limited active management programs are currently being conducted with the support of the present gubernatorial administration, with past history as any indication, this cannot be counted upon to continue into or through future administrations. There are several areas within currently identified Intensive Management Areas that may be noted as essential “Breadbasket Areas” which exemplify high quality habitat and productivity contributions to the entire GMU sub-region that could qualify for such an elevated level of management protections. Game Management Unit 20E, portions GMU 13 or the Kenai Peninsula, the Koyukuk, Copper, Mulchatna or Noatak River drainages may be similarly considered to be added in future to follow this Reserve concept being established here for the Holitna River basin.

The Holitna River drainage is an extremely productive area in Western Alaska that (prior to 1996 & 2000 ballot initiatives) has been a major contributor for providing a large diversity of fish or wildlife uses ever since statehood. It is the largest drainage feeding the Kuskokwim Watershed that is the major contributor for salmon production: prime habitat for moose, bear, caribou and furbearers, along with being an important rearing & staging area for several species of migratory waterfowl. It is unique in the respect that its productive habitat encompasses a wide area, rather than being confined to a relatively narrow riparian corridor, as is more commonly found in the majority of other rivers throughout the region. Recognition of its exceptional status is further emphasized by the State DNR’s 2006 denial of the coal bed methane exploration permits in the area; stating that “...the possible adverse impacts to the high fish & wildlife values and related human uses are too great to be mitigated with the project as proposed...”

To fulfill the stated management intent of the Kuskokwim Area Plan adopted by the State of Alaska in March, 1988 that “The emphasis of state land management for the Holitna management unit is protection of fish and wildlife populations and habitat to support continued subsistence, commercial and sport use of these resources.” The Holitna River Basin Hunting Fishing and Trapping Reserve is hereby created pursuant to the State’s Intensive Management law, with the explicit intent to fully implement and promote those concepts embodied in the State’s established principles of development and conservation of its resources for maximum common use, benefit, and welfare of the people; sustained yield for all those who are similarly situated with regard to the subject matter and purpose to be served of recognizing subsistence use harvest as a priority; and in maintaining abundant fish and game populations important to providing amounts necessary or identified management objectives in providing high levels of consumptive use.

The proposed reserve concept was initiated by Sleetmute Traditional and Orutsararmiut Native Councils; has records of support from the Lower Kuskokwim, Central Kuskokwim, Stony/Holitna and Anchorage Fish & Game Advisory Committees, Kuskokwim Salmon Mgmt Working Group, Association of Village Council Presidents and Calista Corporation; undergone legal review through the State Board of Game process and twice received their endorsement. It presently awaits Board of Fisheries action through their Habitat Committee.

Holitna Basin Hunting, Fishing and Trapping Reserve (HHFTR) Legislation  
Development Recap and Status

**January, 2006:** Proposal #45 to designate the Holitna drainage as a new Game Management Sub-unit (as 19E) deliberated at Board of Game (BOG) Statewide regulatory meeting. In response to public testimony, BOG amended to incorporate Reserve concept; reissued as new proposal #158; and publishes for further public review, comment, and deliberation at the Region III regulatory meeting in March.

**March, 2006:** Board of Game action passes the proposal with records of support from ONC, AVCP, Lower Kuskokwim, Central Kuskokwim, and Anchorage Fish & Game Advisory Committees. Makes title change from "Game Reserve" to "Hunting and Trapping Reserve". Requested sponsors to further develop draft legislative language in consultation with DWC & BOG Dept. of Law (DOL) representatives.

**April, 2006:** Companion proposal (#157) submitted (per proposal cycle deadline) to Board of Fisheries by Sleetmute Tribal Council and Orutsararmiut Native Council to add fisheries component.

**August, 2006:** Draft language for Holitna Reserve sent to DWC & BOG-DOL for review and comment.

- Representative Kapsner/Nelson & Senator Hoffman agree to support legislation when language ready.

**September, 2006:** Proposal #157 supported/endorsed by Kuskokwim Salmon Mgmt. Working Group.

**October, 2006:** DNR issues Final Best Interest Finding that denies coal bed methane exploration permits in the Holitna Basin after two year review period stating "...the possible adverse impact to the high fish & wildlife values and related human uses are too great to be mitigated with the project as proposed..."

- Support resolution (#06-10-04) passes unanimous at annual AVCP Convention

- BOG formally receives/reviews draft language at special regulatory meeting in Anchorage and reaffirms support of proposed legislative effort. Requests sponsors to continue working with DWC and BOG-DOL to further refine statutory language prior to legislative introduction.

**November, 2006:** Calista Corporation provides letter of support for draft language as currently written.

**December, 2006:** Lower & Central Kuskokwim Advisory Committees reaffirm support. Draft language sent to legislative counsel for bill formatting by Representative Nelson.

**January, 2007:** Draft bill re-circulated for additional review and comment from DWC, BOG-DOL, Board of Fisheries and public.

**February, 2007:** Board of Fish tables proposal (#157) to their October, 2007 work session and refers to a Habitat Committee created from Bristol Bay area proposal #121, addressing Tularik Creek Refuge/Reserve connected to Pebble Mine development project.

- BOG Chair provides final comments on draft language from BOG-DOL to sponsors and offers open invitation for additional BOG support if needed.

- Final BOG/legal comments incorporated into draft language and presented to Representative Nelson for introduction.

**March, 2007:** Notified by Representative Nelson that due to legislative protocol she should not be the primary bill sponsor. Though the area is part of her constituents Customary & Traditional hunting area, it is not physically within her voting district, but that of Representative Woody Salmon. She has forwarded all information to date to his office and remains committed to work as co-sponsor in helping with its passage. Efforts to solicit support and introduction from Rep. Salmon produce no response. Sleetmute/ONC sponsors confer and given surrounding circumstances agree to hold off pursuing introduction until the 26<sup>th</sup> legislative session.

**October, 2007:** Board of Fish takes no further action on proposal as agenda item at fall work session, other than noting it is still a "live" issue, with any further action dependent on recommendation from referral to their habitat committee.

**February/March, 2009:** Discussions reinitiated with Rep. Herron who stated willingness to pursue introduction and support for HHFTR intent and passage. Favorable response received at Board of Game spring meeting from new ADFG personnel appointed through current administration.

**April, 2009:** After consulting w/ Rep. Salmon (who states no objection), Rep. Herron introduces HB #227 w/ understanding/intent to further develop support base for interim and pursue action during 2010 legislative session.

**To Support Our Future Subsistence Harvests  
On August 26, Please Vote NO on Ballot Measure #2**



AVCP Children of Subsistence – Photo by Marvin Okitkun

Ballot Measure #2 would shut down the few current predator management programs and only allow them in the future on an emergency basis. Managing to provide amounts necessary for subsistence should not be done on an emergency basis!

Predator management has strong support in bush Alaska. A poll conducted by Dittman Research, Inc. of villages in the Bristol Bay, Kuskokwim, Yukon and Tanana River drainages, found 70% in favor of predator control efforts.

The Alaska Federation of Natives have gone on record for 8 consecutive years expressing their support and the need for predator management programs; and specifically opposing ballot initiatives such as this one through Resolution #'s 00-47, 01-07, 02-12, 03-08, 04-08, 04-09, 05-13, 06-12, & 07-15.

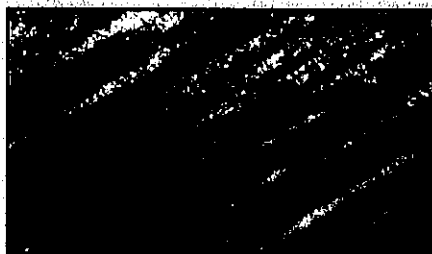
Since the 1996 and 2000 ballot initiatives were passed, moose populations have declined by 75-80% in many areas, largely attributed to the lack of adequate predator management. The result has been that many moose & caribou subsistence hunts have been severely restricted, or closed to hunting entirely!

Failure to incorporate and employ predator management as a basic management function undermines the State's subsistence priority law and does not provide reasonable subsistence harvest opportunity.

"We understand there is another effort underway to place a measure on the ballot that would effectively halt the State's predator management efforts. We strongly oppose all such ballot initiatives."  
(AFN letter to Governor, December 2, 2005).



ADF&G Moose Surveys 1960-1996



ADF&G Moose Surveys 2002-Present



1 Wolf in 20 Minutes on 40 Mile Herd Calving Grounds  
16 Caribou Calves Killed - None Eaten.

***To Bring Back & Keep our Moose and Caribou Herds  
Healthy & Abundant, Please Vote NO on Ballot Measure #2***

This message sponsored by Orutsarmiut Native Council, with support of Association of Village Council Presidents, Bristol Bay Native Association, and Yukon-Kuskokwim Health Corporation.