

May 13, 2010

Alaska Department of Fish & Game
Boards Support Section
P.O. Box 25526
Juneau, AK 99802-5526

EMERGENCY PETITION

Please direct to the Board of Game.

Administrative Procedure Act, Sec. 44.62.230. Procedure to petition.

A.P.A. Sec. 44.62.220. Right to petition

1. the substance or nature of the regulation, amendment, or repeal requested;

Unit 13 Nelchina Caribou, RC566, Caribou Tier I Hunt: I'm requesting repeal of the requirement to destroy and leave in the field, antlers from caribou, harvested by drawing permit, during proper season, by hunters in Alaska.

2. the reason for request;

State of Alaska via Board of Game is forcing Alaska residents to destroy and abandon their property by separating antlers from the skull plate of their Caribou and discarding their antlers at kill site during proper hunting season. Upon harvesting and having `possession` of a Caribou, the Caribou has legally crossed from public (common) property to private property. From one's efforts of knowledge, skill, experience and industry, the animal is property of the hunter by `possession`.

It is my opinion from talking to hunters and professional managers, the past year, Alaska has instigated a "under the horizon" or "after dark" activities by hunters breaking the law retrieving their horns (their property) from the kill sites. This disrespectful activity is a disgrace to the Board of Game and to the State of Alaska. The Board of Game is respectfully requested to abandon this practice now.

3. reference to the authority of the agency to take the action requested
- A. Paraphrasing – (Underlining or parenthesis by author): The United States Constitution and Amendments, Amendment XIV, July 9, 1868; “nor shall any State deprive any person of life, liberty, or property (titled or untitled), without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”
- B. Paraphrasing: The Constitution of the State of Alaska - Article 1 – Declaration of Rights, Section 1. Inherent Rights – “This constitution is dedicated to the principles that all persons have a natural (fundamental) right to life, liberty, the pursuit of happiness (property, titled and untitled), and the enjoyment of the rewards of their `own industry`.”
- C. Paraphrasing: Sam E. McDowell v. S.O.A., 12/22/1989 – Supreme Court File No. S-2732, Page 29, second paragraph –
“The only justification for a law regulating and restricting the common right of individuals to take wild game and fish is the necessity for protecting (conservation) the same from extinction, and thus to preserve and perpetuate to the individual members of the community the inalienable rights which they have had from time immemorial.”
- D. Paraphrasing: Supreme Judicial Court of Massachusetts, DAPSON v. DALY, Oct. 14, 1926 – Page 2, [8] “The controlling principle of the common law is that the huntsman acquires no title to a wild animal by pursuit alone, even though there is wounding, unless the animal is followed up and reduced to occupation, that is, to actual `possession`.”
- E. Paraphrasing: People v. ONeil, Supreme Court of Michigan, July 11, 1883. Page 5, Campbell, J. “Concurring, as I do, in the meaning of our statute as explained by my Brother Champlin, I do so for the further additional reason that I do not think it would be competent for our legislature to punish the `possession` of game which was lawfully captured or killed. Having become lawful private property, it cannot be destroyed or confiscated unless it becomes unfit for use, any more than other property can be destroyed.”
- 5AAC96.625. JOINT BOARD PETITION POLICY, (f) “The Boards of Fisheries and Game recognize that in rare instances circumstances may

require regulatory changes outside the process described in (b)-(d) (Proposals) of this section.”

This is not a resource emergency but a participant, resident, emergency. Permits are awarded. The season opens August 10, 2010. This is the 2nd year of destruction of private property. There is no biological or resource issue requiring this practice. Sixty days is needed from the date of request of emergency petition for conclusion.

- a. Unit 13 Tier I Caribou Permit Hunts violate Common Law, Constitutional Law and Judicial Law pertaining to private property rights of permit awardees.
- b. Awardees are forced by instruction and by signature, to destroy their private property.
- c. Incompetence by the State of Alaska and the Board of Game is causing “skullduggery” by law-abiding residents, who because of their actions, may be removed from the permit system, if apprehended, jeopardizing other members within the household.
- d. Awarding of a permit to a household every four years (minimum), sixteen years for a family of four escalates the “emergency” of importance to participants.

For all of the above reasons, the Board of Game must take the legal path for residents of Alaska and rescind the regulation destroying Caribou horns, Unit 13, in Alaska.

Cordially,



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