

RC 18

Laura D'Amico

RECEIVED

From: "LD" <reikione2@gmail.com>
To: <Undisclosed-Recipient:>
Sent: Thursday, October 07, 2010 1:26 PM
Subject: Fw: Comments to BOG

OCT 07 2010

BOARDS
ANCHORAGE

To whom it may concern:

I am not Alaskan but I have visited the great State of Alaska shortly after sarah palin quit. I had hope a new dawn and the State would do away with "Predator Control"

As a Alaska wolf Advocate I have been watching with great concern over the continued lies being told about the predation by wolves & bears and the current status of ungulates in the State. I believe as I have seen many Alaskans comment the mismanagement and "overhunting by man" is responsible here. Yet the BOG keeps wanting more EXTREME forms of cruel Predator control!

I had wanted to return to Alaska this year and I wanted to go Denali State Park and see Wolves! But earlier this year BOG took away the Buffer zone for wolves.... a pack of wolves was "Smoked" at Yukon Charley National Park, 2 wolves were the Alpha's and had collars on them, thereby destroying over 10 yrs of study, and later Alaska DF & G wanted to exterminate the wolves on Unimak against USDF & W!

So I will not be returning and spending my hard earned money on a State that treats its precious wildlife like crap! Gassing pups in the Den, killing bear cubs! The people of Alaska do not want this yet the extreme Kill it and Drill stupid mentality of sarah Palin and her ilk prevail.

So on my facebook page, I am encouraging my people to BOYCOTT ALASKA! Until you come out of the Stone ages and start respecting your precious wildlife. I am not alone. I have talked with a number of Rangers from the NPS and they are horrified at what is going on up there. I would like this comment to be included in your BOG meeting of 10.8-12.10 or when ever you will be hearing this matter of killing Bears, sow, cubs & wolves.

This fax is also being emailed too:

The Tourism Board:

Alaska Travel Industry Association

Mike Nizich

Jason Hooley

fax BOG 907 267-2489

Thank You

Laura D'Amico

California Alaska Wolf Advocate

Post-It® Fax Note	7671	Date	10/7/10	# of pages	1
To	ALASKA BOG	From	LAURA D'AMICO		
Co/Dept.	MEETING	Co.			
Phone #	907-267-2489	Phone #	600-583-3455		
Fax #		Fax #			

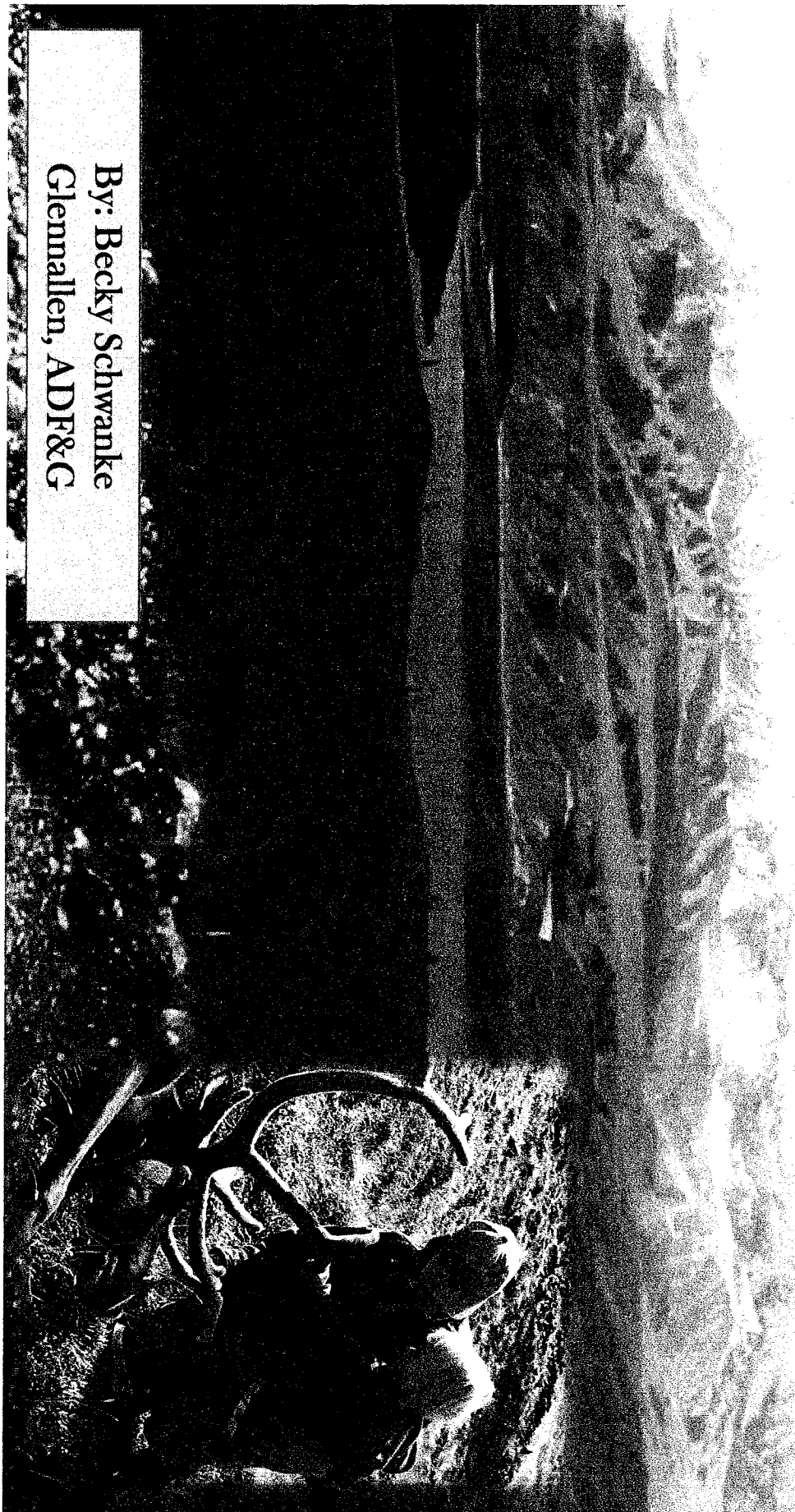
10/7/2010

**Board of Game overview
Nelchina Caribou Herd**

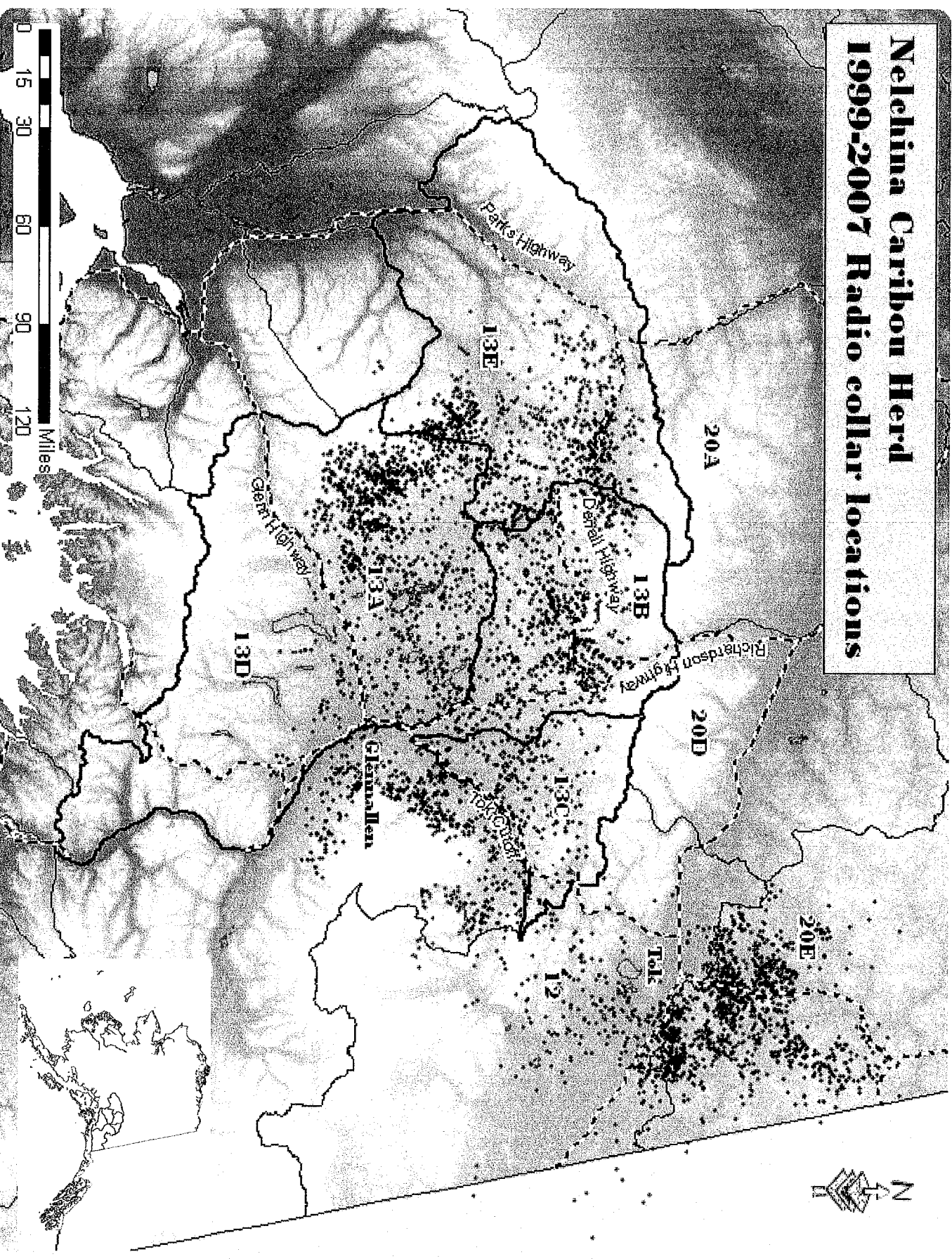
8-12 October 2010

RC 19

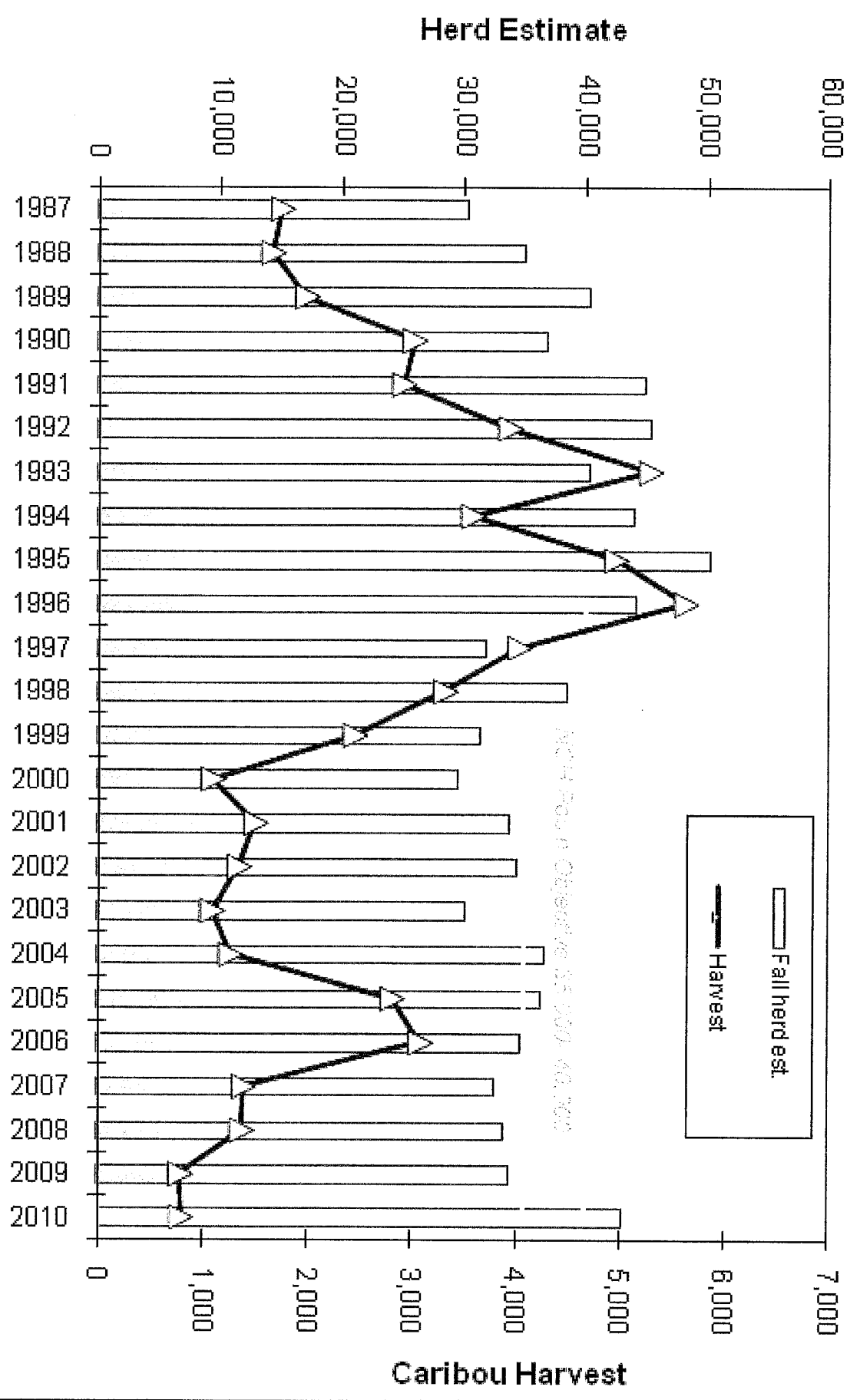
**By: Becky Schwanke
Glennallen, ADF&G**



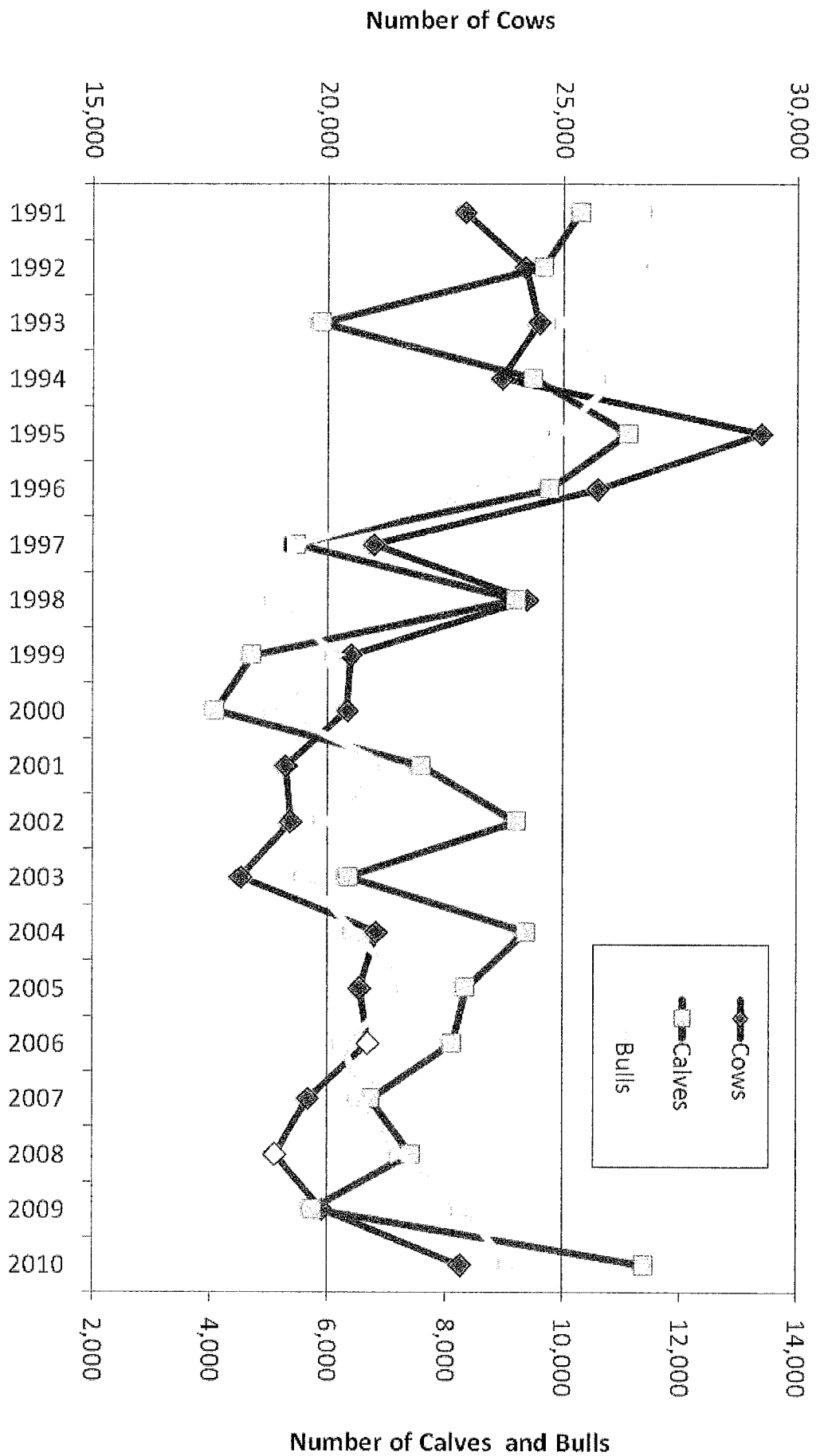
Nelchina Caribou Herd 1999-2007 Radio collar locations



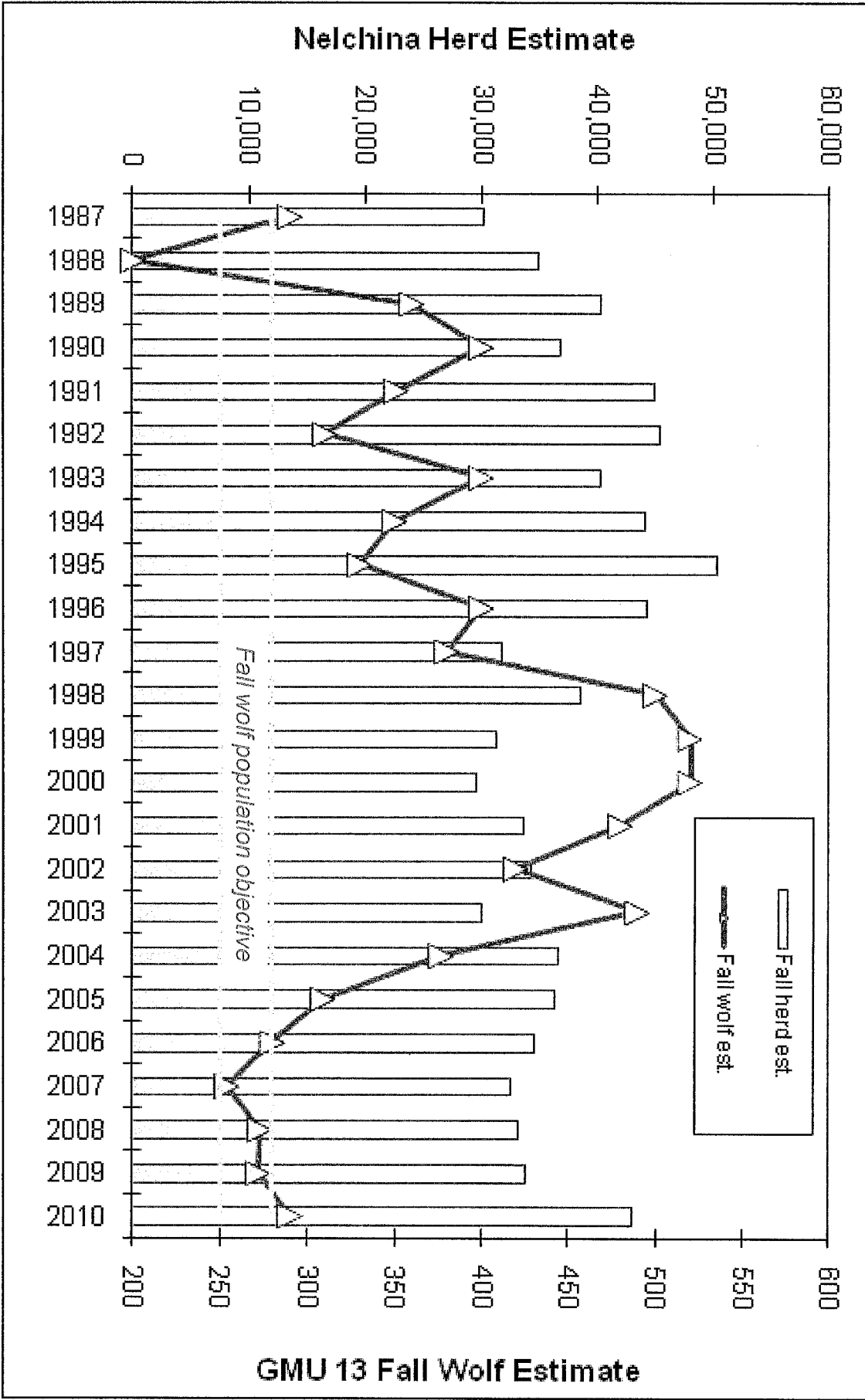
Nelchina Caribou Herd Population Estimate and Harvest



Nelchina Caribou Herd Estimate COWS, CALVES, AND BULLS



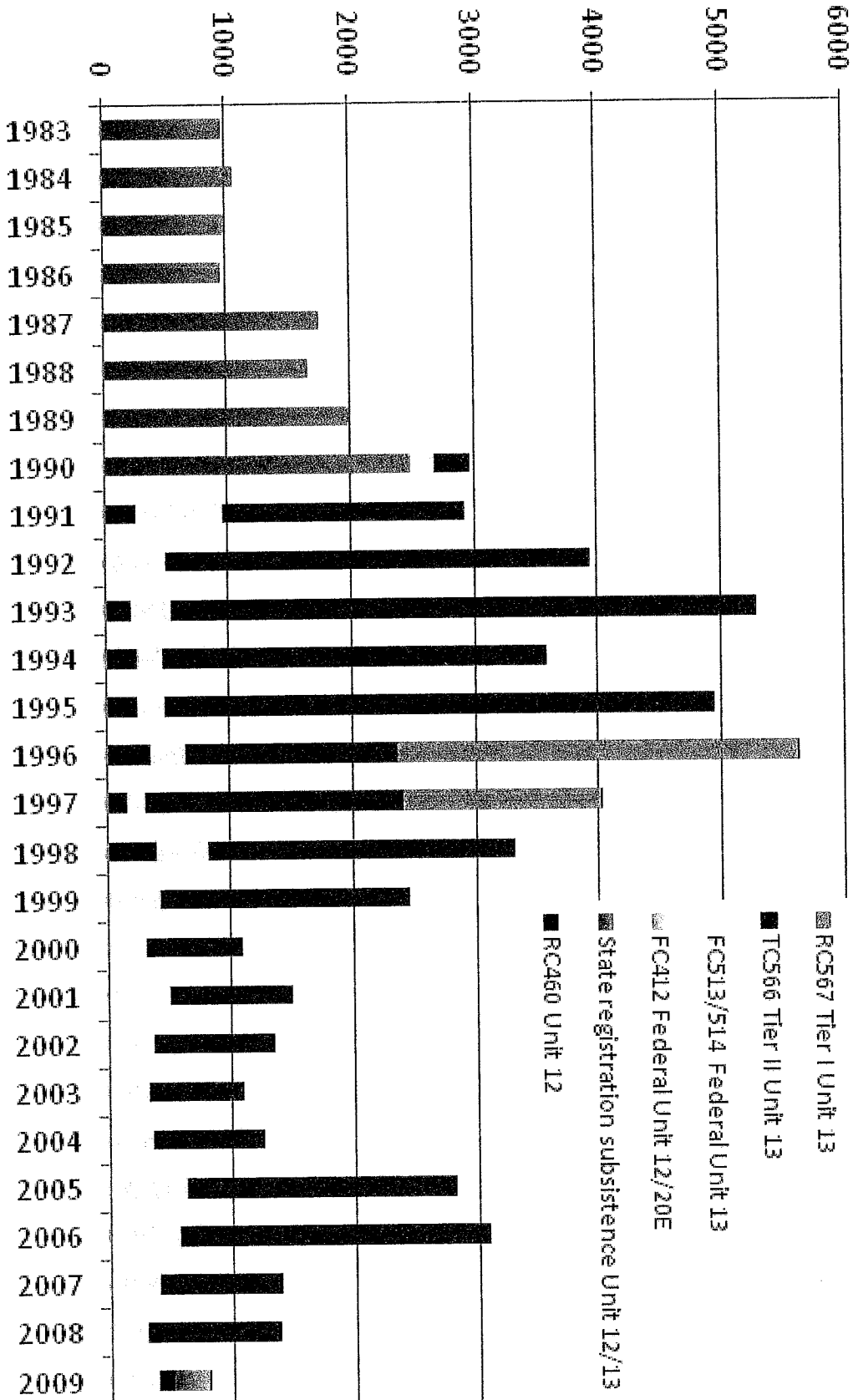
Nelchina Caribou Herd and GMU 13 Wolves Population Estimates



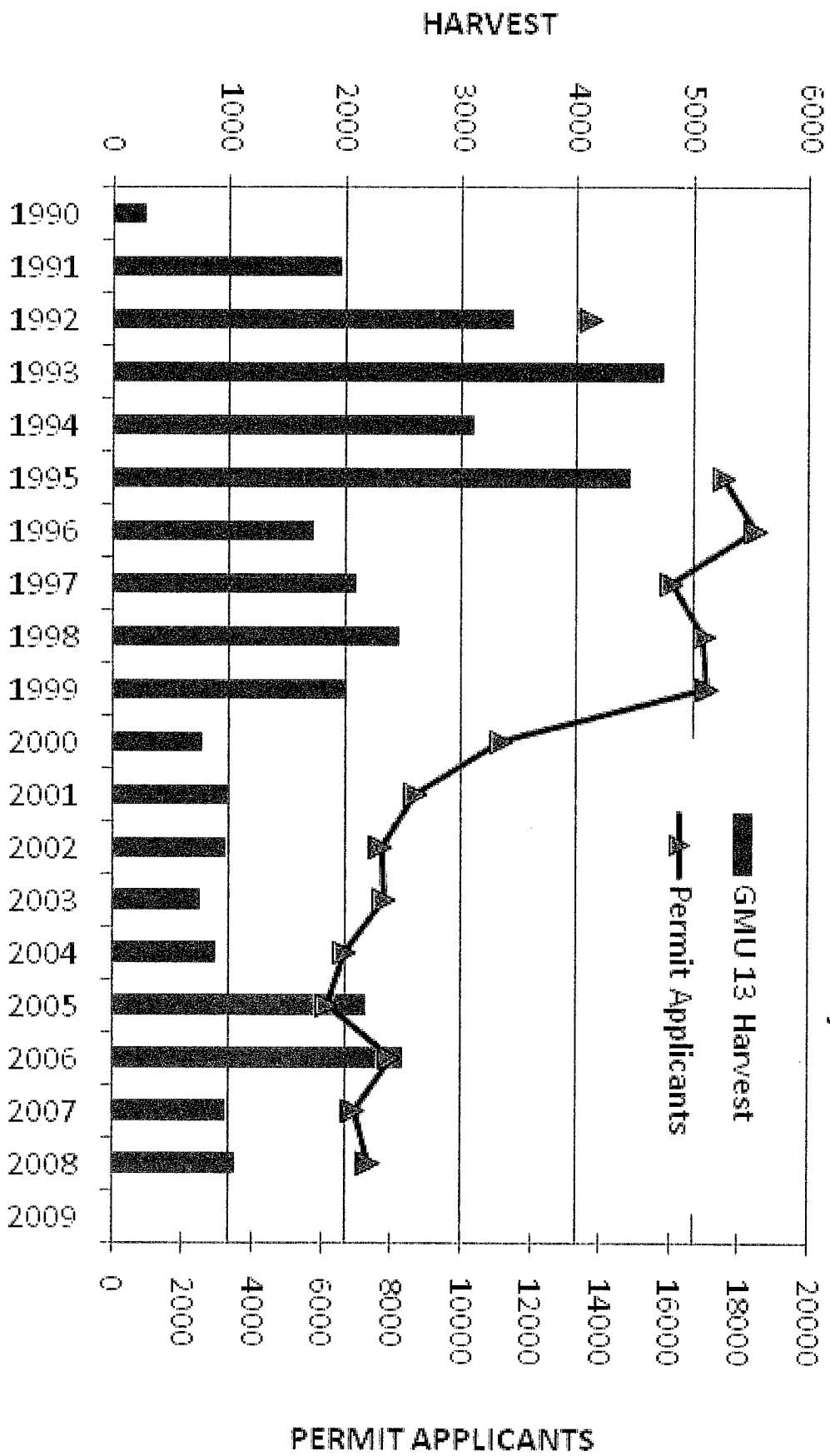
Most NCH wintered in Unit 13 ← → Since 1995, only 10-50% of the NCH winters in Unit 13

HARVEST

NCH Harvest All Sources



NCH Harvest and Permit Applicants GMU 13 State TC566 hunts only



Recent NCH State Hunt Participation / Success

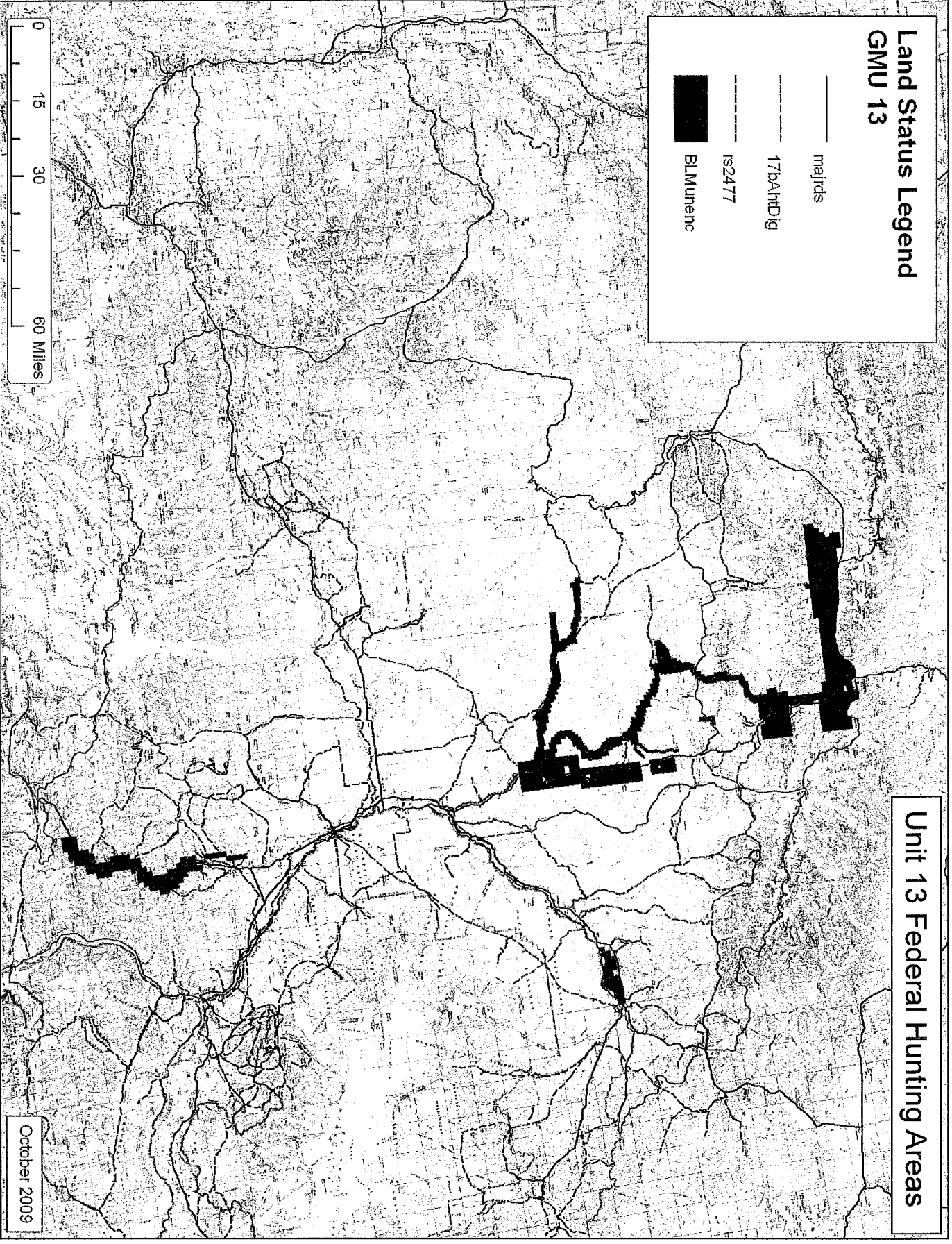
Year	Hunt Number	Season Dates	Legal Caribou	Total # of permits issued	Total # of applications received	Total # of reports returned	Did Not Hunt		Unsuccessful		Successful		
							No.	perms	No.	perms	No.	perms	No.
2004	TC566	10 Aug.-20 Sept. 21 Oct.-31 Mar.	Bull	1,869	6,709	1,645	196	10%	555	30%	894	48%	62%
2005	TC566	10 Aug.-20 Sept. 21 Oct.-31 Mar.	Either sex	4,001	6,202	3,898	547	14%	1,174	29%	2,177	54%	65%
2006	TC566	10 Aug.-20 Sept. 21 Oct.-31 Mar.	Either sex (Closed by EO 4 Feb)	5,495	8,014	5,407	1,139	21%	1,765	32%	2,503	46%	59%
2007	TC566	10 Aug.-20 Sept. 21 Oct.-31 Mar.	Either sex (Closed by EO 20 Oct)	3,003	6,956	2,944	909	30%	1,069	36%	966	32%	23%
2008	TC566	10 Aug.-20 Sept. 21 Oct.-31 Mar.	Either sex (Closed by EO 20 Oct)	2,500	7,394	2,454	498	20%	903	36%	1,053	42%	54%
2004-2008			COMBINED AVERAGE	16,868 3,374	35,275 7,055	16,348 3,270	3,289 658	19%	5,466 1,093	32%	7,593 1,519	45%	50%
2009	RC566	10 Aug.-20 Sept. 21 Oct.-31 Mar.	Bull	500	3,240	491	77	15%	137	27%	277	55%	67%
	CC001	10 Aug.-20 Sept. 21 Oct.-31 Mar.	Bull	477	477	454	166	35%	161	34%	128	27%	44%
2010	RC566	10 Aug.-20 Sept.	Either sex original permittees	852		696	47	6%	145	17%	504	59%	
	RC566	10 Aug.-20 Sept.	Either sex additional Ahnna permittees	505		170	36	7%	43	9%	91	18%	

preliminary data as of 3 October 2010

Land Status Legend GMU 13

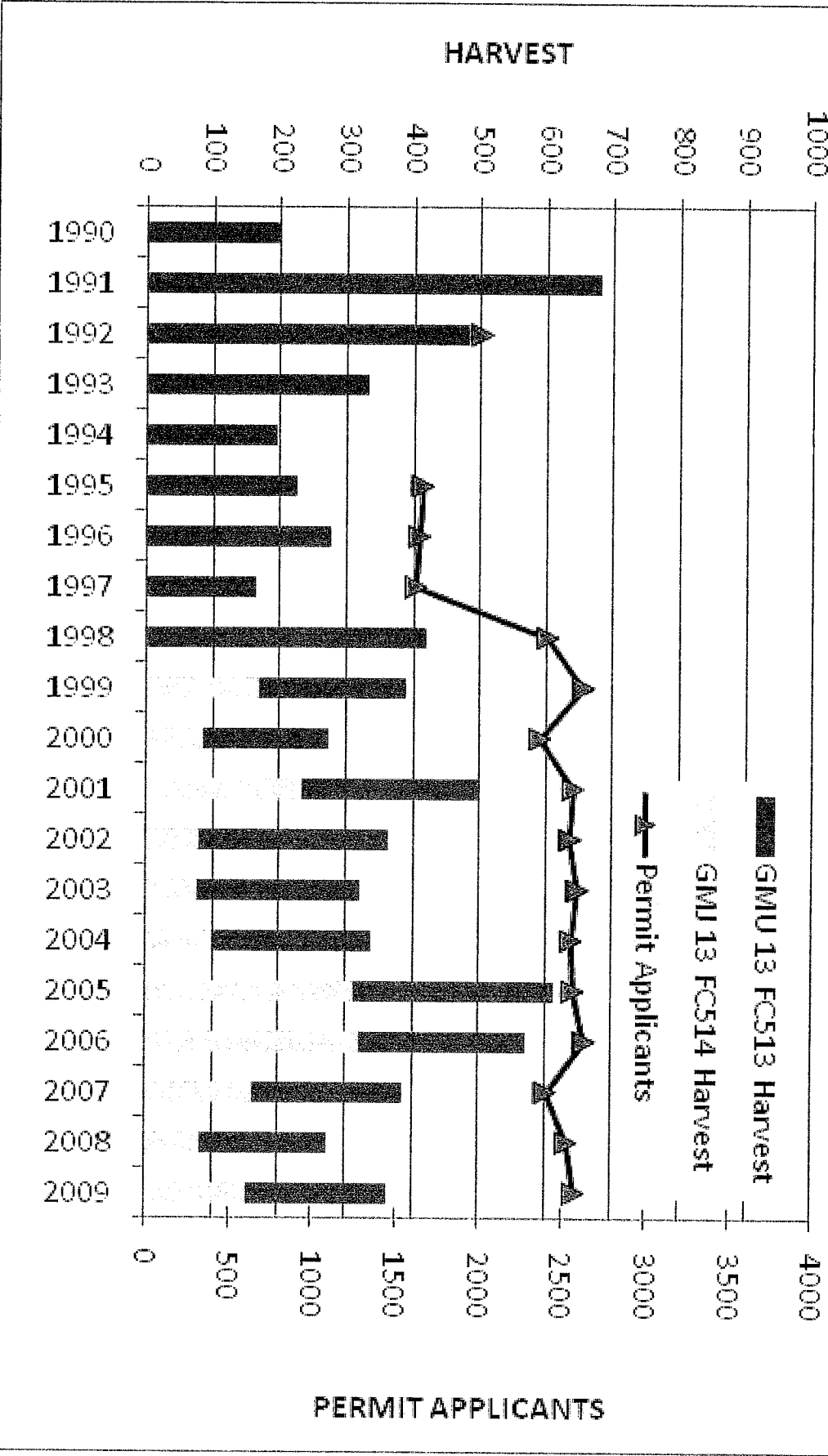
- _____ majrds
- 17bAhdDg
- ls2477
- BLMunenc

Unit 13 Federal Hunting Areas



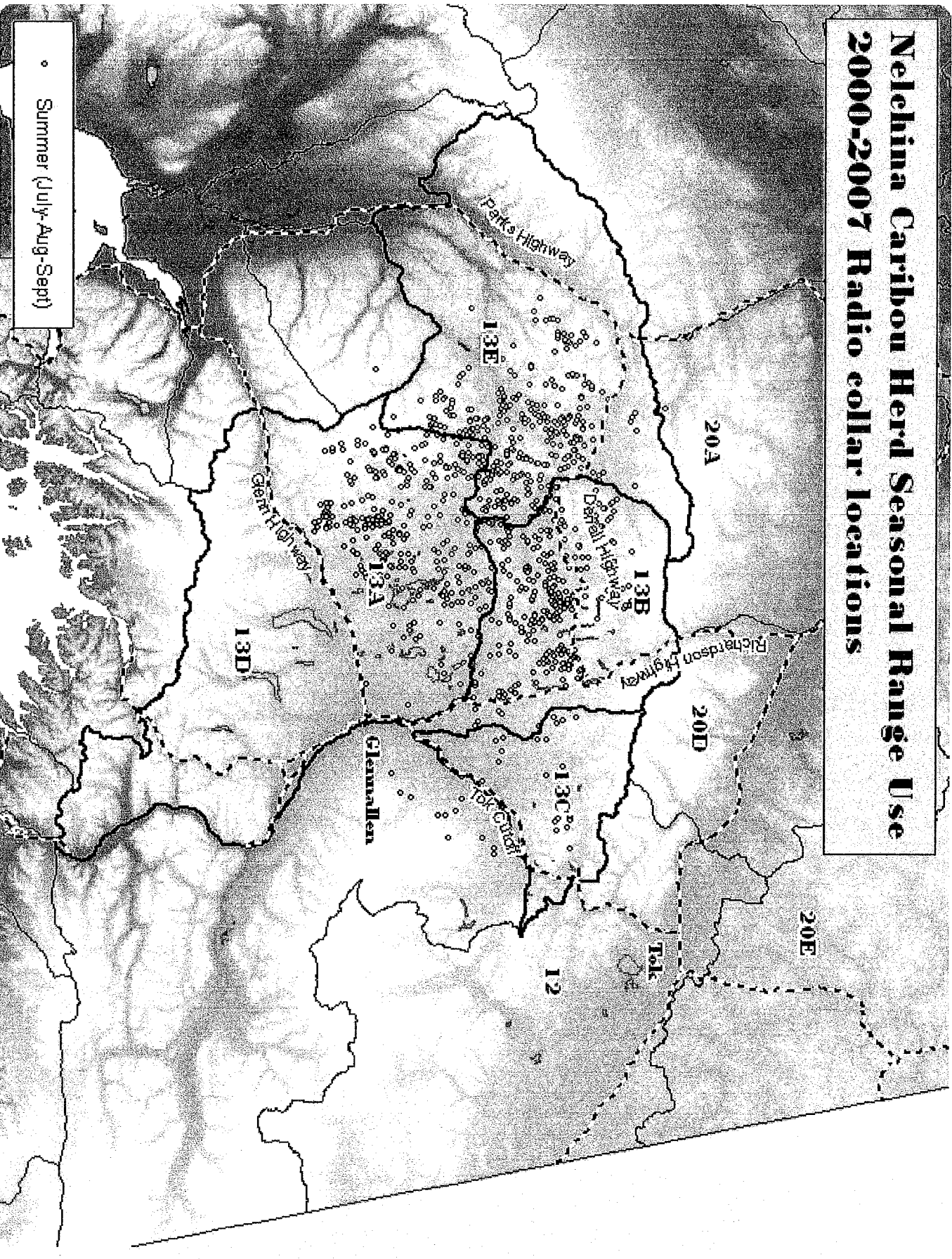
October 2009

NCH Harvest and Permit Applicants GMU 13 Federal hunts only



For the latest year of the Tier II hunt, 2008-09, of the federal hunters, 7% or 168 also received Tier II permits (2500 were issued)

Nelchina Caribou Herd Seasonal Range Use 2000-2007 Radio collar locations



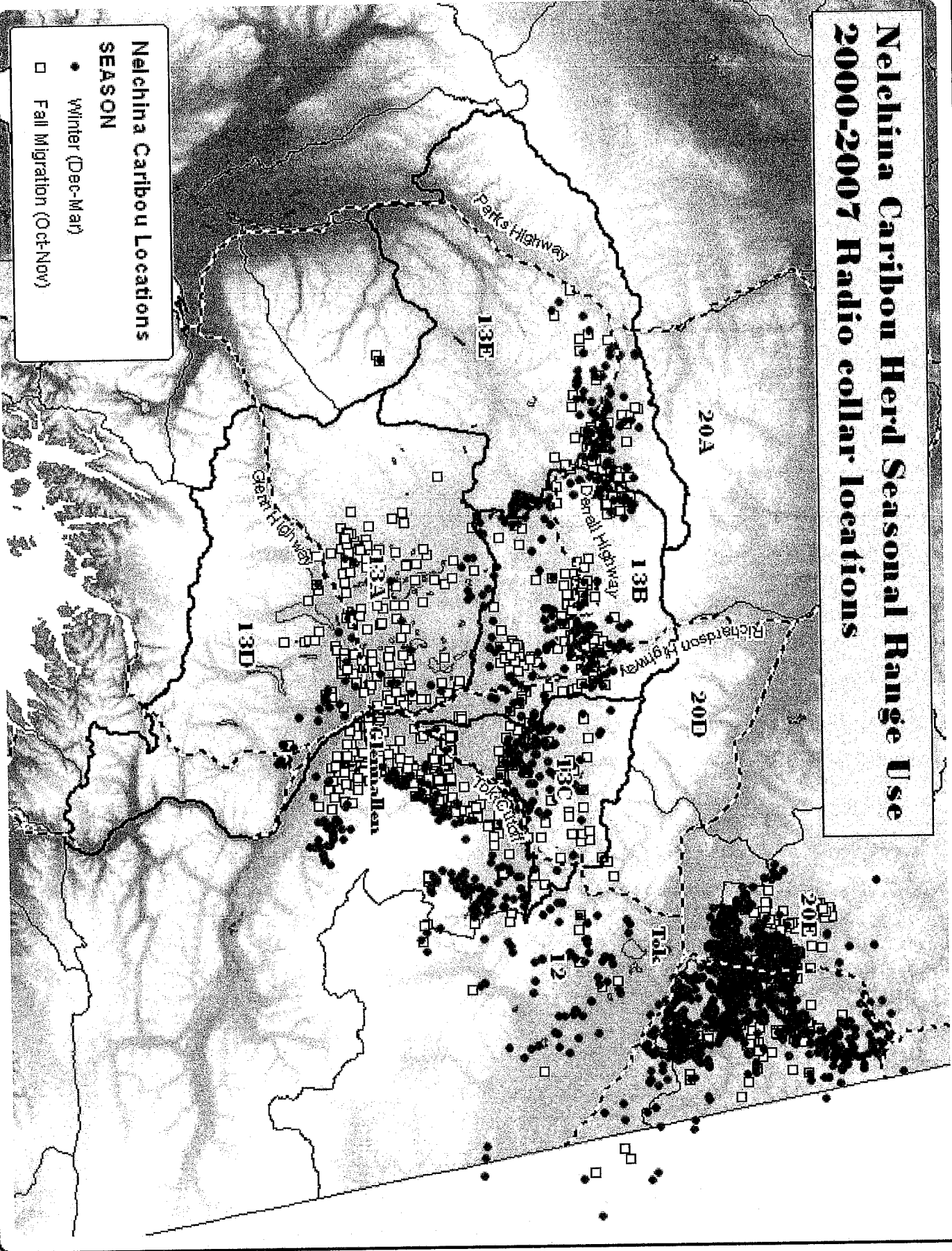
• Summer (July-Aug-Sept)

Nelchina Caribou Herd Seasonal Range Use 2000-2007 Radio collar locations

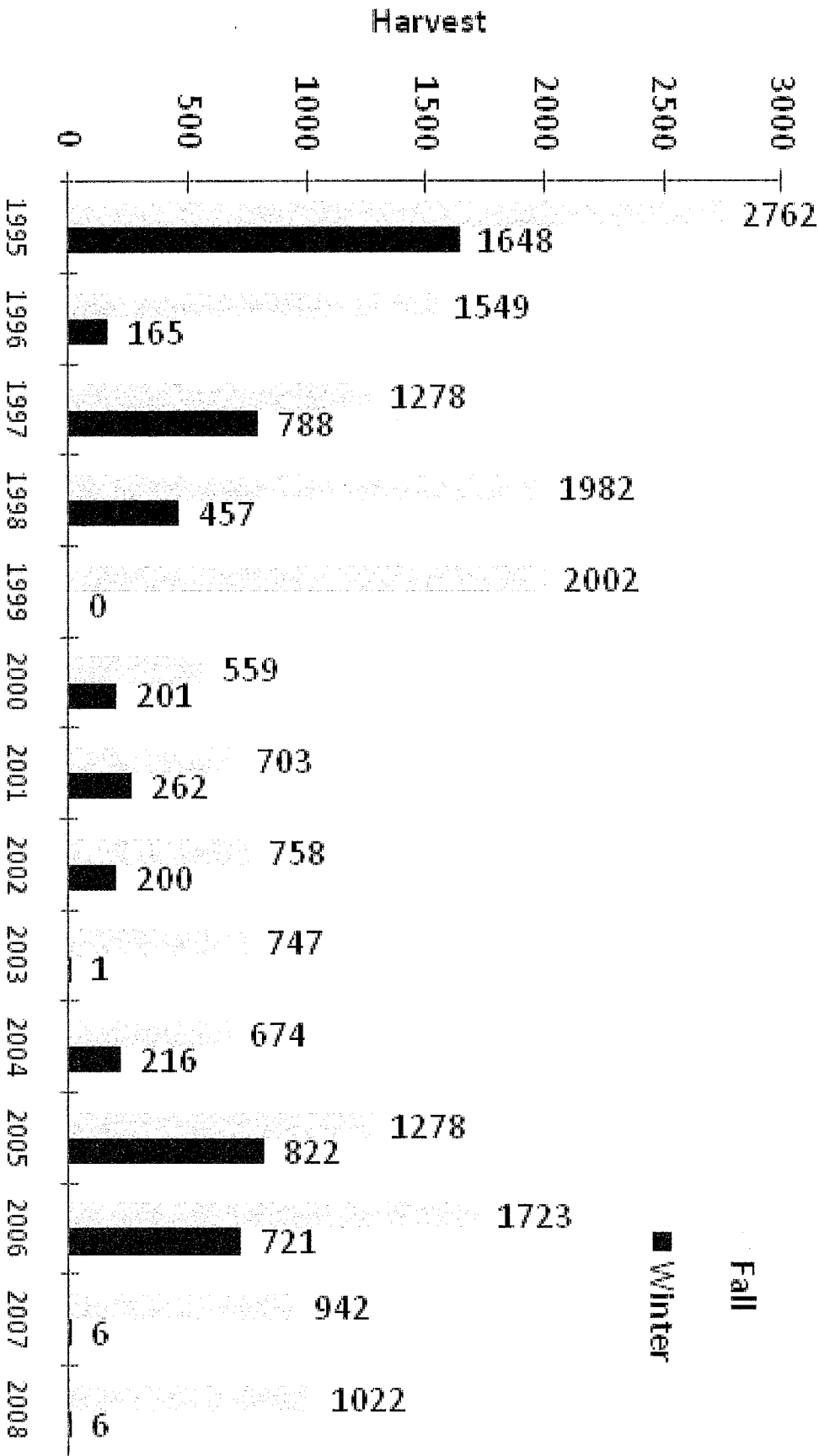
Nelchina Caribou Locations

SEASON

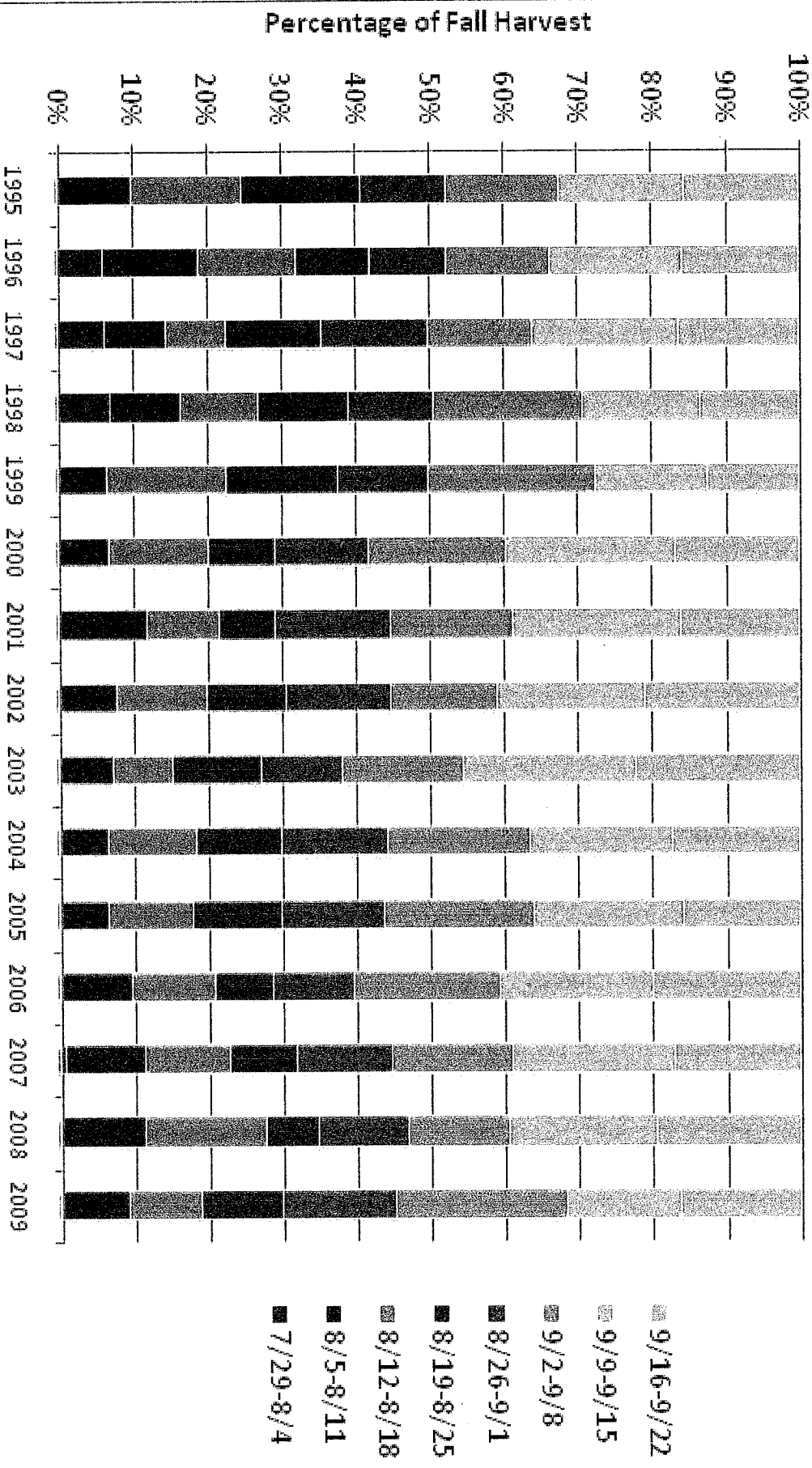
- Winter (Dec-Mar)
- Fall Migration (Oct-Nov)



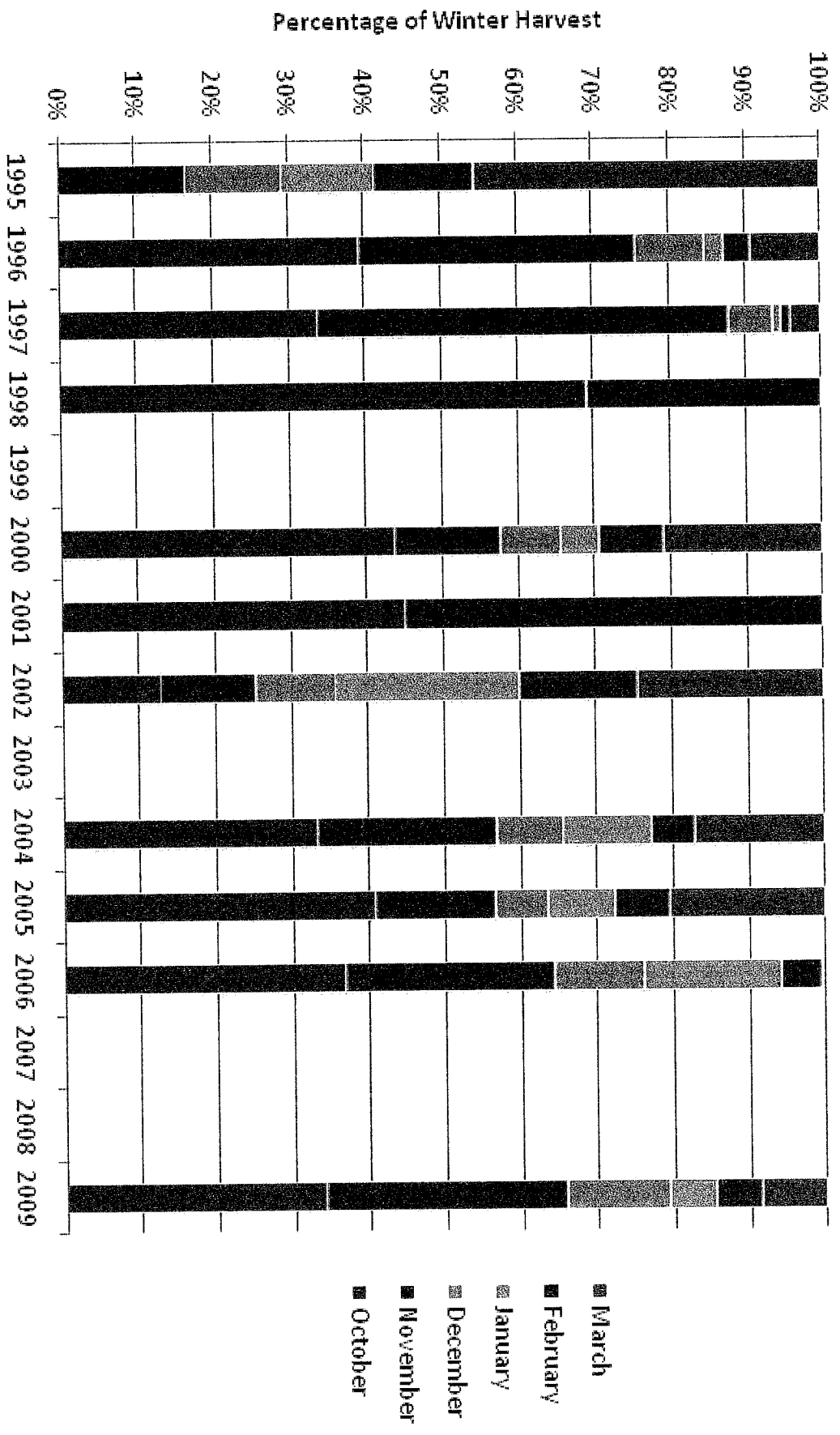
NCH Tier II Harvest Chronology



NCH Tier II Fall Harvest Chronology (2009 RC566 and CC001)



NCH Tier II Winter Harvest Chronology (2009 RC566 and CC001)



COMMENTS ON PROPOSAL # 28

RC 20

NELCHINA CARIBOU HERD

From the Matanuska Valley Fish & Game Advisory Committee

The Matanuska Valley Fish and Game Advisory Committee recommend that the Joint Board classify the Nelchina caribou herd as non-subsistence. We recommend the implementation of either a registration hunt or a draw permit hunt, or a combination of the two, open to all residents of Alaska. The herd is estimated at 45,000 animals right now, and that is at least 5,000 animals above the optimum herd size of 35,000 to 40,000 animals. The current amount needed for subsistence (ANS) for this herd is 600 to 1,000 animals. If there has to be an ANS, we would like to see it reduced to 250 to 500 animals. There were 128 caribou harvested last year under the community harvest format. 500 permits were available but only 479 were issued. In 2009, there was a total subsistence harvest of 488 caribou on federal and state land combined. That tells us that there wasn't even a demand for all the permits available.

We believe this board should adopt a fall hunting season that would be broken up into three hunts of 7 to 10 days each, from August 20th to September 20th. A person could only obtain one permit and only hunt in that time period that year. This would spread out the hunting pressure.

Stephen Darilek, Chairman

Matanuska Valley Fish and Game Advisory Committee

RC 21

Anchorage Fish and Game Advisory Committee

Comments: BOG October 8-12, 2010

Nelchina Caribou

The Anchorage AC met in two separate meetings to discuss this during which we heard public testimony and assigned the subject matter to our Game sub-committee and then met in full committee again. The public testimony was one sided pointing to the belief of that the Nelchina Caribou are no longer a subsistence hunt in the traditional sense. Alaskans have changed over the years in the methods and means by which we derive or subsistence needs from the land. Many traditional hunters of this herd have moved to many parts of the state as progress marches on. We find we (has a population) are more likely to travel greater distances with the same goal. In short most of the Nelchina caribou are taken in the road system corridor (within 5 miles either side). We travel by multiple methods from cars and pickups to motor homes and airplanes. ATV' have been used in the hunt for as long as anyone can remember and the same can be said of airplanes.

The current system is not working nor has it worked for a long time! This is evident by the number of times the BOG has had to have an extra meeting to tweak the hunt because of court action. We know that a large portion of the public (statewide) has grown to depend on it for their subsistence needs. The court has determined that all Alaskan are subsistence hunters. Subsistence has grown to mean many things to many people. The guy in Anchorage who feels this herd is his

RC 22

CONCLUSION

For the reasons set forth above, summary judgment is granted as follows:

- The motion by AWFCF to invalidate the Ahtna CHP is granted;
- The public trust doctrine improper delegation challenge by Manning to the Board's authorization of the Ahtna CHP is granted;
- The open meetings act challenge by Manning is denied;
- The argument by Manning that his Tier II priority status is a right entitled to heightened constitutional scrutiny is denied;
- The challenge by Manning to the adequacy of the public notice of the 2009 Board meetings is granted with regard to the Board change from a Tier II to a Tier I hunt and with regard to the finding that subsistence users of Unit 13 caribou only need one caribou every four years;
- The challenge by Manning to the Board's experiment to change the Unit 13 caribou hunt from Tier II to Tier I is granted;
- The Manning/AWFCF challenge to the allocation of 300 caribou to the Ahtna CHP and 300 caribou to the Tier I permit drawing hunt is moot;
- The challenge by Manning to the Board's special conditions for the 2009/10 Unit 13 caribou hunt is denied.

Based on the foregoing rulings, the Board is enjoined from proceeding with a Tier I hunt for caribou in Unit 13 this year, is enjoined from delegating CHP hunt administration authority to private entities or individuals, and is enjoined from authorizing an Ahtna CHP that is fundamentally residency-based.

DATED this 9th day of July, 2010.

Carl Bauman

Carl Bauman
SUPERIOR COURT JUDGE

CERTIFICATION OF DISTRIBUTION	
That a copy of the foregoing was mailed to _____ at their addresses of record:	
Manning, Saxby, Starkey, Kramer	
Date <u>7-9-10</u>	<u>Alshenitz</u> Clerk

DOH comments
inadvertently left
out of BOG workbook

Paxson Fish and game Committee Minutes 9/21/2010

RC 23

I. Meeting was called to order 6:20Pm at Paxson Lodge

II. Members present: John Schandelmier, Alan Echols, Jim Murray and Gary Alcott

Public present: Del By, Lee Harper, Duffy Johnson, Jack Johnson and Tony Petterson.

Agency Staff : Becky Schwanke

III. Old Business:

John Discussed the last meeting agenda with BLM and the remote cabins and how it didn't seem to do much good, as the cabin were burned down anyway.

VI. New business:

Need to have another meeting the middle to end of Oct.

Becky Schwanke explains the Tier II situation and why the subsistence numbers are set aside the way they are.

Lee Harper asked why the Tier I system was put into place last year. Becky explained.

John asked about the success rates on permits and how closes AF&G gets to the number of permits handed out with animals taken.

Becky said that right now the substance Numbers are between 600-1000

Duffy says that he has been hunting this herd for 46 years and because he lives in Fairbanks he doesn't get a permit.

Tony suggests that after the subsistence permits are given out the Board of Game should make the rest a drawing hunt. The majority of the PAB likes this.

On Prop 9 the board would like to modify the way the years are set up. Making it 10 year blocks instead of 5 years.

Also would like to see,

Aug 10-25 a Tier II hunt opens again from Oct 21-Nov 15

Then have a general drawing hunt from

Sept 1-20 and again Nov 20 through March 31

Drawing hunt would be bull only unless cows are needed to control numbers.

All board members voted yes.

Levi asked about the % of permits that would go to out of state hunters. The board agrees to no more then 5%

Board wants to appose Prop 22 All members voted yes

Prop 23 board votes to support

Paxson Fish and game Committee Minutes 9/21/2010

On Prop 29 everyone feels like 500 permits is enough since that will mean that AF&G will be handing out 1000 permits and have never had that many animals taken for Subsistence.

Prop 29 Oppose. Everyone votes yes.

Becky says that being able to meet the ANG #s will go a long way to making AF&G board happy.

John says that will be able to go to the meeting in Anch and all board members vote yes to send him.

Next meeting in Oct we need to discuss access issues and vote in board members.

Meeting adjourned at 9:30pm

Facsimile Transmittal

RECEIVED

OCT 03 2010

BOARDS
ANCHORAGE

RC 24

FAX

To: Board of Game

From: soren threadgill

Fax Number: 19072672489

Date: 10/07/2010

Pages: 1 (including cover page)

Re:

Comments:

Us long terms Alaskans are in favor for the protection of wolves. And yes we are aware of the false argument about they attack the caribou and moose herds and put these herds in a dangerously low count position. actually what they cull is insignificant as compared the hunters.

The salient point is that those herds do need to be thinned by the wolves. The salient point is the WOLVES need to thin the herds and not the hunters. The biggest lobbyist to cull the wolf pack comes from the hunter groups.

I ask for your support in protecting the wolf packs.

Eva and Soren Threadgill

~The greatness of a nation and its moral progress can be judged by the way its animals are treated~ ~Gandhi (1869~1948)~

connection to the way of life he has grown to depend on is no less a traditional hunter than the guy who lives in the area and drives his \$40,000 pickup down the road to get a caribou in a afternoon. In fact we have to realize that a large portion of the state population depends on this herd for their connection to the land and the way of life many of us live here just to be a part of. Because of the multiple plans that have been put forth over the many years we have an entire generation who has not been able to be a part of this experience. To this end we must begin to correct the direction we have gone.

We has a committee believe the board has been misguided legally by your counsel in to believing that you must do this or that only to find once again this advise to be in error, evident by the number of times you have been successful challenged in court. We believe it might be in the best interest of the state and the board to look for different counsel on this, with thinking outside the traditional box the board seems to think in.

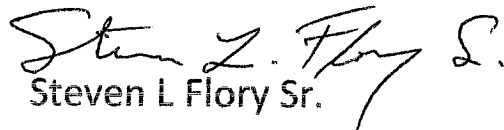
To this end we suggest that the board based on recent court case where it was found one board (BOF) could decide the meaning or wording of subsistence without a joint board meeting, that you in fact have the same power. Therefore we suggest that you declare the area of the Nelchina caribou hunt to be a non-subsistence area. After which you would be free to make this hunt a drawing hunt open to all Alaskans. It seems to this committee that is the only fair way in which all Alaskans can partake in this hunt. All can enter with a equal chance of success first in the drawing, then in the hunt.(for those drawn) We oppose any weighted consideration has the goal here is access and opportunity for all Alaskans.

We oppose all other proposals dealing with the Nelchina Caribou on the matter in whole or part because it would fail to give equal opportunity to all of Alaskans. We feel it is time to stop discriminating against our citizens by dividing them into groups of haves and have-nots.

Proposal 36 The mere fact that the board would even consider this is a outrage. It was not on the call for proposals! The fact that a statement proceeds it in the book has to what the ADF&G recommends for the whole state should be the first alarm bell to ring. The public has been deleted from this discussion of ideals but only asked to support the departments or not with no opportunity to address on a equal footing with the administrations view. To This end we have composed a letter to the board (and others) Please! take this up in cycle!

We reviewed the bear policy and would support it with just a one amendment and one suggestion. The amendment would be in the last paragraph and would be added has a bullet "that the board would consider restricting the non resident take of ungulates in any area where Intensive Management is imposed. The other request: we would like to see the BOG ask the legislature remove the guide requirement in any area where a IM is imposed requiring a reduction in brown bears.

We did not take up the Wolf Policy.


Steven L Flory Sr.

Chairman

STATE OF ALASKA

RC 25
SEAN PARNELL, GOVERNOR

Anchorage Fish & Game Advisory Committee

Steve Flory, Sr
6661 Baby Bear Dr
Anchorage, AK 99507
Cell: 727-3762
Email: sheephorn@gci.net

To : Alaska Board of Game
From : Anchorage Fish and Game Advisory Committee
Ref : Anchorage AC Opposition to Agenda addition on Bear Trapping for the Oct Special Meeting and November Board of Game Meeting

Dear Chairman Judkins and Members of the Board;

The Anchorage Advisory Committee always appreciates the opportunity to discuss regulatory issues and proposals with the Board. However, we believe that if the discussions have not been generated by and following the statutory procedure for public notice and public input, both the AC and the Board will have wasted the energy in the discussions and open the door to restrictive legal action by those opposed to our intent.

The Anchorage AC strongly opposes the methods and means used to include "additional, i.e. non- Nelchina caribou" issues for discussion at the October 8, 2010 Board of Game meeting. We request that additional agenda issues, especially bear trapping, be removed from the agenda. As per your notice from October 6, 2010 moving these issues to the November meeting in Ketchikan, it is our opinion that you face the same procedural problem, including non compliance with board guidelines found in 5 AAC 92.005 which explicitly states that ACR's must be in writing and must specify the reason a topic should be discussed out of cycle.

There has been no call for public proposals on these topics for the south central region at the October 8th meeting in Anchorage or the November 5th meeting in Ketchikan. The proposal deadline has already passed for the Ketchikan meeting. The Anchorage AC prefers the issue of bear snaring in south central Alaska be discussed at the scheduled meeting for the region in March 2011 to allow the public and the AC's the opportunity to submit proposals on the topic

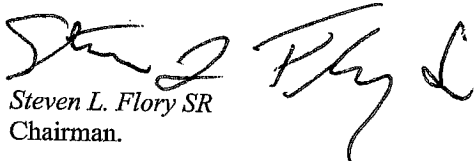
The Nelchina meeting was required when the Alaska court ruled that the previous Nelchina caribou Harvest regulations were not in compliance with the State constitution. The court also noted the Public Notice requirements in state law had not been met regarding the authorization of the previous harvest regulation. This "out of cycle" board meeting was approved by the Board of Game to discuss alternative Nelchina caribou harvest regulations and allow the public to effectively participate in developing new Regulations through the traditional process of submitting proposals and, subsequently, commenting on all of the proposals submitted on the issue of Nelchina caribou harvest regulation(s). The call for proposals for the special meeting was limited to the Nelchina caribou.

We recognize the Board's authority and ability to discuss previously tabled issues and proposals but in this case the bear trapping issues included in the proposals (published for comment) for the special meeting omitted a public "call" effectively limiting the Board's consideration to only department sponsored proposals. We believe this omission to be a violation of the Public Notice requirements in state law and the intent of the Board process as established by the Alaska Legislature to fully engage the public.

Especially on issues that are as contentious and important as bear trapping regulations the public should not be denied the opportunity to submit proposals also. To avoid the public process is a clear rebuke of the intent of the Board of Game process established by the Alaska Legislature. We have attached for your review the relevant paragraphs from the Policy for changing board agenda and agenda change request procedures. We request your review to insure a proper and timely discussion and deliberation of these issues.

In conclusion : These actions are denying the public, including the Citizen Fish and Game Advisory Committees, fair and equal opportunity to participate in the development of wildlife management policy in Alaska, by denying their rights to submit proposals on a topic. This is unquestionably the most significant abuse of the Board of Game process since statehood. Denying the residents of Alaska fair and equal opportunity to address proposed amendments to the most contentious wildlife management policies in Alaska rebukes the ADF&G's own findings that public participation at the fullest extent is necessary for broad public support and effective management policies.

The Anchorage AC request that the topic of bear snaring in south central Alaska, topics added to the October and November Board meeting agenda's be revoked for consideration out of cycle. There is no unanticipated biological concern warranting this discussion at the October 8th or November 5th meeting and both public notice and agenda change request procedures have not been met.


Steven L. Flory SR
Chairman.

5 AAC 92.005. Policy for changing board agenda.

The Board of Game will, in its discretion, change its schedule for considering proposed regulatory changes in accordance with the following guidelines:

1. A request to consider a proposed regulatory change outside the board's published schedule **must be in writing, and must specify the change proposed and the reason it should be considered out of sequence;**
2. A request must be sent to the executive director of the boards support section at least 45 days before a scheduled meeting unless the boards allows an exception to the deadlines because of an emergrncy;
3. The executive director shall attempt to obtain comments on the request from as many board members as can be contacted; and
4. If a majority of the board members contacted approve the request, the executive director shall notufy the public and the department of the agenda change.

Out of cycle "emergency" meetings and Agenda Change Request for any given meetings were authorized by the Alaska legislature to address unanticipated events and issues of biological concern that could not wait for the scheduled meeting for that topic.

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

Anchorage Fish & Game Advisory Committee

Steve Flory, Sr
6661 Baby Bear Dr
Anchorage, AK 99507
Cell: 727-3762
Email: sheephom@gci.net

October 5, 2010

Board of Game,

RC 26

Re: Board Intent / Codified Regulations

The Anchorage AC is very concerned that the intent of the Board of Game is not being reflected in the codified regulations adopted by July 1st of each regulatory year by the Lt. Governor.

The methods employed by the ADF&G and the Department of Law to amend the codified regulations pertaining to black bear management statewide demonstrate a coordinated rebuke of the legislature's intent regarding the establishment of the Board of Game process, a process that mandates formal public notice of specific proposed amendments to wildlife management policy.

The Alaska Legislature established the Board of Game and regional Citizen Advisory Committee's to fully engage broad public involvement in developing or amending game management regulations, especially management policies that are highly controversial in nature or that have the potential to negatively impact state wildlife resources for all Alaskans.

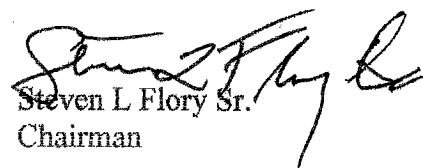
There has been no public notice, no public or ADF&G submitted proposals, no public comment on a proposal, no public testimony, or any formal board discussion at any Board of Game meeting in 2009 & 2010 regarding the codified regulation change that occurred on July 1, 2010 allowing the legal sale of black bear meat (5 AAC 92.200(b)(1) by revoking language that made meat from any bear illegal to sale, to the meat of only brown bear.

The public, including the AC's, have been denied any involvement prior to authorizing many regulatory changes. The ADF&G has not submitted any formal proposals for public review and comment regarding the legal sale of black bear meat when harvested under a trapping license.

The committee knows it is essential that the intent of the Board process, to develop wildlife manage policy and regulations, be maintained to the highest of standards.

The Anchorage AC requests that the Board of Game adopt a formal policy requiring the Department of Law to provide a complete and final version of the regulatory language to be codified for full Board approval, preferably at the meeting where the regulation change is approved, yet prior to transmission to the Lt. Governor. The Anchorage AC understands this will add additional time to the Board of Game process.

CC: Governor Parnell
Commissioner ADF&G
Lt. Governor


Steven L Flory Sr.
Chairman

Mike McCrary
Members of the Board,

Public Comments BOG meeting Oct. 8-12, 2010

RC 27

Speaking first to the Nelchina caribou situation:

The herd is healthy, the habitat is not threatened and there is a surplus of harvestable animals. If there is any example of management that meets the definition of maximum sustainable yield it is this one.

Despite the 8 or more court challenges the Nelchina herd still represents management success.

For this Board to deliberate the question of where do we go now, please do not start out with the premise that the Nelchina hunt is a substance hunt or a tier hunt of any kind. There is no justification for that now.

This herd is the common property of the people of this state.

Commensurate with constitutional provisions related to access and opportunity to harvestable surpluses of game for all Alaskans it is this Boards obligation to all Alaskans to allocate this resource opportunity in a fair and equitable manner now.

That action should be considered by the majority of Alaskans to be wholly justified. That action might stand what could seem like yet another inevitable challenge and it is the right thing to do.

The herd is healthy, the habitat is not threatened and there is a surplus of harvestable animals.

Reasonable opportunity to harvestable surpluses belongs to all Alaskans regardless of their economic status or where they live.

An un-weighted resident only draw provides the reasonable opportunity for any Alaskan that meet the states hunting license/harvest requirements equal access.

Now about the bear management policy:

The common interests of the people prohibit; make illegal, ban, forbid, bar, exclude, proscribe, disallow...rule out the possibility of commercialization of game in Alaska.

The expectation or what can be called an existing right of the people has been for 50 years that bears are common property classified as game and are not to be commercialized and made into what essentially becomes the peoples common property resources or assets that trappers profit from killing.

I have no doubt that commercialization and exploitation of furbearers is authorized and an existing right.

I believe that the exploitation represented by trapping of furbearers for 50 years is more than a "policy". It is an existing right the people have accepted as a rational use of our common property since Statehood.

The decision to commercialize black bears made by bureaucrats has been made in such a way as to guarantee it to be in violation of existing rights.

Mr. Saxby and Mr. Vaulkenbergh's rationale they have persuaded the Game Board with; whatever that has been, was unrelated exactly to what existing rights of the people are.

There rationale provides no authority for this Board to violate process and trust.

The most basic and fundamental test of existing rights is public process; not Mr. Saxby or Mr. Vaulkenbergh's justifications for some kind of Board action.

To exploit; commercialize bears, the Department chooses to reclassify only one color of bear.

At the end of the day this Board will have to consider all the relative facts Mr. Saxby and Mr. Vaulkenbergh ask you to rely on that connect your participation in this decision.

Mr. Saxby essentially says the people had no existing right to trust that black bears are game and not furbearers.

Kevin Saxby is wrong; as he has often been, when he interprets for this Board.

Mr. Saxby's interpretation of property held in trust; in common for the people of this state, that A) black bears are no longer game but furbearers and B) reclassification is nothing more than a policy change despite the policy having been around for 50 years and C) the people need not be heard on this policy change. His interpretation is deliberately subversive and represents official misconduct.

Process and procedure are the corner stones of public law. Kevin Saxby unquestionably must know the importance of process and procedure yet he is willing to deliberately undermining those cornerstones. That is gross negligence.

Court case after court case tells us Game Boards get bad advice from Mr. Saxby that is both arbitrary and capricious. Meaning, there is an absence of a rational connection between the facts connected to the choice made. Mr. Saxby sometimes and with willful intent picks and chooses what facts he admits in order to justify the choice he wishes the Board to make.

Because this Board continues to subscribe to Mr. Saxby and Mr. Vaulkenberghs leadership without even a modicum of resistance regarding what choice might be rationally connected between the facts and ultimately the choice made, I suggest this Board just treat all bears the same. Just as we treat all fox the same. That would after all be a rational connection to the facts found by Mr. Saxby and Mr. Vaulkenbergh.

Trapping or snaring, baiting, and the selling of parts and meat applies to all bears OR it applies to no bears.

Now, we all know the Administration, the Departments and the Game Board are not brave enough to take that one on.

A fox is a fox no matter what color but bears are somehow different?

What reasonable grounds and adequate consideration of the circumstances is this Board relying on to validate black bears are furbearers we should exploit but brown bears are not?

Just exactly what rational connection makes black bears different?

Either Mr. Saxby or Mr. Vaulkenbergh collaborated on some kind of hidden agenda and this Board will pretend to ignore that possibility or this Board will have to publicly validate that there is in fact a substantially rational connection between the relevant facts in this case and the choice this Board makes.

I believe there is a hidden agenda as to why black bears are being reclassified and that it can be traced back to the fact commercial hunting industry doesn't make enough money off black bears so black bears can be sacrificed and exploited while brown bears remain immune from reclassification.

This Board must rationally connect facts to choice.

Just because some bears are black is not a rational justification for the new bear management policy.

Many of us know, including at least some of you on this Board that this black bear issue has nothing to do with game management and everything to do with the ideology of the current regime. A regime so convinced they know what's best that they run the machine over or go around any check or balance already put in place in order to establish their perception of dominion over policy...dominion over process...dominion over existing rights of the people...in order to conform those of us who are outside the fold.

Dictatorial game management or people management for that matter has never worked out for long term. It is an unsustainable model.

This whole predator control thing is a smoke screen laid down to protect the special interests of the commercial hunting industry.

Game Boards propensity to exploit and commercialize game for the special interest of non residents and guides is nothing new EXCEPT that is no longer a dirty little secret kept from the public.

Special interest groups with paid lobbyist like:

- ❖ The Alaska Outdoor Coalition aka Rod Arno claims to have a following of 10,000 followers.
- ❖ The Alaska Professional Hunting Association aka Bobby Fithian claims a few hundred faithful.
- ❖ Sportsman for Fish and Wildlife aka Ralph Sekens claims 2,000 in their congregation.

represent less than 13,000 people and not even all of those people are residents of this state.

These groups habitually leverage all their political power to frame every issue as the anti's-vs-hunters providing cover and protection for the special interests of non resident hunters and guides. They will be here later today doing just that. Framing the issues as anti's vs hunters...laying down the smoke.

If this board truly functions to preserve and conserve game for the common use of the people of this State then you must take the bull by the horns.

Write the Governor and get some of these issues out of your court so to speak so you can stick to dealing with methods, and means and bag limits.

Writing the Governor will formally engage the public process on some issue and get the back room politics lobbyist are so good at out of the back room.

- ❖ Advise Governor Parnell that this Board requests him to introduce this legislative session a bill that repeals the non-resident must be guided law.

Non residents are a tremendous tool just waiting to take care of our over abundance of bears given a reasonable opportunity.

With the law repealed people could still hire guides. No one is legitimately disenfranchised. That special interest law will no longer be there to encouraging non residents to come to our State and hunt primarily prey species.

If that non resident must be guided law were rational; circumstances connected to facts, everybody would have to be guided no matter what they were hunting and no matter whether the hunter was a resident or a non resident.

This law is not rational but what is worse that that this law handicaps our ability to manage game for Alaskans. It's not right that this Board continue to ignore this issue. Write the Governor.

The non resident must be guided law is clearly interfering with management of our game at every level.

- ❖ Request the Governor introduce legislation to establish one Alaskan Standard Guide Licensing Board.

Nothing could be more in the long term interest of all Alaskans than having all resource user groups; all classes of guides, sitting around the same table. It will clear the smoke filled back rooms.

There is no down side to licensing all classes of guides in Alaska under one statute authority.

Statistically rafting or mountain climbing is not less dangerous than hunting brown bears so how can it be rational that in this State a person does not have to be licensed to hold themselves out as being a "white-water" guide or mountaineering guide but a resident can guide a brother in law on a brown bear hunt?

Or, a non resident master guide can not hunt a brown bear unless he is guided and it's ok if his guide is also a non resident who could not hunt brown bear unless he were guided....and the absurdness of this law goes on and on.

If the non resident must be guided law were rational; circumstances connected to facts, everybody would have to be guided no matter what they were hunting and no matter whether the hunter was a resident or a non resident.

All classes of guides in Alaska should be licensed or none should be licensed. We don't just license some barbers and hair dressers. What exactly makes guides any different than a barber?

- ❖ Request that the Governor introduce legislation that limits non resident participation to not more than 10% opportunity of Alaskan's effort to harvest sheep, goats, caribou, moose and deer.

What is the sense of spending all the effort on issues that swirl around predator control if the State of Alaska is going to continue to sell....in an unlimited fashion...hunting licenses and tags to non residents for sheep, goats, caribou, moose and deer?

In other words, if we have 3,000 residents hunting sheep annually then limit non resident opportunity to 300.

If we are short on reasonable opportunity for resident Alaskans to harvest sheep, goats, caribou, moose or deer in any subunit in Alaska then provide no opportunity at all in those areas of shortages. The Board could on its own initiative impose these limits on non residents and quite frankly it should be the Boards absolute policy to put the interest of all Alaskan resident hunters above all other interests.

Advocate for all the people is what I am saying.

Advocate repealing of the non resident law.

Advocate on behalf of the people for the establishment of one Standard Guide Licensing Board for all classes of guides.

Be proactive in limiting non residents to 10% of the opportunity effort of residents who hunt prey species.

Make the interest of resident hunters the first interest when it comes to allocations.

Make it clear to future Administrations and Game Boards and the people that residents are first.

Finally, the Anchorage A/C represents more than 300 thousand Alaskans, more than a third of the population of this State.

23 times the following of the AOC-APHA-SFW machines represent to most of Alaskans as organized clans representing only their group's special interests.

Granted I have an agenda. We all have an agenda. But, at the end of the day it is your individual and collective duty as a Board to sort out special interests from the common interests of the people of the State of Alaska. It is hard to do but that is your job. You accepted the nominations. Do the right thing.

If this Game Board declines to acknowledge the voice of the Anchorage A/C again; and fails to take any action on the issue of the non residents must be guided law and the establishment of one standard Alaskan Guide Licensing Board by permitting Mr. Saxby to talk you out of taking any sort of proactive action which we know you can take...then there can be no other public conclusion to arrive at other than this Board; this administration, and Mr. Saxby remain more concerned with the special interests of the commercial hunting industry and authentic participation of non resident in our management system than with rational and sustainable wildlife management for all Alaskans.

Thank You.

Mike McCrary mccrary907@gmail.com

RC 28

**Comments of the
Stony Holitna Fish & Game Advisory Committee
To the Board of Game
Oct. 8, 2010 Meeting**

SHAC members have little knowledge of most GMU 13 issues, members think that those issues are better left to those who are familiar with them and that it's up to them and BOG to sort them out.

The Stony Holitna AC, (SHAC), supports most predator management programs in GMUs throughout the state, whether it be for wolves or bears, whenever the local ACs or ADF&G proposes them. SHAC takes this position because prey species and Alaskans who depend on them, have been negatively impacted by the many years predator control was prevented.

Proposal 31- Supports the reauthorization of intensive management in GMU13.

Proposal 32 – Supports season and bag limit changes in GMU26B, as a predation control measure.

Proposal 33 – Supports the reclassification of black bear as furbearers, along with the trapping and sale of hides in GMUs 25, 20, and 12. SHAC supported this as #6 at the Spring, 2010 meeting as well, which was moot due to the adoption of proposal 39 at the winter, 2010 BOG meeting.

Proposal 34 – Supports the taking of any black bear in GMU25D.

Proposal 35 – Supports the taking of black bears with snares in GMU25D.

Proposal 36 – Strongly Supports black bear snaring seasons in GMUs 12, 16B, 19A, 19D, 20E, 25D, and any other GMUs where ADF&G deems it beneficial to prey populations.

An **Agenda Change Request** has been submitted by a GMU 18 resident to allow an “out-of-cycle” proposal to open the closed area of GMU19A to resident hunting.

SHAC strongly urges BOG not to allow this ACR.

- There are no observable increases in moose stocks in the part of GMU19A that is described in the ACR or the proposal.
- There will be no population estimation survey until after March 2011 There are no compelling reasons - given by the proposer, or existent - to support an agenda change.
- The area biologist, the Division of Wildlife Conservation, the chairman of The Central Kuskokwim AC, and The Stony Holitna AC all share this view.

Below is an email from the CKAC chairman asking that his views be shared.

From: Robert Aloysius [mailto:bob.aloysius@hotmail.com]
Sent: Tuesday, September 28, 2010 9:48 PM
To: Seavoy, Roger J (DFG)
Subject: RE: ACR Re: Moose in Unit 19A

By every means possible, OPPOSE this ACR. I just got home from three weeks of intensive travel, so I just found out about this request. There are too many important things to be taken care of-we do not need any more mix. Do everything in your power to oppose it. The author has NOT contacted any of us on the CKFGAC, so we do not know where he is coming from. I know our AC would oppose this, because the numbers are not there to even think about lifting the local people's choice for the restriction. Please distribute this opposition to all concerned.

**Personal Comments
To the Board of Game
Oct. 8, 2010 Meeting
Doug Carney**

RC 29

I'm from Sleetmute, Alaska, and my name is Doug Carney. I'm the chairman of the Stony Holitna Fish and Game Advisory Committee, (SHAC).

My comments mainly address details of Proposal 36, and to discuss or answer questions board members may have on the Agenda Change Request to consider a proposal opening the moose season in a portion of GMU 19A.

Proposals 31 through 35 – Support for the same reasons given in the SHAC testimony.

Proposal 36 – Strongly Support –

- Not allowing participation by non-residents would prevent many problems, and reasons for opposition.
- Registration – The simpler the registration process is, the more participation there will be.
- Brown bear incidental catch – Trappers should be allowed to keep them. This could be tied to a closure of the black bear season if incidental brown bear catch reaches a cap.
- Allow mechanized access in remote areas, and same day airborne.
- Use harvest tickets to monitor take. These could be downloadable from ADF&G website as needed.

Agenda Change Request to consider opening of moose season in closed portion of GMU19A – Oppose

– I oppose this for the same reasons given in the SHAC testimony, and in ADF&G recommendations.

Also –

This ACR was sent in on Sept. 20th, allowing little time for the public, (including the ACs), to be informed of its existence and to respond.

AC members are often difficult to contact, because -

- Members are often out hunting, and certainly getting things ready for freeze-up.
- Members have moved out to remote trapping grounds, and can't be contacted.

Because of these reasons and other seasonal difficulties contacting AC members throughout the year, - to insure that the ACs and rest of the public is informed of ACRs, I suggest BOG do something similar to BOF.

I believe BOF has a 'once a year deadline' for ACRs, just before its 1st meeting of the year.

In my view, this would improve the process for BOG, boards support, the ACs, and the rest of the public.

Doug Carney, SHAC Chair
Sleetmute, AK

Copper Basin Advisory Committee

Don Horrell	Tazlina	Fred Williams	Copper Center
Loren Bell	Tazlina	Chuck McMann	Gakona
Mike Roscovius	Glennallen	Bruce Dickenson	Tolsona
Dave Bruss	Tonsina	Jim Odden	Lake Louise
Roy Ewan	Gakona/Gulkana	Dave Sarafin	Tazlina
Nick Jackson	Gakona/Gulkana	Karen Linnell	Kenny Lake
Mel Matthews	Glennallen	Nathan Woodcock	Copper Center
Alisa White	Alternate		

Alaska State Board of Game

Mr. Chairman and members of the Board of Game, I am a life long Alaska resident, and long time member of the Copper Basin Advisory Committee. Our committee has members from Eureka to Chitina in the Copper Basin. At any time or at the end of the comments I would welcome and encourage your questions.

The first group of proposals we did not take any action on as we felt they did not meet subsistence needs or became to complicated and hard to manage or enforce.

The First proposal we took up in long discussion was number 28. Reasonable subsistence numbers for the Nelchina Herd. We felt with the herd showing signs of increasing 750 to 1000 was a justable number to permit a community harvest if it is reauthorized and have the opportunity to have a Tier 1 and or Tier 11 harvest also.

Proposal 20, committee supported reauthorizing a community harvest with amendments. First reauthorize a community harvest to be administered by the Alaska Department of Fish and Game for the eight villages in the Copper River Basin and to change the regulation to include Glennallen. We would hope the board could understand small rural communities like ours are grounded in tradition and have deep roots together. The area basically is thought of as one by the residents of the Copper Basin. Our pattern of living for most of the residents has been to mix temporary employment opportunities with subsistence activities. Our area has seen

little change over the years. Glennallen today is much the same as when your fellow board member Mr. Spraker was our area biologist.

Proposal 21 the committee supported and amended. Our first option would be to have a community harvest with a Tier 1 and Tier 11 hunt. The seasons of August 10th – September 20th, and then October 21st – March 31st. If this is not legally viable, then or option 2 is a community harvest with season dates August 10th – September 20th and October 21st – March 31st. And Tier 11 August 10th – September 5th, October 21st – November 30th, and Tier 1 September 6th – September 20th, December 1st – March 31st.

Proposal 29, Tier 1 subsistence permits regulations the committee supported and amended. We changed Tier 1 subsistence permits with the following conditions.

#1 Unit 13 Tier 1 subsistence caribou permit will be distributed on an individual basis not head of household.

#2 No change

#3 an individual who obtains a permit is ineligible to receive another permit during the next regulatory year.

#4 an individual will receive one point for each year in which they apply, but did not receive a permit. With one point awarded for the first year.

#5 upon receiving a permit or if an individual fails to apply during a regulatory year the individuals score becomes zero, with the process starting over if the individual applies in a succeeding year. We deleted the entire paragraph B.

If the board decides to retain a Tier 1 hunt with the herd size increasing a one caribou limit every 4 years per house hold is to restrictive for the entire family, taking away to many individuals opportunity to hunt.

Proposal 30 we opposed limits, subsistence use to sub Units C & D and east of the Richardson Highway in 13 B. Where there are few if any caribou until after the fall season.

Proposal 31 we supported keeping pressure on the wolves, the only real way to help increasing our moose and caribou numbers. As the owner of a highway business it is nice to hear our visitors traveling the highways seeing moose and

caribou. A few years back they were asking where could they see a moose or a caribou.

Proposal 36 we opposed, we are supportive of wolf control. We fear harm publicity and public outcry this might bring to our successful wolf control program.

This was a hard meeting for the Copper Basin Advisory. As we try and look at what's is best to meet the subsistence needs of all our communities and individuals both native and non-native. And not knowing which way the board wants or legally can go, a community subsistence harvest with some type of Tier 1 or Tier 11 harvest.

Thank you for your time and I would welcome any questions.

Testimony of Wade Willis
Science Now Project!
sciencenowproject@gmail.com

RC 31

Hello Board of Game,

Thank you for the opportunity to address the proposed amendments to wildlife management policy in Alaska.

To begin, I want to state that I am a lifelong hunter and a resident of Anchorage. I rely extensively on subsistence harvest of wildlife to sustain my family both spiritually and nutritionally. For the preceding year I have relied on my hunting skills to feed my family. Without the three caribou, 50 salmon, and one moose I harvested this year, my family would have a very difficult time. The expense of traveling to remote hunting and fishing areas from Anchorage was very high and created a significant challenge for my family financially. While I strongly support rural subsistence, I also support "urban" subsistence too. I want the board to know that a subsistence lifestyle is not restricted to those living in a rural setting. The quality of my family's life is strongly tied to our subsistence lifestyle – and we live in Anchorage

I do not agree that the board should relegate hunting opportunity on the road system to a miserable experience. This board has a duty and responsibility to manage the quality of Alaska's hunting opportunity. The solution is simple, limit the number of hunters during any given time frame. If this board is incapable of effectively managing human harvest, then really there is no reason for this board to exist. Every hunt in Alaska should provide the highest quality hunting experience possible!

I want to address the Nelchina issue. The obvious difficulty the Board is facing is a lack of tools in the tool box. The fundamental problem is the restrictions placed on prioritizing harvest among Alaska residents. While the Native community is struggling to meet their subsistence needs in Unit 13, the urban hunter is also facing the same challenges. At the same time, much of the Native owned lands in the Nelchina region are allocating a portion of their limited game resources to the commercial guiding industry while simultaneously restricting resident access. For example, the Tetlin region offers some of the best moose hunting in Alaska, is Native owned, and allocates a substantial number of moose for an exclusive guiding contract for trophy hunters, primarily non residents, instead of the Native community in the region. The Native community, as the third largest land owner in Alaska, must ensure that the subsistence resources on their lands are prioritized for subsistence.

The Board needs to finally address the issue of prioritizing allocation on state lands by requesting from the legislature, for the first time since the Boards creation, a constitutional convention to allow the residents of Alaska the opportunity to work together to define our preference for subsistence allocation. I truly believe, as Alaskan's, we can rely on our long tradition of generosity, understanding and respect for each other to fix this problem. It's evidently clear, if we don't put some tools in the tool box, we will never fix this problem.

The issues we face today are not unique to our time. What is happening in Alaska has already occurred in the rest of America. Our wildlife resources are limited, and the population of the state, and planet, is expanding at an astronomical rate. It is naïve to think we can provide hunting

opportunity for everyone on the planet. If we don't prioritize for residents first, we may soon lose our ability to feed Alaskans.

The Alaska legislature has passed laws prioritizing important subsistence resources for Alaskan's first. It is long overdue for the Board of Game to comply with Alaska law and restrict nonresident hunting opportunity when the available subsistence resources can only meet resident needs. Alaskan's do not want a game farm, where wolves and bears are decimated to provide hunting opportunity for trophy hunting.

In Unit 13, the Board is considering re authorizing a wolf reduction program that has been in place since 2003. The Nelchina caribou population in Unit 13 is above the maximum management objective and the area biologist stated that caribou mortality by wolves in Unit 13 is severely depressed. The moose population has increased to the point that in 2010 the ADF&G authorized 125 moose harvest permits that were *exclusively* for nonresidents. Alaskans could not even apply. In 2010, the Board liberalized the antler restrictions for moose in Unit 13 to allow the harvest of 3 brow tine moose for both residents and non residents – one of the most liberal harvest moose harvest opportunities for any antler restricted hunt in Alaska. Virtually every management objective for moose in Unit 13 is being met.

It is time for the Board to manage human harvest and allow the ecosystem to return to a natural equilibrium. Perpetual predator control to increase an unlimited nonresident hunting opportunity was never the intent of the intensive management law. The Governor of every administration since 1994 has stated that intensive management is a tool to protect subsistence harvest opportunity, which clearly is being met in Unit 13 if there is such an abundance of game to result in the significant increase in nonresident hunting opportunity. If the Board wishes to increase the moose population further, all that is needed is for the board to determine that subsistence harvest takes priority over nonresident harvest. That protecting the subsistence need of Alaskan's requires the restriction of nonresident moose hunting opportunity in Unit 13. Alaskan's paid a high price to conduct predator control. In addition, we assumed significant risk by artificially manipulating the natural checks and balances found in nature. Alaskan's deserve to have the first right to Alaska's game resources. Alaskan's deserve a wildlife management policy that promotes the long term integrity of our states greatest asset; our intact ecosystems. Alaskans deserve science based management of our wildlife resources, not a game farm for nonresident trophy hunters where wolves and bears are decimated to allow trophy hunting by non residents

Development of wildlife management policy has reached an all time low with the political appointment of Pat Valkenburg to the highest decision making levels of the ADF&G. Under his leadership, the ADFG has stooped to abominable low of amending bear management policies that have been in place since statehood. In January of 2010, Pat Valkenburg, submitted a amendment to a proposal request in the last hour of a 10 day meeting. The amendment was to reclassify black bears as furbearer, relegating the species to management level that no longer recognized the high esteem Alaskan's have long held for our state's bear populations. This fundamental amendment to one of our state's most treasured wildlife assets did not engage the public, did not request proposals or comments from the public, and quite likely does not represent the will of the people. Yet this unconscionable action by the ADF&G was not enough for Pat Valkenburg, in addition, he circumvented the very board process by simultaneously authorizing a amendment to the regulations allowing the legal sale of black bear meat, for the first time since statehood.

Fast forward to this meeting and we continue to disenfranchise the public process by denying the public and the AC's the opportunity to submit proposals on bear snaring. Engaging the public is the primary mandate of the Board process. Anything that negatively impacts that process must be diligently rebuked by the Board of Game. It is my opinion that the amendment to bear management regulations relegating the species to a furbearer status is illegal, that the regulation allowing the legal sale of black bear meat was not only illegal, but a premeditated crime that should be punished in a court of law.

Addressing bear snaring at this meeting was also authorized illegally. The ACR policy of the board clearly states that an ACR must specify why an issue needs to be discussed out of cycle. It also requires that the request be in writing. Neither of these requirements have been met. The board routinely denies public ACR's based on the fact that an emergency discussion is not warranted. The board holds the public to strict guidelines of board policy and the ADF&G should be held to the same standards. Please table the bear snaring issue to a future meeting, no earlier than the scheduled March 2011 meetings for south-central Alaska.

Thank you for considering my comments.

Wade Willis



AHTNA TENE NENE' COMMENTS ON BOARD OF GAME PROPOSALS 20

Ahtna Tene Nene' submits the following comments on proposal 20 to re-authorize the Community Harvest Permit that it submitted to the Alaska Board of Game for its October 8-12, 2010 Special Meeting concerning regulation of subsistence hunting for the Nelchina caribou Herd.

The Board got the policy and direction right when it adopted major revisions to the Nelchina caribou herd hunting regulations in 2009. However, the superior court in *Manning and AFWCF v. State and Ahtna* invalidated the CHP and the Tier I hunt adopted by the Board. The court's decision did not invalidate or address the fundamental policy choices and direction the Board adopted in 2009. Instead, the decision rested largely on procedural issues, for example issues of insufficient notice and the court's perceived failure of the Board to sufficiently build a record for its decisions related to the Tier I hunting regulations. The court's decision related to the CHP, although based on constitutional grounds, did not invalidate the Board's policy choices or authority to adopt a CHP. In fact, the Decision recognized the Board's authority to adopt a CHP. Relatively minor and straightforward amendments to the regulation authorizing the CHP will satisfy the issues raised by the superior court.

Ahtna proposes the following straight-forward approach to complying with the court's decision and re-authorizing the CHP and Tier I hunt the Board adopted in 2009.

1. First, re-authorize the CHP and its administration by Ahtna by amending the CHP authorizing regulation to directly address the issues raised by the court. The court held that the Board had the authority to adopt a CHP so long as it was not residency based. The following amendments addresses that issue and the issue the court raised regarding the administration of the CHP.

- Amend 5 AAC 92.072 to add explicit language clarifying that eligibility for a CHP is not residency based: "Any community or group of Alaska residents, regardless of location or residency, can apply for and participate in the CHP program if otherwise eligible under the Board's regulation."
- Amend 5 AAC 92.072(c) to explicitly provide: "the Department shall retain administrative responsibility to ensure that accurate, timely

information is provided to the public regarding who, when and how interested community or group members may participate in the CHP, to determine the lawful criteria for selecting who may hunt, for establishing of any special restrictions for the hunt and for the handling of game, and for establishing the terms and conditions for a meaningful communal sharing of caribou and moose taken under a CHP.”

- Ahtna also suggests that the Board amend 5 AAC 92.072 to delete any references to community “residents” and substitute the term “community member” instead. For example, 5 AAC 92.072(c) would be amended to read: If the board has established a community harvest hunt area for a big game population, residents members of the community may elect to participate in a community harvest permit hunt in accordance with the following conditions: (1) a hunt administrator representing a group of residents community members may apply to the department for a community harvest permit. This change should be made throughout the regulations where the term “resident” is currently used.
2. Second, identify the non-community pattern, or individual subsistence use pattern, for the Nelchina herd using the Board’s eight customary and traditional use criteria.
 3. Third, determine the amount necessary for subsistence uses (ANS) for each of the subsistence use patterns identified by the Board for the herd. The BOG has already established an ANS of 300 caribou for the CHP adopted for the eight communities. Thus, the Board only needs to establish a separate and additional ANS for any other non-community based subsistence uses it may identify for the herd.
 4. Fourth, determine what season, bag limit, method and means, etc. are required to provide each identified subsistence use a reasonable subsistence hunting opportunity. The opportunity the Board provided for the Ahtna CHP in 2009 worked well for the communities and only needs to be re-adopted in 5 AAC 85.025(8): “1 caribou per harvest report per regulatory year by community harvest permit only; up to 300 caribou may be taken.” The same August 10-September 20 and October 21- March 31 season should be re-adopted for the CHP. Thus, the Board only needs to establish a reasonable opportunity for any other subsistence use it may identify for the herd.
 5. Fifth, provide non-subsistence hunting opportunities for the herd if the harvestable surplus is greater than the ANS. The Board has several drawing, registration and other options before it for administering such a non-subsistence hunt

By following these steps the Board will be in compliance with the court’s decision and will set the Nelchina hunt on a course that makes sense and fulfills the Board’s legal responsibilities. All Alaskans engaged in subsistence uses will be treated equally; all will be provided a reasonable opportunity to engage in the pattern of taking and use that defines the subsistence use they are engaged in. Other Alaskan hunters not engaged in subsistence hunting will finally be afforded a hunting opportunity.

Before the Board determines the ANS for the Nelchina herd it must identify the subsistence uses of the herd. It can then establish the number of hunters engaged in

subsistence uses and the ANS necessary to meet the subsistence needs of these subsistence users.

The “All Alaskans” policy as currently interpreted by the Department of Law may mean that all Alaskans are eligible to participate in subsistence uses at the Tier I level, but it does not mean that all Alaskans who are engaged or want to be engaged in caribou hunting are engaged in a subsistence use. It does not mean that every hunter that applied for or hunted with a Tier II permit was engaged in subsistence uses. The assumption that all Alaskans who seek to hunt for the Nelchina herd are engaged in subsistence uses is arbitrary and not supported by the record this Board has established throughout the years when it has repeatedly stated its belief that not all hunters of the Nelchina herd are engaged in a subsistence use. The Board’s 2006 Findings regarding C&T uses of the Nelchina herd demonstrate that not all hunting of the Nelchina herd is consistent with C&T subsistence taking and use pattern the Board identified for the herd.

How does the Board logically, reasonably and legally proceed under the “All Alaskans” Policy? The Board must identify, using the eight C&T criteria, which uses in addition to community uses of the Nelchina herd are subsistence uses. Once the Board identifies the patterns of taking and use that distinguish and define the “individual” or other pattern(s) of subsistence use of the herd, it must provide “all Alaskans” who are engaged in that pattern of use, regardless of residency, a reasonable opportunity to engage in those uses. Not all hunting is subsistence hunting and the “All Alaskans” policy does not require the Board to regulate all hunting, and hunters, as subsistence uses or users.

The Law does not require the Board to provide the exact same “reasonable opportunity” for all the distinct subsistence uses it identifies for the Nelchina herd.

The Board has the authority, and with its 2006 Findings and the evidence before it, the Board has the record, to identify at least two different subsistence uses for the Nelchina herd. The law requires the Board to establish an ANS for all of the subsistence uses it identifies and to provide each subsistence use with a reasonable hunting opportunity. Different patterns of subsistence taking and use may and probably do require different hunting opportunity, and the Board is authorized to recognize those differences and provide for each according to its individual characteristics and needs.

The rationale for substituting the term “resident” with “community member” in 5 AAC 92.072, the CHP authorizing regulation.

Substituting the term community member for resident concretely demonstrates that a CHP is not residency based because a person does not necessarily have to be a resident of a community to be a community member. A member of the community, for the purposes of a CHP, is person who participates in the subsistence way of life that defines that community; a person who participates in the pattern of subsistence taking, sharing and uses that the Board has identified as the community subsistence use. There are people who were born and raised as residents of subsistence communities, or who have kinship or other strong ties to subsistence communities, who have moved to urban areas and still continue to return to the community and participate in the patterns of subsistence taking, sharing and uses which define that community. Those persons are members of the community regardless of their place of residency. The suggested

amendment to define a subsistence community by members rather than residency is consistent with how subsistence communities actually exist, function and define themselves.

Implementing a "community member" based CHP does not present significant administrative problems. All residents of an eligible community who wish to participate in a CHP could be justifiably presumed to be community members. Establishment of community membership by those who are not residents of the community could be through an affidavit by the community member along with supporting statements by members of the community. Community membership could be further confirmed by ADF&G through concurrence or consultation with local governments.