

Emergency Petition Requesting Alaska Board of Game to Adopt Emergency Regulation Closing State Lands Along the Eastern Boundary of Denali National Park (GMU 20) to Taking of Wolves

Hunting in the area (proposed herein for closure by Emergency Regulation) is currently scheduled to reopen on Aug. 10, 2019; and trapping on Nov. 1, 2019.

July 25, 2019

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Legal context

This petition, filed pursuant to AS 44.62.220 and Joint Board Petition Policy (5 AAC 96.625(f)), requests the Alaska Board of Game to establish an Emergency Regulation closing state lands identified below in Game Management Unit (GMU) 20 along the northeastern boundary of Denali National Park & Preserve to the taking of wolves. Under the Joint Board Petition Policy, (5 AAC 96.625(f)), an emergency is defined *inter alia* as “an unforeseen, unexpected event that...threatens a fish or game resource.” Thus, the legal threshold for emergency action proposed herein is that there exists a *threat* to a *game resource*, and that this threat was *unexpected* and

unforeseen by the Board. As discussed below, both threshold conditions are clearly met in this case.

This petition does not assert that there exists a threat to the wolf populations across GMU 20, or even subunits GMU 20C or GMU 20A, nor does it propose protecting such with this request. The petition proposes simply that a small subset of the GMU 20 wolf population – the twenty or so individual animals that comprise what had been the most viewed wolf packs in eastern Denali National Park – is at risk from take on adjacent state lands, and asks the State to grant protection to this small, unique subset of the GMU 20 wolf population due to its significant and disproportionate economic value to Alaska.

It is important to note that nowhere does Joint Board Policy 5 AAC 96.625(f) state that, to be eligible for emergency action, a threat to a game resource must be found to exist across an entire GMU, entire GMU subunit, or entire wildlife population. Nor does the statute/policy identify a threshold level of decline or threat that must be found to exist. In fact, the language is silent as to the geographic, ecological, or economic scale across which a threat must extend, and the severity of decline or threat that must be found in order to be eligible for emergency regulation by the Board. While traditionally the Board and Department have interpreted the emergency regulation statute/policy to apply only across broad geographic areas (e.g., across entire GMUs), or threats/declines to entire populations, the statute/policy itself clearly does not impose such limitations.

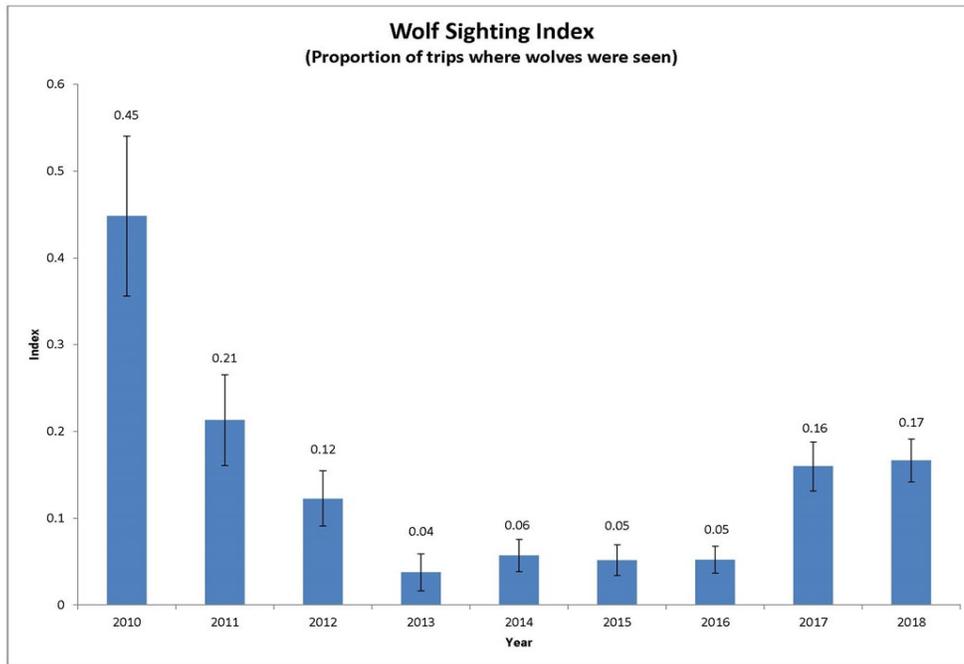
Thus, it is permissible and entirely appropriate to apply the statute/policy to a small subarea and unique subpopulation of a wildlife resource, such as the few wolf packs important for wildlife tourism in eastern Denali National Park. We note that in 2018, Denali National Park & Preserve contributed over \$858 million and 7,300 jobs to the state economy (NPS, 2018). One of the primary reasons tourists come to Denali is to view wildlife, including wolves. In contrast to Denali, a 2008 study concluded that, following the 1995 reintroduction of wolves at Yellowstone National Park, wolf viewing has contributed \$35 million annually to the states of Idaho, Montana, and Wyoming (Duffield, et.al., 2008). Considerable economic potential exists at Denali if wolf-viewing success can be restored.

Accordingly, the petitioners respectfully request that the Board immediately act affirmatively on this petition.

Unforeseen and unexpected threat to game resource requiring emergency action

The unexpected and precipitous **decline in the Denali wolf-viewing resource** clearly meets the threshold for emergency action by the Board. Since the Board of Game removed the no-take Denali wolf buffer in 2010, wolf-viewing success for the park's 600,000 annual visitors has dropped precipitously (see Denali National Park wolf sighting success chart below). As far as we are aware, this precipitous decline

in wildlife viewing success is unprecedented in the history of the U.S. National Park system.



Of immediate concern and relevance to this Emergency Petition, preliminary reports this month from Denali National Park wildlife staff, and bus drivers/employees in the Park, suggest that visitor-viewing success for the 2019 season has been and will continue to be exceptionally low.

2019 Denali Bus Driver Survey

A just-completed (July 18, 2019) survey of 43 Park bus drivers/employees (organized by 30-year Denali bus driver and wildlife observer Bill Watkins) reported that, for the 75-day period from April 27, 2019 – July 10, 2019, only 15 wolf sightings (of 20 wolves) were reported. Two thirds of the respondents (29 of the 43 drivers/employees) reported no wolf sightings at all so far this year. This represents a significant loss in the tourism value of Alaska’s most valuable tourism asset – Denali National Park & Preserve.

July 2019 Denali National Park Staff Wolf Update

Denali National Park wildlife biologist Dr. Bridget Borg reported her most recent unofficial update on eastern Park wolves in a (solicited) July 18, 2019 email, as follows (**emphasis added**):

As of March, we had 70 wolves in 10 packs that resided primarily in the park study area. It appears that at least 7 packs denned but we don't have any pup counts for packs yet. This time of year is "slow" in terms of getting updated pup counts as the pups are just starting to venture away from their den and rendezvous sites but they are still difficult to see under all of the vegetation.

The Riley Creek West pack was seen frequently last year because they rendezvoused close to the park road for much of the season. However, both adults of the pack were killed by other wolves this winter and the fate of their five pups is unknown. The loss of this pack and the potential for their activity close to the road will likely mean a decrease in sightings this season, compared to last.

1202BF, the Riley Creek female, is still with the male (1911GM) that we collared this spring. She was seen a few weeks ago, limping along by mile 10 with a road kill squirrel in her mouth. There was another, uncollared wolf with these two and it is possible that the third wolf denned, potentially at the Tek den site because both 1202 and 1911 frequented this site in early summer. They now have started ranging further and most recently have been along the Tek, outside of the park. The other "eastern" pack has denned in the Wigand Flats and typically doesn't travel as far south as the Park Road. There are two single wolves that traverse the park road east of Eielson, and a of course a number of other transients in the mix, presumably.

*There are reports of sightings of 1202 periodically and a few other scattered sightings. primarily of lone wolves, and **I predict that wolf sightings overall will be lower this year given the lack of resident pack activity in proximity to the road.***

We won't come up with an updated population estimate until the fall, once we get updated pup counts for each pack.

Dr. Bridget Borg, Denali National Park, July 18, 2019

While final data will not be available until after the 2019 visitor season, it is evident that wolf-viewing success in Denali will be extremely low this year, potentially even the lowest on record. This represents a considerable, and avoidable, loss in wildlife resource value to the State of Alaska.

We recognize that natural factors may be involved in the wolf-viewing decline (e.g. wolf-on-wolf predation, prey abundance, etc.), but science confirms that trapping/hunting take on state lands northeast of the Park is also a contributing factor. And while wildlife managers can't do much about natural causes, they can and should help to restore this wildlife resource by minimizing additional losses from trapping/hunting.

In fact, the hunting/trapping take of just one significant breeding individual can lead to the loss of an entire family group (pack), thus causing a decline in visitor viewing success. Studies by Denali National Park wildlife biologists confirmed previously published studies concluding that the hunting/trapping take of a significant breeding individual from a wolf family group (pack) at Denali can cause the family group (pack) to not den and then disband, resulting in a subsequent loss of wolf-viewing success (Borg, et.al., 2015, 2016).

Just since the State removed the no-take buffer in 2010, three Denali wolf family groups (packs) have disintegrated due to the trapping/hunting take of significant breeding individuals on state lands along the northeast Park boundary: Grant Creek 2012; East Fork 2015/2016; Riley Creek 2018.

It is inarguable that the take of wolves on state lands adjacent to Denali National Park and Preserve has caused significant, deleterious impacts to visitor viewing success of park wolves – a valuable Alaska *game resource* - and this impact was *unforeseen* and *unexpected* by the Board of Game when it eliminated the no-take buffer in 2010, imposed its 6-year moratorium on future such proposals, declined two previous Emergency Petitions for the closure, and declined subsequent closure proposals.

Importantly, additional take of park wolves on state lands along the park boundary in summer/fall 2019 could cause significant, deleterious impacts to this valuable wildlife and economic resource. As the Board of Game will not meet again on such issues until March 2020, there is clearly need for an Emergency Closure before the season is scheduled to reopen Aug. 10, 2019.

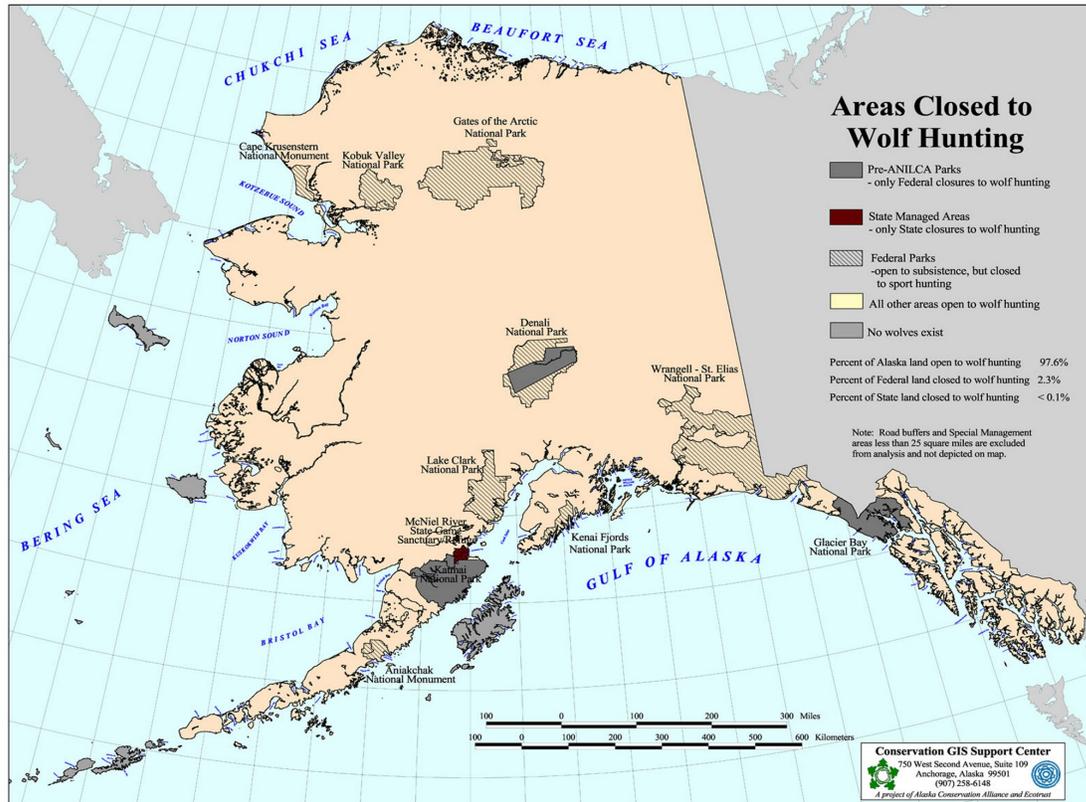
Necessity of Petition for Emergency Regulation

Previously, the ADFG Commissioner approved (by Emergency Order) two requested closures of wolf take in this area to protect Park values – the first in May 2015, the second in March 2018. Both of these were helpful, but unfortunately were enacted only *after* a significant breeding individual had been taken on state lands along the Park boundary, and thus too late to prevent significant loss to the resource. The petitioners feel that at this point, it is clearly in the State's interest that a repeat of such a management misstep be avoided. As discussed above, the take of even one significant wolf could seriously jeopardize the recovery of this valuable resource – wolf viewing in Denali National Park.

We also note that, in the interest of the wildlife-viewing resource in the Park, former Governor Walker had seriously considered establishing a Denali Special Use Area administratively closing this small area along the Park boundary to take of predators, but ultimately he declined to act on this request.

Finally, as you see from the map below (provided by ADFG), approx. 97.6% of all lands in Alaska are open to wolf take, leaving only 2.4% permanently closed. ADFG

statistics estimate total wolf take in Alaska at approx. 1,500/year. Thus, petitioners are simply asking that this small area adjacent to Denali National Park be closed to protect the 2 or 3 wolf family groups (perhaps 20 individuals) most viewed by visitors to the Park – the only place in Alaska where visitors have (or had) convenient opportunity to view wolves in the wild.

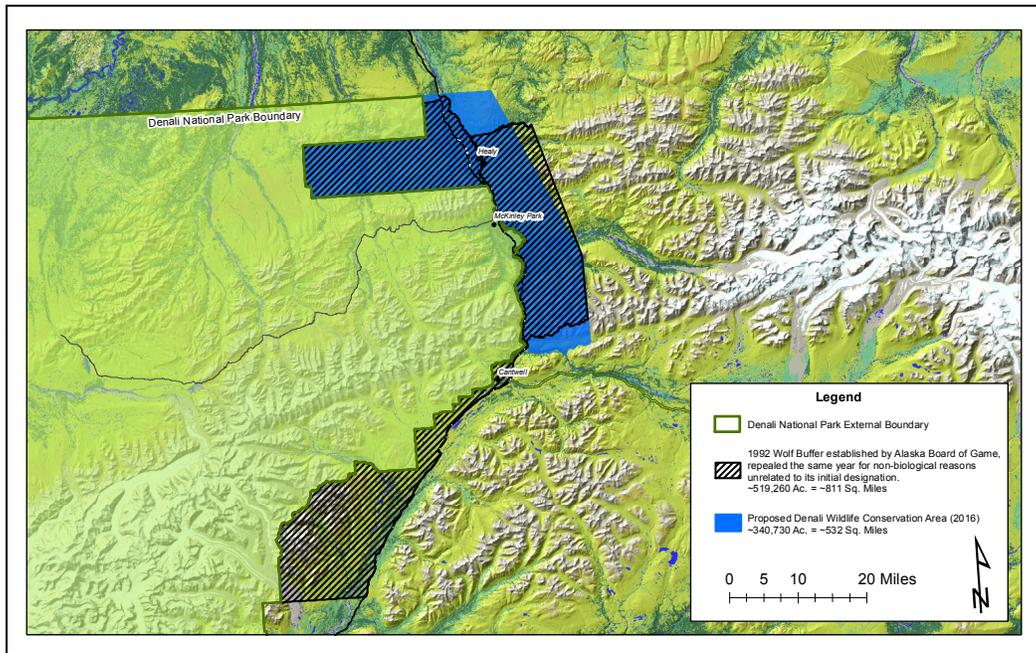


Emergency Regulation Requested

This petition respectfully requests that the Board of Game immediately adopt the following Emergency Regulation:

Take of wolves is prohibited on state lands (GMU 20), on all lands abutting the east and northeast boundaries of Denali National Park & Preserve (the Park), within the following boundaries: Commencing at the far northeast corner of the Park (approx. 64° N, 149° 13' W), thence due east until intersecting with Elsie Creek (approx. 64° N, 148° 53' W), thence southeastward along a straight line to the top of Dora Peak (approx. 63° 49.20' N, 148° 41' W), thence southeastward along a straight line to the top of Pyramid Mountain (approx. 63° 38.40' N, 148° 31' W), thence due south until intersecting Bruskasna Creek (approx. 63° 27' N, 148° 31' W), thence westward (downstream) along the north side of the Nenana River to its confluence with Windy Creek/Jack River at the east boundary of DNP (approx. 63° 27.90' N, 148° 49' W).

Map of Proposed Emergency Closure: (Blue area)



The proposed boundaries for the closed area coincide approximately with the eastern Denali National Park wolf migration area, as delineated by telemetry locations. It is clear from park telemetry data that the home range of several park packs extends into the limited area of state land adjacent to the park boundary that is proposed for closure.

The proposed closed area would provide significant, but not complete, protection to Park wolves, and would provide a reasonable chance for the restoration of the wolf viewing opportunities within Denali National Park – a valuable Alaska game resource.

If the Board wishes to consider alternative boundaries for the closure, petitioners would be open to such discussion.

Beneficiaries of Requested Regulation

Denali National Park visitors (approx. 70,000+ Alaskans, and 500,000+ out of state visitors) who desire easy access to view wolves in the wild; tour operators and the Alaska tourism industry; trappers/hunters statewide, as public opinion re: hunting/trapping would be less impacted; the State of Alaska's reputation for wildlife management; public safety for people and pets using the Stampede Trail;

people who value the concept of conservation areas for wildlife, in particular adjacent to National Parks.

In June 2018, the Remington Research Group (contracted by the Humane Society of the U.S.) conducted a statistically rigorous (random) poll of over 1,000 Alaskan voters regarding their opinion of wildlife management issues in Alaska. One of the questions regarded the Denali buffer, and the results are below:

Question 6: Each year, hunters and trappers target and kill wolves, brown bears, black bears, wolverines, lynx and other wildlife on state lands along the northeast boundary of Denali National Park & Preserve (also known as the Stampede Trail). This affects Denali's ecosystem and reduces the Park's 650,000 annual visitors' wildlife-viewing success. Do you support or oppose establishing a no-kill buffer zone on these state lands adjacent to the northeast boundary of Denali National Park and Preserve to protect wolves, bears, wolverines, lynx and other wildlife?

- Support: 54 percent
- Oppose: 37 percent
- Not sure: 9 percent

Clearly, a majority of Alaskans support the establishment of a Denali wildlife buffer. We are confident that the margin of support is even stronger among out-of-state visitors.

Those Disadvantaged by the Requested Regulation

The few sport hunters who have operated in the area in recent years would need to relocate their hunts out of the closed area, away from the park boundary, but would retain access to all other areas nearby open to hunting.

Benefit/Cost of Requested Emergency Regulation

The significant advantages deriving from this proposed regulation to Alaska citizens, Alaska's tourism economy, the State of Alaska, and others greatly outweigh the inconvenience of the few hunters that would need to relocate their operations further from the Park boundary.

Conclusion

Article VIII of the Alaska Constitution – *Natural Resources* – stipulates that natural resources will be managed as a “public trust,” providing “for maximum use consistent with the public interest,” and for the “utilization, development, and conservation...for the maximum benefit of (the) people.” Clearly, this constitutional provision provides for non-consumptive uses of wildlife such as *wildlife viewing*, along with consumptive uses such as *hunting and trapping*. Regarding this issue, there is significant value to *tens of thousands of Alaskans* provided by the viewing of

Denali National Park wolves. The value and public interest to thousands of Alaskans provided by seeing Denali wolves, as well as the value to the many Alaskan businesses reliant on this wildlife viewing tourism, should greatly outweigh the value and public interest of the few individuals being allowed to continue trapping and hunting Denali wolves along the park boundary.

It is irrational, and we would argue unconstitutional, to continue placing the interests of a few Alaskans over the interests of thousands of Alaskans. Emergency regulation by the Board is clearly appropriate in this case, as there is a clear *threat* to an important Alaska *game resource*, that was *unforeseen* and *unexpected*. The State's previous opposition to this reasonable request is at odds with science, reason, economics, the Alaska constitution, and most Alaskans.

This emergency petition presents significant new information showing the severity of potential impact of the take of park wolves on state lands adjacent to the northeast boundary of the Park; the decline in viewing success of Denali wolves; the 2019 wolf viewing success will likely be extremely low; and that the Alaska Constitution requires wildlife resources to be managed for the greater, not narrow, public interest.

We recognize that for the past decade, the Board has been resistant to a Denali wildlife buffer to protect watchable wildlife in the Park. But given the clear facts at this point, we remain hopeful that the Board will see the overwhelming public interest value of the Emergency Petition proposed herein. This petition presents the Board with an opportunity to demonstrate its willingness to protect a valuable non-consumptive wildlife viewing resource as supported by a majority of Alaskans.

Failure to act affirmatively on this petition would likely be seen by many as a betrayal of the Board's legal and ethical responsibility to act in the interest of the majority of Alaskans.

Petitioners respectfully request that the Board publicly notice its emergency meeting to consider this Petition, provide for public comment at such meeting, deliberate this issue thoughtfully and objectively, and approve the requested emergency regulation prior to Aug. 10, 2019.

Attachments