

### **Misconceptions on the Alaska Native Practice of Bear Denning**

We understand that some entities may be concerned that the pending proposed rule under OIRA review (83 Fed. Reg. 2361, May 22, 2018) would, among other things, repeal a 2015 rule (80 Fed. Reg. 64235, Oct. 23, 2015) banning the taking of black bear cubs and sows with cubs on Alaska National Preserves during winter, when bears are in dens ("bear denning").

There are considerable misconceptions about the scope of the bear denning issue. Those misconceptions should not delay finalization of the broader proposed rule that would repeal other unwarranted provisions in the 2015 rule, which improperly "federalized" hunting regulation in Alaska. As associations of recreational hunters and guides, none of whom engage in bear denning, the Alaska Professional Hunters Association, Safari Club International, and Sportsmen's Alliance Foundation offer the following information about the limited scope of this practice and its cultural and subsistence importance to Alaska Natives:

- **The practice of bear denning is geographically limited** to just 60 of the 31,250 square miles of Alaska National Preserves. On the other 31,190 square miles, State law already bans bear denning.<sup>i</sup>
- **The small area where bear denning is permitted is remote**—located in Gates of the Arctic National Preserve in north-central Alaska above the Arctic Circle. This area is far from any roads or trails, with the nearest road, the Dalton highway, approximately 100 miles to the East.<sup>ii</sup>
- **Visitors to Gates of the Arctic National Preserve who do not wish to view this activity will not encounter it.** In addition to the practice's remote location, the number of non-Native visitors is minimal. During the season when the State allows bear denning (October 1 to April 30), on average only 811 visitors per year set foot anywhere in Gates of the Arctic's 13,228 square miles expanse.<sup>iii</sup>
- **Bear denning is of considerable cultural and nutritional importance to the Alaska Native community as a source of food during the long Alaska winter.** People inhabiting this remote area are Alaska Natives from the villages of Kobuk, Shungnak, and Alatna. See Ex. A (map). Alaska Natives in these communities can already take advantage of the subsistence hunting exception to the 2015 rule's prohibition on bear denning.<sup>iv</sup> The practical effect of the 2015 rule is to prohibit Alaska Natives who have left these communities from returning and participating in this cultural tradition.<sup>v</sup> Including the visiting family members preserves Native cultural traditions which erode as members of Native communities move away to look for work out of economic necessity.<sup>vi</sup>
- **Recreational hunters do not engage in bear denning.** Accordingly, the rule does not impact "sport hunters." Instead, as discussed above, it impacts Alaska Native hunting for food out of nutritional and cultural necessity, who bring along their visiting relatives.

- **The withdrawal rule will restore the State of Alaska’s jurisdiction to determine hunting seasons and methods on National Preserves.** This will apply to hunting of various species in addition to black bear and to many hunting practices.
- Releasing the withdrawal rule will allow Alaska Natives to bring their visiting urban relatives with them on traditional hunts which are subsistence hunts as factual matter, but are not legally subsistence hunts due to the relative’s residence. Releasing the withdrawal rule will lift restrictions on other practices and properly restore wildlife management authority with the State.
- Please see the attached news report (Fairbanks Daily Miner, Jan. 19, 2018, Ex. H) describing how a group of students came from Florida to Alaska to propose that the State outlaw bear denning. After meeting with members of the Native community and learning more, the students withdrew their proposed ban and apologized.

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<sup>i</sup> For locations, see the attached map of Alaska Game Management Unit (GMU) 24, which also shows in an inset where the GMU in Alaska as a whole (Ex. A). The light green shaded area that intrudes just into Unit 24C is 60 square miles of Gates of the Arctic National Preserve, and is the only location on Alaska National Preserves where State law will allow bear denning if the 2015 rule’s prohibition is lifted by the proposed rule. September 2018 Environmental Assessment, p. 30 (Ex. B). The affected area is 2.85% of GMU 24C (Ex. B, p. 30) and GMU 24C has 3502 square miles (information from [www.onxmaps.com](http://www.onxmaps.com)). 2.85% x 3502 square miles = 60 affected square miles. A map showing the location of all GMUs is Ex. C. The 2019-2020 Alaska State Hunting Rules lists the GMUs where State law allows bear denning (Ex. D, p. 19) – the 60 square miles is the only overlap with a National Preserve.

Note that a different land category, Gates of the Arctic National Park, occupies more of GMU 24 (see the dark green shaded area on map, Ex. A). However, because that other land is National Park land rather than National Preserve land, it is unaffected by the Proposed Rule. Recreational hunting (a/k/a sport hunting) is allowed on National Preserves but not National Parks. 16 U.S.C. § 3101. The 2015 rule’s prohibition on bear denning exempts subsistence hunting. Thus, whether or not the proposed rule becomes law: (1) recreational hunting of all kinds will remain illegal on National Parks, so there will be no bear denning on National Parks by recreational hunters, and (2) bear denning by subsistence hunters will remain legal on both National Preserves and National Parks. The current bear denning issue is extremely narrow.

<sup>ii</sup> See Map (Ex. A) which has a scale for estimating distance from the 60 affected square miles to the Dalton Highway. Ex. E is information from the Gates of the Arctic NPP website on the difficulty of travel.

<sup>iii</sup> Ex. F is a spreadsheet containing National Park Service monthly visitation statistics for Gates of the Arctic National Parks and Preserve. The square mile figure is from the Wikipedia entry for Gates of the Arctic National Park and Preserve (there are 640 acres on one square mile).

<sup>iv</sup> 80 Fed. Reg. 64235 (2015 Rule, including the bear denning rule, applies to “non-subsistence hunting”).

<sup>v</sup> Only rural Alaskans are eligible for the federal “subsistence” classification. 16 U.S.C. § 3113.

<sup>vi</sup> See Ex. G (“Promises to Keep, Subsistence in Alaska’s National Parks,” National Park Service).