

## **DRAFT STAFF ANALYSIS RP19-01**

### **ISSUE**

Nonrural Determination Proposal RP19-01, submitted by Jeffrey Bryden of Moose Pass, asks the Federal Subsistence Board (Board) to consider Moose Pass as a rural community, independent of the greater Seward area.

### **DISCUSSION**

The proponent states that Moose Pass is a community that has maintained a unique culture, but it has never been considered on its own merits, outside of meeting the requirements for aggregation with the greater Seward area. The proponent asserts that under the new Federal Subsistence Board's Nonrural Policy, Moose Pass should be considered a separate community from Seward, and will qualify as rural.

The proponent describes the area for consideration as extending from Mile 25 to Mile 37 of the Seward Highway. The proponent justifies these community boundaries by distinguishing landmarks, like Falls Creek at Mile 25 and the junction (the "Y") at Mile 37, as well as separation in utility service areas. South of Mile 25 is a different postal code and has separate electrical service from those found north of Mile 25. The proponent also asserts that no one lives north of Mile 37 until after the start of the Sterling Highway and the beginning of the Federally defined rural area.

The proponent provides rationale for seeking a change in the nonrural status of Moose Pass. He states that Moose Pass is an old Alaskan community with a unique culture that is separate from Seward. The community has its own churches, community club, fire department, post office, businesses, and school. The proponent describes a way of life he claims is similar to other rural Alaskan communities in that residents rely upon fishing and hunting in the region and gathering natural resources like firewood, mushrooms, and berries from the Forest Service lands that surround Moose Pass. He points out that the community is surrounded by Federal lands that are open for subsistence harvest activities by rural residents, and that Federally qualified citizens have harvested resources from the lands surrounding their community. The Federal lands limit the growth of Moose Pass, which the proponent states is why the local population has not grown, but has remained stable. This has allowed the community to keep the rural feel and culture that drew him to the area in the first place. The proponent argues that because Forest Service lands are open to subsistence harvest activities, Moose Pass residents should be eligible to harvest local resources.

### **Extent of Federal Public Lands**

Unit 7 is comprised of approximately 78% Federal public lands, and consists of 50% Forest Service managed lands, 23% National Park Service managed lands, and 5% U.S. Fish and Wildlife Service managed lands. The National Park Service lands (Kenai Fjords National Park) are not open to subsistence uses (see **Figure 1**. Federal Lands in Unit 7).

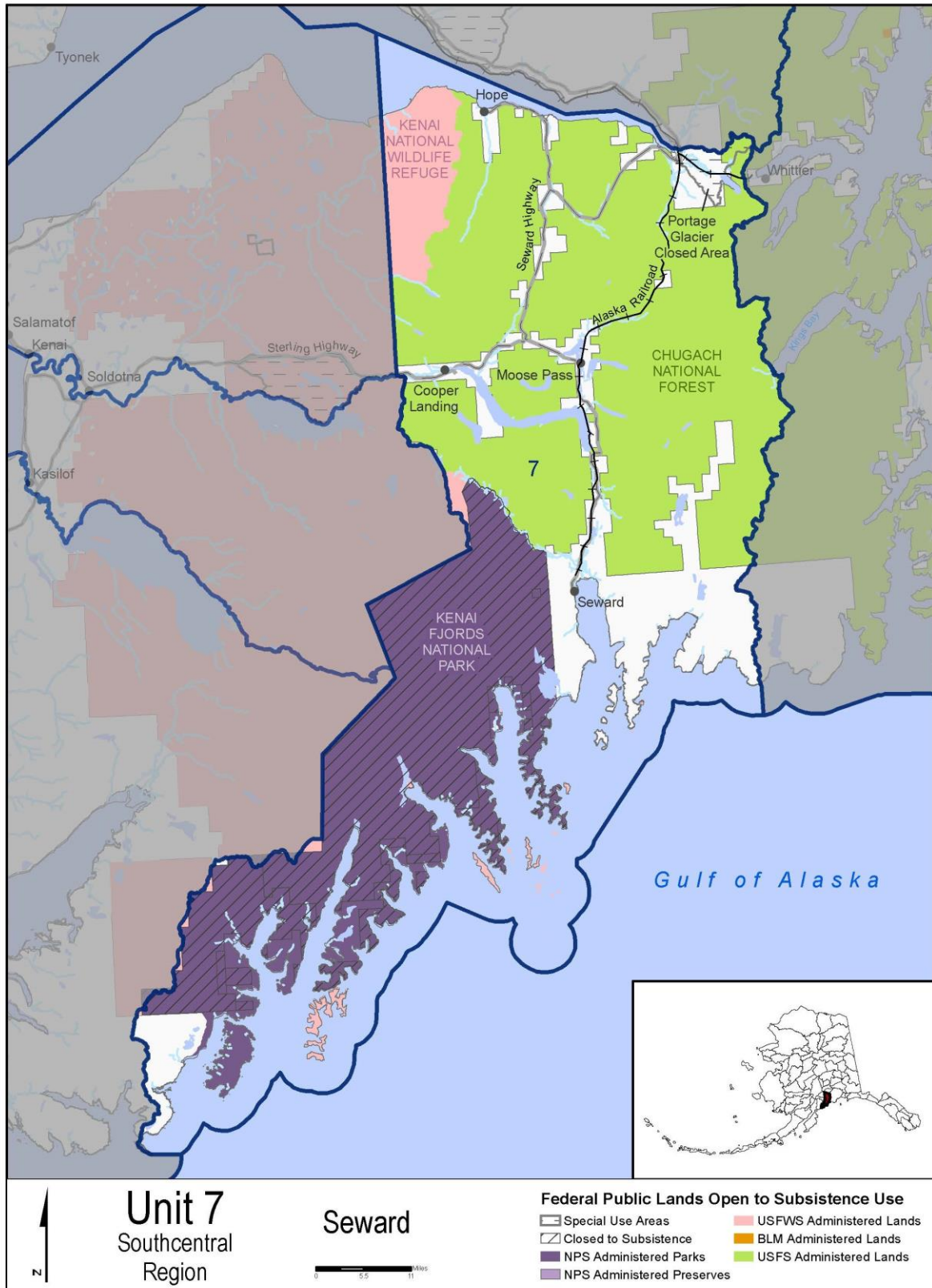


Figure 1. Federal Lands in Unit 7.

## Regulatory History

### 1990s

While Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) does not explicitly define “rural,” the legislative history of ANILCA provides some insight. Senate Report 96-413 identified Anchorage (population 174,431), Juneau (22,645), Fairbanks (22,645), and Ketchikan (7,200) as examples of nonrural communities in 1980, and Barrow (population 2,267), Kotzebue (2,054), Nome (2,544), Bethel (3,567), and Dillingham (1,563) as examples of rural communities, and further stated that the rural nature of such communities is not a static condition and can change (55 Fed. Reg. 126, 27119 [June 29, 1990]). The Ninth Circuit Court of Appeals provided some guidance in its decision in *Kenaitze Indian Tribe v. State of Alaska*, when reviewing the State’s subsistence law, “[Rural] is a standard word in the English language commonly understood to refer to areas of the country that are sparsely populated, where the economy centers on agriculture or ranching . . .” (*Kenaitze Indian Tribe v. State of Alaska* 1988).

With that starting point, the rural/nonrural determination process established in 1990 included a process for aggregating communities that were socially and economically integrated *before* assessing the community or area for rural/nonrural characteristics. At the beginning of the Federal Program, communities were aggregated using the following criteria: (1) Do 15% or more of the working people commute from one community to another; (2) do they share a common school district; (3) are daily or semi-daily shopping trips made. Once aggregated, community or area population size was assessed; a population of up to 2,500 was rural, over 7,000 was nonrural, and those communities with populations in between were not presumed to be rural or nonrural. In order to evaluate a mid-range community or area’s rural status, the Board applied characteristics that included, but were not limited to: fish and game use; development and diversity of the economy; community infrastructure; transportation; and educational institutions.

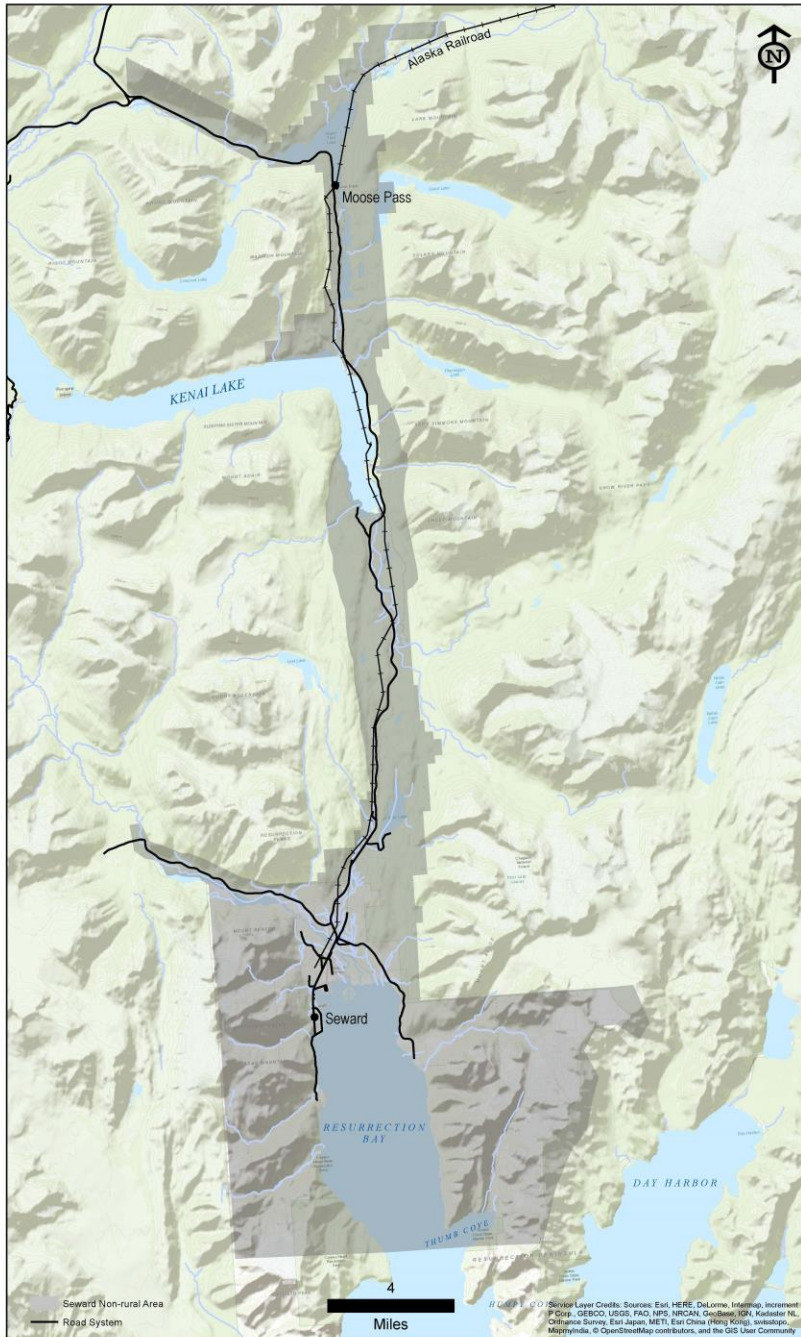
The Board aggregated Seward with Moose Pass (estimated populations 2,463 and 144 respectively) and created a Seward Nonrural Area (**Figure 2**). At the time of the first aggregation in 1988, Crown Point and Primrose were not yet CDPs and staff were not able to confirm at this time if the Moose Pass CDP incorporated all or only parts of present day Crown Point and Primrose CDPs. Together, these areas had a population over the 2,500 person threshold stipulated in the Board’s policy. Based on the process outlined above, it was determined that the Seward Area had primarily nonrural characteristics (56 Fed. Reg. 238 [January 3, 1991]).

### 2000s

In May 2000, the Board determined the Kenai Peninsula to be rural effective July 1, 2000 (127 FR 40732 [June 30, 2000]). The June 30, 2000 Federal Register final rule (65 FR 40730) noted the following:

The Board, after hearing a summary of the staff report, including oral and written comments on the Proposed Rule, receiving a recommendation from the Southcentral Regional Advisory Council, and receiving testimony from the State of Alaska, and numerous interested citizens, deliberated in open forum and determined that the entire Kenai Peninsula should be designated

rural. Accordingly, we are amending 36 CFR 242.23(a) and 50 CFR 100.23(a) to remove the Kenai Peninsula communities (Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, Clam Gulch, Anchor Point, Homer, Kachemak City, Fritz Creek, Moose Pass, and Seward) from the list of areas determined to be nonrural.



**Figure 2.** Seward Nonrural Area.

However, in June 2001 the Board rescinded its decision (67 FR 30561 [May 7, 2002]). The May 7, 2002 Federal Register final rule (67 FR 30559) contained neither background on nor summary of the reasons

for the Board rescinding its 2000 determination that all of the Kenai Peninsula was rural. In reviewing the transcripts, four of the six Board members who voted to rescind the decision provided the following reasons: the aggregation of the three Kenai Peninsula areas for Kenai, Homer, and Seward were valid and, these areas as aggregated are predominately and increasingly non-rural in light of population numbers and community characteristics (FSB 2001: 66). The final rule simply noted the following, amidst a list of ten regulatory changes; no further explanation was provided:

Section\_\_\_\_.23(a)—Included the areas of Kenai, Seward, and Homer to the list of non-rural areas. This reflects the Board’s May 2001 rescision of its May 2000 decision that had determined these communities to be rural.

In August 2007, the Board published the final rule following its 2000 decennial review of rural determinations (72 Fed. Reg. 25688 [May 7, 2007]). In the decennial review, Moose Pass was again aggregated with Seward to form the Seward Nonrural Area (to include Moose Pass, Crown Point, Primrose, Bear Creek, Seward, and Lowell Point CDPs). Additionally, the Board changed Adak’s status to rural, added Prudhoe Bay to the list of nonrural areas, and adjusted the boundaries of the following nonrural areas: the Kenai Area; the Wasilla/Palmer Area, including Point McKenzie; the Homer Area, including Fritz Creek East (except Voznesenka) and the North Fork Road area; and the Ketchikan Area, including Saxman and portions of Gravina Island. The effective date was June 6, 2007, with a 5-year compliance date of May 7, 2012 (77 Fed. Reg. 77006 [December 31, 2012]).

#### 2009 – Present: Secretarial Review and Formation of a New Policy on Nonrural Determinations

In October 2009, the Secretary of the Interior, with concurrence from the Secretary of Agriculture, initiated a Subsistence Program Review which concluded, among other things, that the Board review the process for rural determinations with Regional Advisory Council input. The Board initiated a review of the rural determination process and the 2000 decennial review in 2012 and found that it was in the public’s best interest to extend the compliance date of its 2007 final rule (72 Fed. Reg. 25688 [May 7, 2007]) on rural and nonrural determinations until after the review of the rural determination process and decennial review were complete or in 5 years, whichever came first. Another extension on nonrural determinations was published in the Federal Register on November 7, 2013 (78 Fed. Reg. 66886 [November 7, 2013]).

During the review process the Board solicited public comments and held public meetings across the state. Substantive comments indicated a broad dissatisfaction with the rural determination process that included criteria for aggregation, population thresholds, and the decennial review. Based on Regional Advisory Council input, public comments and Tribal consultations, and including briefings from OSM staff, and under direction from the Secretaries of the Interior and Agriculture, the Board forwarded a proposal that simplified the rural determination process.

On completion of the review, the “Subsistence Management Regulations for Public Lands in Alaska; Rural Determination Process” was published in the Federal Register on November 4, 2015 (80 Fed. Reg. 68249, November 4, 2015). In it, the revised regulations governing the rural determination process and the 2009 secretarial review were described. The summary states:

The Secretaries have removed specific guidelines, including requirements regarding population data, the aggregation of communities, and a decennial review. This change will allow the Federal Subsistence Board (Board) to define which communities or areas of Alaska are nonrural (all other communities and areas would, therefore, be rural). This new process will enable the Board to be more flexible in making decisions and to take into account regional differences found throughout the State. The new process will also allow for greater input from the Subsistence Regional Advisory Councils (Councils), Federally recognized Tribes of Alaska, Alaska Native Corporations, and the public.

At the same time, the “Subsistence Management Regulations for Public Lands in Alaska; Rural Determinations, Nonrural List” was published in the Federal Register on November 4, 2015 (80 Fed. Reg. 68248, November 4, 2015). Based on the Secretarial review and the revised guidance listed above, nonrural determinations reverted to pre-2007 regulations, except for the community of Adak which remained rural.

The Board approved the new Policy on Nonrural Determinations on January 11, 2017.

### **Current Events**

A public hearing for public comment on RP19-01 was held October 9, 2019 at the library in Moose Pass. The meeting was attended by 44 people in person; two area residents attended via teleconference. Federal agency representatives also attended in person or by phone. Of the twelve people that provided public testimony (either in person or by phone), five people claimed they resided in the Crown Point area and one person claimed residency in the Primrose area. Ten individuals provided testimony in person and two provided testimony over the telephone. All persons who testified were in support of the proposal. Many provided substantive comments that described the unique characteristics of the community and many argued for an expanded analysis extending consideration beyond the boundaries described in the proposal, asserting a broad definition of the community of Moose Pass.

Public testimony was also presented to the Southcentral Alaska Regional Advisory Council during the October 2019 meeting in Seward. Three residents of the Moose Pass area spoke in support of the proposal, provided substantive comments, and responded to Council member questions regarding their testimony. All three had attended the public hearing in Moose Pass and provided similar testimony to the Council as presented at the hearing.

All twelve people who provided public testimony at the hearing and the three who reiterated their points before the Council on October 10 expressed their perception that Moose Pass is a rural community. Many testified strongly that Moose Pass should never have been aggregated with Seward. Many also stated their community is very different from Seward. They defined those differences in terms of the numbers of stores and businesses, large schools, and numerous churches, asserting that unlike Seward, Moose Pass “...has kept its consistently small number of residents with limited services and amenities” (Public Hearing 2019). All who testified described their community as rural and emphasized that it was the unique rural qualities of the community and the vast undeveloped lands surrounding it that led them to settle there or kept them there as residents.

Of the twelve who provided public testimony, six were area residents that lived outside of the Moose Pass CDP but within other Moose Pass areas of Crown Point and Primrose. A total of eight members of the Moose Pass area provided a perspective that their community was broader than that described in the original proposal. One lifelong resident of the Moose Pass town site described his community as extending from north of the Snow River Bridge up to the “Y,” and even slightly beyond this point.

### **Nonrural Decision Making**

The new Nonrural Policy does not provide explicit criteria or a checklist for determining whether a community is rural or nonrural. Instead, the Board uses a comprehensive approach, including consideration of information provided by the public, and relies on the Council to confirm relevant information and to identify the unique characteristics of a rural community in their region. The following text, taken directly from the Policy, shows **bold** and underlined text that highlights the guidance upon which this analysis is focused.

The Board’s Nonrural Determination Policy states:

“The Board will make or rescind nonrural determinations using a comprehensive approach that may consider such factors as **population size and density, economic indicators**, military presence, industrial facilities, **use of fish and wildlife**, degree of **remoteness and isolation**, and any other relevant material **including information provided by the public**. As part of its decision-making process, the Board may compare information from other, similarly-situated communities or areas if limited information exists for a certain community or area.

When acting on proposals to change the nonrural status of a community or area, the Board shall:

- Proceed on a case-by-case basis to address each proposal regarding nonrural determinations;
- Base its decision on nonrural status for a community or area on **information of a reasonable and defensible nature contained within the administrative record**;
- Make or rescind nonrural determinations based **on a comprehensive application of evidence and considerations presented in the proposal** that have been verified by the Board as accurate;
- Rely heavily on the recommendations from the affected Regional Advisory Council(s);
- Consider comments from government-to-government consultation with affected Tribes;
- Consider comments from the public;
- Consider comments from the State of Alaska;
- Consider comments from consultation with affected ANCSA corporations;
- Have the discretion to **modify the geographical extent of the area** relevant to the nonrural determination; and
- Implement a final decision on a nonrural determination in compliance with the Administrative Procedures Act (APA).

The Board intends to rely heavily on the recommendations of the Councils and recognizes that Council input will be critical in addressing regional differences in the nonrural determination process. **The Board will look to the Regional Advisory Councils for confirmation that any relevant information brought**

**forth during the nonrural determination process accurately describes the unique characteristics of the affected community or region.”**

During the 2019 Southcentral Alaska Subsistence Regional Advisory Council (Council) fall meeting, the Council provided suggestions to OSM staff on how to proceed with an analysis and what kinds of information the Council would find most helpful in assessing characteristics of rural communities in the Southcentral region. After attending the public hearing in Moose Pass the night before, and hearing from Moose Pass area residents during the meeting, Council members expressed tentative support for recognizing Moose Pass as a rural area (SCRAC 2019: 177; 179). Council members also commented on the sense of remoteness that was amplified by the community being completely surrounded by Federal lands (SCRAC 2019: 192). Council members expressed interest in learning more about Moose Pass’ reliance on and traditional use of fish and wildlife and other resources in close proximity to their community (SCRAC 2019: 192; 193; 198). One Council member expressed interest in seeing comparisons with other rural communities on the road system (SCRAC 2019: 200) and another shared on record: “The best indicators were the historic talks from the people that testified. That gave me the usage. That’s what I was looking for” (SCRAC 2019: 198).

These Council comments, along with guidance from the Policy, provide direction for the following organization of this analysis.

## **The Moose Pass Area**

### Environmental and Geographic Setting

The Moose Pass area is situated on the northeastern portion of the Kenai Peninsula. The local topography is mountainous and typified by glacially sculpted valleys and passes, sharp, snow tipped mountains, and watersheds that drain into lakes, rivers, or directly into the ocean. The Kenai Peninsula is within a maritime climate zone supporting boreal forests of hemlock, lutz spruce, and mixed deciduous trees with wet lowlands to the south. The Chugach Mountains run along the eastern portion of the peninsula bordering the Gulf of Alaska. It is within this eastern region of the Kenai Peninsula that the second largest National Forest in the United States (U.S.), the Chugach National Forest, is located. Established in 1907, the Chugach National Forest encompasses 5.4 million acres that are accessible by road, plane, or boat (USFS 2019).

Located within the western extent of the Chugach National Forest is the community of Cooper Landing, and the census designated places (CDPs) of Crown Point, Moose Pass, and Primrose. The town of Seward is just south of the forest boundary and located on the maritime port of Resurrection Bay. All of these places have their origins in the developmental phase of mining and railway construction on the Kenai Peninsula, which began in the early 1900s (Barry 1997; Rakestraw 2002).

Moose Pass is a CDP that shares facilities and some services (post office, school, store, volunteer fire department, the Moose Pass Sportsman’s Club and Community Hall, library, and Chamber of Commerce) with two neighboring CDPs, Crown Point and Primrose, which are located just south of the Moose Pass CDP (Davis et al. 2003). Other important facilities and services situated within the Crown Point and Primrose CDPs include the Seward Ranger District Ranger Station, campgrounds, lodges, and small local



businesses like IRBI Knives. These settlements stretch along the Seward Highway (**Figure 3. Moose Pass Area Map** describes Census Designated Places and important markers); Moose Pass CDP is located between miles 25-37 of the Seward Highway on the shores of Upper Trail Lake, Crown Point CDP between miles 23-25 and Primrose CDP between miles 15-23. Mile 23 marks the location of the former community of Lawing (Davis et al. 2003; Sewell-DeMichele 2002). Mile 15.5 marks the Snow River Hostel, the last structure in the Primrose CDP. The Bear Creek CDP shares a northern border with the Primrose CDP and a southern border with the Seward CDP. Approximately eight miles of uninhabited road stretch between the Snow River Hostel and the first Seward connected settlement within the southern portion of the Bear Creek CDP.

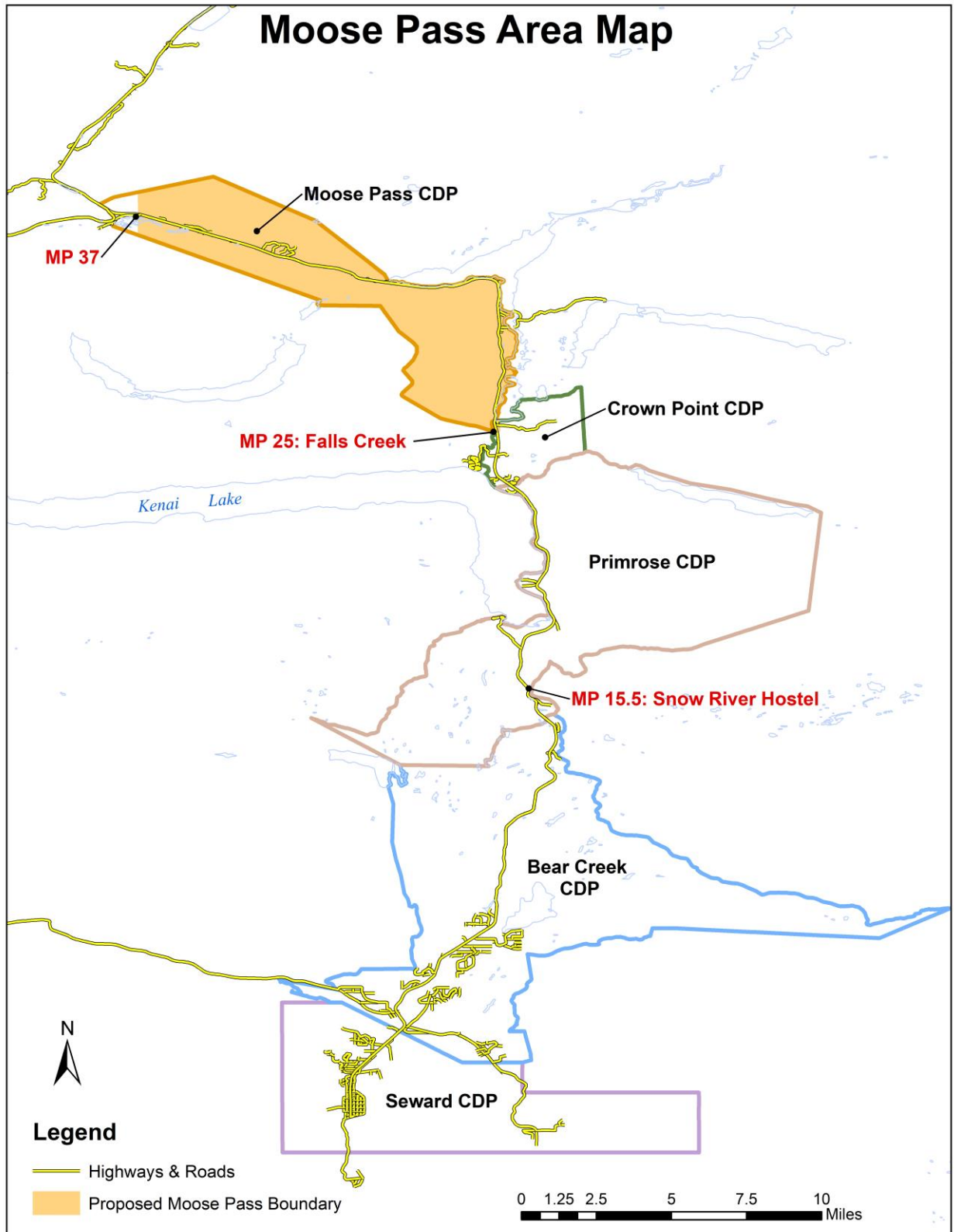
The closest community north of Moose Pass is the rural community of Cooper Landing, which is located on the Sterling Highway about 19 miles northwest of Moose Pass. Cooper Landing is surrounded by the Kenai Mountains and sits along the shores of Kenai Lake and the upper Kenai River (Painter 2002). The town of Seward is located 29 miles south of Moose Pass on the Seward Highway and serves as a hub for a number of industries including shipping and railroad businesses (Morris Communication Company 2019; Olthuis 2002).

#### The Extent of the Moose Pass Community

Some Council members and residents of the Moose Pass area requested an extension of the geographical definition of the community to include those residents that live beyond the boundaries outlined in the original proposal. Reasons given by the proponent for the original delimitation included unique histories of each area, natural geographical boundaries, and some differentiation in services. However, public testimony indicated that a sense of community among most residents is more broad and inclusive in that residents of Primrose and Crown Point CDPs are considered part of the Moose Pass community. Six people who testified at the Public Hearing in October stated they resided outside of the Moose Pass CDP (five were from Crown Point, one was from Primrose) and all stated they felt they were part of the Moose Pass community. Community bonds encompass those households with children who attend the same school, participate as volunteers for the local Moose Pass Volunteer Fire Company, or those who support, plan, and attend the local Summer Solstice Festival. While local neighborhoods in Moose Pass began with unique histories, they did so within a shared timeframe and context, resulting in a common identity. As one Crown Point resident stated, “I’m a Moose Pass person right here. And when the Board finally gets around to acknowledging the reality of Moose Pass as a distinct community, I would hope that it takes a broader view of who lives here, whose kids go to school here and not just whose ZIP code is here or there” (Public Hearing 2019).

Other indications that the Moose Pass community extends beyond the boundaries described in the original proposal come from local organizations that describe the extent of their membership or services. In the Moose Pass Sportsmen’s Club Constitution and Bylaws membership is limited to: “persons residing within the area of Mile 16 Seward Highway to Mile 50 Seward Highway” (Moose Pass Sportsman’s Club 2015). Another source for describing the extent of community interests can be found in the Moose Pass Comprehensive Plan (Moose Pass Advisory Planning Commission 1993). In it, the Moose Pass Volunteer Fire Company is reported to respond to structural fires from mile 16 to mile 36 of the Seward Highway, and would respond upon request to fires occurring between miles 36 to 50 of the Seward Highway. The

fire company is staffed by volunteers from all three neighborhood areas: Crown Point, Moose Pass, and Primrose.



**Figure 3.** Moose Pass area Map describing Census Designated Places and important markers.

University of Alaska Anchorage graduate student Christine Brummer conducted Master’s thesis research in the Moose Pass area. One of the questions she explored was how local residents define their community. In interviews, one respondent explained that most area residents consider themselves to be residents of Moose Pass, even when living within the CDP boundaries of Primrose or Crown Point:

“People can be 10 or 12 miles away and they will still say they are from Moose Pass. So tourists sometimes ask me how big is Moose Pass and I would say, well, just about a square mile, about a half of a mile this way and that way is the town site. But I would tell them that people living about 7 miles north and 10 miles south consider this their community center. They come here for the post office, they come here for Christmas parties and the New Year things that the community puts on... I say that I live along a highway in a mountain pass 30 miles north of Seward and 95 miles south of Anchorage. It is mountainous, it is in a mountain pass, there is not a lot of property to build on except along the highway which follows along the rivers and lakes. And I say that people that live along that corridor, which is long, they consider this one unit” (Brummer 2020).

Finally, the Moose Pass Public Library recently produced a 27 minute video on the community’s history titled “Moose Pass – Where the Alaska Pioneering Spirit Lives On.” The video describes the Moose Pass area as encompassing the “the Alpine beauty of Summit Lake, the swans swimming in Turn Lake, the towering peaks of Avalanche Acres where there is no direct sunlight for three months each winter, the small bucolic community built on the edge of Trail Lake and the shores of Kenai Lake, down to the Snow River bridge” (Moose Pass Public Library 2020). This description defines the Moose Pass area boundaries as extending from Summit Lake at Mile Post 45.5 to Snow River Bridge on the southern Boarder of the Primrose CDP at around Mile Post 15.

### Population

**Table 1** describes the Moose Pass area population from all three CDPs since the 1990 census (Census 2010). The population numbers for 2019 are an estimate from the Alaska Department of Labor and Workforce Development (ADLWD 2019). The population of the entire area is small, even when all three places are combined (n=391). The table shows a slight increase in population between 1990 and the 2000 census, particularly for the Moose Pass CDP. Since 2000 the population within all three CDPs has remained stable.

**Table 1.** Moose Pass area population from 1990 to 2019.

| Moose Pass Area Population |      |      |      |      |
|----------------------------|------|------|------|------|
| Census Designated Place    | 1990 | 2000 | 2010 | 2019 |
| Crown Point CDP            | 62   | 75   | 74   | 69   |
| Moose Pass CDP             | 81   | 206  | 219  | 240  |
| Primrose CDP               | 63   | 93   | 78   | 82   |
| Total                      | 206  | 374  | 371  | 391  |

## History

*Moose Pass.* The Moose Pass area is situated within the traditional territory of the Lower or Outer Cook Inlet Dena'ina Athabaskans on the northwestern portion of the Kenai Peninsula. Not far from the Moose Pass area, Dena'ina people fished and hunted within the Kenai River watershed and traditional Dena'ina place names have been recorded for area landmarks like *Nildilent* (Trail Creek) and *Sqilan Bena* (Kenai Lake) (Davis et al. 2003). The Alutiiq or Sugpiaq traditional territory bordered the southeastern portion of the peninsula. Archeologists report at least two Alutiiq villages in the vicinity of Resurrection Bay and contemporary Seward but these were no longer occupied when Seward was founded in 1903 (Davis 2003).

The community of Moose Pass has its origins in the developmental phase of the early gold rush period in the Kenai Peninsula. At that time, great efforts were made to establish transportation lines between interior mining operations and port cities where goods and supplies were exchanged and purchased. In 1904, construction of the railroad line from Seward into the interior parts of the Kenai Peninsula began (Davis et al. 2003). By 1908, after only 47 miles of railroad tracks were laid down, the railroad company became insolvent. No railroad cars travelled the uncompleted rail line, but the tracks proved to be a useful trail system for the people transporting goods and traveling throughout the region (Barry 1997; Whitmore-Painter 2002).

In 1909, Oscar Christiansen and Micky Natt prepared a dog team and pack horses for a 29-mile journey north from Seward. It was at this 29-mile marker that Oscar and Micky built a small cabin and log roadhouse that served as a rest and resupply place for the miners and travelers in the region (Whitmore-Painter 2002). A post office and a number of sawmills were constructed in the 1920s, and the first postmaster (Leora Roycroft) officially named the area Moose Pass in 1928 (Davis et al. 2003; Painter 1983). One of the sawmills constructed in the 1920s was owned by the Estes-Raycroft family. The family built a Pelton wheel to power the sawmill and supply electricity to Moose Pass residents until the Chugach Electric Association took over in the mid-1950s (Whitmore-Painter 2002). The Seward Highway was completed in 1951 (Painter 1983).

By the 1930s, a number of buildings and services were built within the Moose Pass town site including a second roadhouse, two grocery stores, a garage with gas pumps, one school, and a library. The garage and pumps were operational until the 1980s (Whitmore-Painter 2002). The Estes grocery store was in existence as of 2019, however, the second Moose Pass grocery store closed down as residents increasingly relied on goods purchased from Seward, Anchorage, and online ordering (Whitmore-Painter 2002). Moose Pass still has a school and library. The school is kindergarten through 8<sup>th</sup> grade with most high school students either going to Seward or attending correspondence and online schools.

The population in Moose Pass experienced further growth during the 1970s and 1980s as workers with the oil industry and government agencies moved into the area. Since that time, tourism and recreation industries have continued to bring in more people to the community and surrounding area (Whitmore-Painter 2002). Today, Moose Pass is an unincorporated community that is under the jurisdiction of the Kenai Peninsula Borough (ADCCED 2019). Community members have long worked together to raise

funds to purchase goods and construct buildings (Whitmore-Painter 2002). For instance, residents pitched together to buy supplies, donate labor and build the community hall in 1961, which serves as a gathering place and storage for equipment and goods (Moose Pass Advisory Planning Commission 1993). Residents of nearby Crown Point and Primrose consider themselves part of the Moose Pass community and attend local events, like the Moose Pass Summer Solstice Festival (Moose Pass Sportsmen’s Club 2019; Himes-Cornell et al. 2013).

*Crown Point and Primrose.* Crown Point and Primrose are census-designated places located just south of Moose Pass on the Seward Highway. Crown Point is near Kenai Lake and borders the Moose Pass CDP to the north and the Primrose CDP to the south. Although Crown Point was designated as a CDP in 1990 by the U.S. Census Bureau, the U.S. Geological Survey has record of a “Trail Lake Station” located in present day Crown Point in 1912 (ADCCED 2019). Crown Point is located some 22 miles north of Seward, along mile 24.5 of the Alaska Railroad, and Primrose is located along mile 18.4 of the Alaska Railroad just south of Crown Point on the Seward Highway. The Alaska Railroad listed Primrose as a flag stop community in 1919 (ADCCED 2019).

During the early 1900s the settlements that are now contemporary Crown Point and Primrose shared developmental history with Moose Pass as part of an important mining district. Mines were scattered throughout the region and included the Crown Point Mine owned and operated by the Kenai Alaska Gold Company and the Primrose Mine around Kenai Lake at about mile 18 of the railroad (the Primrose area today) (Barry 1997). A small community, Roosevelt, was located at mile 23 of the Alaska Railroad in the early 1900s. A.W. Roberts built a roadhouse in the community that served as a scheduled railroad stop by 1922 (Swell-DeMichele 2002). Bill and Nellie Lawing purchased Roberts’ roadhouse and applied for a post office for the community in 1923 (Lawing 2010). Nellie added a museum to the roadhouse and operated both the roadhouse and museum until her death in 1956 (Swell-DeMichele 2002). On Nellie’s death, the territory auctioned off Lawing and the area became private property thereafter (Swell-DeMichele 2002).

Today, Crown Point and Primrose are often seen as part of the greater Moose Pass area (Davis et al. 2003). The closest neighboring community located north of Crown Point and Primrose, beyond Moose Pass, is Cooper Landing. Like Crown Point, Primrose, and Moose Pass, the community of Cooper Landing has its beginnings in the mining history of the Kenai Peninsula (Himes-Cornell et al. 2013).

### Moose Pass as a Rural Community

A valuable assessment of the status of Moose Pass as rural comes from the community itself. A primary source for understanding how the community of Moose Pass describes itself comes from the residents who provided testimony at the 2019 Public Hearing and fall Council meeting. Twelve people provided testimony during the public hearing, three of whom also attended the Council meeting to reiterate their points before all Council members. All twelve people self-defined their home as “rural” and described a community and way of life that relied heavily on hunting and fishing and resources gathered from the surrounding public lands. The proponent cited in his proposal that it was the rural qualities of Moose Pass that originally attracted him to move to the community. Many community members cited the same reasons for moving to Moose Pass: “My parents chose Moose Pass because of its small town feel where

people take care of their neighbors and their kids grow up living off the land and where they can provide for their family” (SCRAC 2019: 180). At the public hearing, one person who testified described moving from Cooper Landing to Moose Pass in 1970, purchasing property around Mile 35 of the Seward Highway:

“From that address we raised three children and continued for many years to hunt and fish. We moved to the rural setting that has been our home for 40 plus years. We are very self-sufficient in this setting and although we have access to stores in Anchorage, this is a two hour drive. We tend to purchase in bulk and maintain an inventory to provide our needs without frequent trips to the city. Although my work has taken me to distant corner of Alaska, countless villages and settlements, my own settlement, my own circumstances are not that different from what I see in these disconnected areas. There’s little reason to consider our home as anything but rural and our lifestyle similar to those of truly other rural communities” (Public Hearing 2019).

Other attendees of the Public Hearing in Moose Pass emphasized the rural nature of their community by the limited amenities within the immediate vicinity. Many described the planning and logistics required to travel to regional hubs like Soldotna or Anchorage for shopping needs and healthcare visits. Some stressed how travel out of the community can be hampered by a decrease in road service and unforeseen weather events in the winter:

“It’s not easy. You know, nothing about living in Moose Pass is easy. We are reducing the coverage of road services during the winter. They close the Silvertip DOT office I believe. That’s less access potentially in the winter, I think reduced service hours for plowing the highway. So between Copper Landing and Crown Point DOT offices, you we may not be able to get to Seward. I know it’s happened before. We couldn’t get down there. May not be able to get north to Anchorage. So, you know, I think a lot of people here use products of the forest. Subsistence type lifestyles” (Public Hearing 2019).

Limited amenities and services was also used as a distinction between the rural character of Moose Pass and the nearest nonrural hub community of Seward. During the fall 2019 Council meeting, one Moose Pass resident emphasized:

“And now here you are in Seward where there’s multiple grocery stores, restaurants that you enjoyed today at lunch, shops, gas stations, and flourishing schools. What this aggregation did in 1990 was failed to capture the reality of Moose Pass as rural” (SCRAC 2019: 182).

Finally, the documents and media produced by various organizations representing Moose Pass demonstrate aspects of the community’s identity as “rural.” For example, the Moose Pass Comprehensive Plan adopts as a community goal that “Moose Pass should encourage economic growth and tourism in a manner that will enhance, not threaten, the citizens’ rural lifestyle” (Moose Pass Advisory Planning Commission 1993).

## Use of Wild Resources

The use of wild resources is an important characteristic of rural areas in all regions of Alaska. Wild resource use can be demonstrated through the public testimony of Moose Pass area residents and the most recent comprehensive subsistence survey conducted by the ADF&G, Division of Subsistence (Davis 2003), and ADF&G permit harvest reports.

*Information Provided by the Public.* Information provided by the public includes evidence presented in the original proposal, testimony at the Public Hearing and Council meeting, and community produced media and planning documents. Many reported the value of being able to gather firewood, berries, and mushrooms from the lands outside their backdoor, but also related their willingness to travel as far as necessary to take advantage of all opportunities to hunt and fish. During the Council meeting, a resident explained her reliance upon a State draw permit for local opportunity, “I harvested my first moose in Abernathy Creek drainage. Several years later that’s where I harvested my first caribou and since then I have harvested caribou in the Killey River. Both of those were luck of the State draw and they were about eight years apart, so I wasn’t actually that lucky in the draw system” (SCRAC 2019: 180).

Also important for almost all who provided testimony was the ability and commitment to feed their family with wild foods that are available locally. “We’ve fed our children moose, black bear, goat, sheep, salmon and trout throughout the years. We’ve done our best to live a nearly subsistence lifestyle” (Public Hearing 2019). While providing testimony to the Council, one life-long resident claimed, “I grew up eating moose, caribou, salmon, including from road kills, and sharing with other people the less desirable parts like moose brains for eggs in breakfast, kidneys, tripe, tongue, one of my favorites, and moose heart” (SCRAC 2019: 185). Another adds “I know my family rely a lot on hunting and fishing. We don’t buy red meat at all if we didn’t get moose, caribou, or deer somewhere. We probably just wouldn’t buy it and rely more on grouse” (Public Hearing 2019). Most testimony described wild harvest that included the entire household, “Both myself, my wife and my children utilize federal lands for gathering, small game hunting, fishing and we would like to be included because not only are we bordered by Federal lands, but the Federal lands that we’re bordered by also dictate what we do for a living” (Public Hearing 2019).

*ADF&G Comprehensive Subsistence Survey, 2000 Study Year.* The ADF&G conducted comprehensive subsistence surveys for the first and only time in the Moose Pass area, combining results from Crown Point, Moose Pass, and Primrose, as well as conducting surveys in the nearby city of Seward. The team surveyed 99 households for a 67% community sample from Crown Point, Moose Pass, and Primrose, describing these three CDPs as the Moose Pass study area. Results indicate that 99% of the households used wild foods, 92% harvested resources, 87% reported receiving resources from others, and 60% of households reported sharing their harvested resources with others (Davis 2003). The average number of different kinds of resources harvested per household (i.e., salmon, halibut, moose, grouse, clams, berries) average just under 8, the total average household harvest was 236 lb, and the average per person harvest was 87 lb (Davis 2003). The top ten resources most used by Moose Pass households based on the percentage of households using the resource are: berries (73% of households), halibut (61%), Coho Salmon (59%), Sockeye Salmon (52%), moose (41%), razor clams (26%), Chinook Salmon (25%), Black Rockfish (15%), deer (14%), and caribou (10%). The top ten resources based on contribution to total community harvest in pounds per person are moose (16 lb per person), Sockeye Salmon (14 lb), halibut

(14 lb), Coho Salmon (12 lb), Chinook Salmon (6 lb), razor clams (5 lb), berries (3 lb), caribou (3 lb), deer (3 lb), and Black Rockfish (1 lb) (Davis 2003).

The survey also mapped Moose Pass study area locations for hunting, fishing, and gathering activities between the years of 1990 and 2000. The maps demonstrate a preference for intensive local land and water use as opportunities are available. Residents traveled farthest to harvest salmon, marine fish, and marine invertebrates, with most of the harvest coming from the confluence of the Kenai and Russian rivers, the waters of Resurrection Bay, the beaches stretching between Kenai and Homer and the waters out into the Cook Inlet. Most other resources, including moose, caribou, bear, and goat were taken in the mountains surrounding Moose Pass, Cooper Landing, and Sunrise, or the foothills and flats northeast of Sterling (Davis 2003).

*Alaska State Permit Reports.* The ADF&G reporting system provides information on which communities apply for permits to hunt wildlife under State regulations. Some local opportunities are limited through competitive drawing permits open to all Alaska residents as well as nonresidents depending on the hunt. **Table 2** demonstrates the number of permits issued to Moose Pass residents for all species in any unit between 1990 and 2010. A total of 1,939 permits were issued over the 20 years. The largest number of 914 permits were issued for moose, 311 for caribou, and 269 for deer. Other wildlife for which residents were issued permits included bison, bear, Dall sheep, elk, and goat.

**Table 2.** Permits Issued to Moose Pass residents for All Species in any Unit, 1990 – 2010.

| Species       | Permits Issued |
|---------------|----------------|
| Bison         | 2              |
| Black Bear    | 87             |
| Brown Bear    | 16             |
| Caribou       | 311            |
| Dall Sheep    | 230            |
| Deer          | 269            |
| Elk           | 5              |
| Moose         | 914            |
| Mountain Goat | 105            |
| <b>Total</b>  | <b>1,939</b>   |

### Communities with Rural Status in Southcentral Alaska

There are numerous communities and areas within Southcentral Alaska that are designated as rural under Federal regulations. The characteristics of each community and area are diverse, and there is a wide range of factors that lend to the unique qualities of each area. Some communities can only be reached by boat or plane, like Cordova, Port Graham, or Tyonek, while many Southcentral rural communities are on the road system, like Chistochina, Cooper Landing, or Paxson. Some communities have their populations concentrated in small geographic areas like Seldovia and most of Chitina or Hope, while other communities have their population spread out over a broader area like Cantwell or Kenny Lake. Other rural communities border on nonrural areas like Chickaloon or Ninilchik. Services and local economies in



Southcentral rural communities are as varied as the tourism dependent McCarthy, the commercial fisheries focused Tatitlek, or the area hub community of Glennallen. In this analysis, we seek to understand Moose Pass in the context of surrounding rural communities in Southcentral Alaska and will focus on those communities with rural status on the Kenai Peninsula that share some of its qualities, including access to services and nonrural hub communities, shared resources, and climate.

#### Comparisons with Other Kenai Peninsula Rural and Nonrural Communities

**Table 3** and **Table 4**, provide comparative community characteristics between rural communities of the Kenai Peninsula, the Moose Pass area, and the nonrural communities of Nikiski and Seward. It is important to note that Nanwalek, the Seldovia area, and Port Graham are not on the road system and can only be accessed by plane or boat. Additionally, many of the rural communities are made up of one or more CDPs, and are grouped accordingly. The ADF&G Division of Subsistence conducted comprehensive subsistence surveys in all these communities, defined by CDP or as a combination of CDPs. The nonrural communities are included in these comparison tables to provide context for identifying the threshold between rural and nonrural communities on the Kenai Peninsula.

*Demographics.* In **Table 3** the rural communities (or community areas) range in population from 177 people in Port Graham to 1,476 in the Ninilchik area. The Moose Pass area has a combined total population of 371 people. As shown in earlier **Table 1**, after some growth between 1990 and 2000, the area population has remained stable and is in the mid-range of most Kenai Peninsula rural communities.

The percentage of population under the age of 18 indicates the number of dependents, the presence of families, and a growing community. The ages of 18 and 65 bracket the population of working age. Although age percentages of the population are discussed in this table, these data may not be useful in distinguishing a rural community from a nonrural community. The rural Kenai Peninsula community with the highest percentage of the population under 18 is Nanwalek at 43%. Other places with a high percentage of the population under 18 are Primrose CDP (34%), Nikiski (nonrural; 34%), and Port Graham (30%). Communities with a lower percentage of the population under 18 are Lowell Point CDP (15%), Hope CDP (16%), and Cooper Landing (18%). The communities with the lowest percentage of the population over 65 are Nanwalek (1%), and Bear Creek, Lowell Point, and Moose Pass CDPs (all 5%). The communities with the highest percentage of the population over 65 are Cooper Landing (19%), Seldovia CDP (18%), and Ninilchik CDP (15%).

*Population Density.* **Table 3** also describes population density. Density, as documented for the U.S. Census, only describes the population within a defined unit of land called a CDP. The CDPs are varied in size and do not capture the vast amount of unpopulated public, non-private lands that surround them, and are not good indicators of isolation, access to services, or whether a community is rural or not. As noted earlier, some communities classified as rural are very densely populated when their boundaries are constrained by geographic features like mountains, waters, or public lands. Although population density is discussed here, it is considered to have limited utility in determinations of rural status.

The Moose Pass area is a little under 61 square miles with a population density of about 6 people per square mile. Cooper Landing is about 70 square miles with a population density of 4 people per square

mile. The Hope-Sunrise area is about 65 square miles with about 3 people per square mile. The Ninilchik area is the largest with about 295 square miles and 5 people per square mile, and Nanwalek, Port Graham, and Seldovia communities have the smallest areas (8, 6, and 20 per square miles respectively) and the highest population densities of the Nonrural communities on the Kenai Peninsula (30, 28, and 21 people per square miles respectively). The nonrural communities of Nikiski and Seward each have areas of 76 and 73 square miles respectively and both have a population density of about 65 people per square mile.

**Table 3.** Comparative Community Characteristics; Demographics and Population Density (Source: US Census 2010).

| Status                         | Community                    | Demographics          |            |                   | Population Density |                   |
|--------------------------------|------------------------------|-----------------------|------------|-------------------|--------------------|-------------------|
|                                |                              | 2010 Pop              | % Under 18 | % Over 65         | Area               | Density           |
| Non Rural                      | Crown Point CDP              | 74                    | 21%        | 9%                | 3.6 sq mi          | 20.5/sq mi        |
|                                | Moose Pass CDP               | 219                   | 29%        | 5%                | 17.9 sq mi         | 12.2/sq mi        |
|                                | Primrose CDP                 | 78                    | 34%        | 12%               | 35.5 sq mi         | 2.2/sq mi         |
|                                | <b>Moose Pass Area Total</b> | <b>371</b>            |            |                   | <b>60.6 sq mi</b>  | <b>6.1/sq mi</b>  |
|                                | <b>Nikiski</b>               | <b>4,493</b>          | <b>34%</b> | <b>6%</b>         | <b>75.9 sq mi</b>  | <b>65/sq mi</b>   |
|                                | Bear Creek CDP               | 1,956                 | 28%        | 5%                | 39.5 sq mi         | 51/sq mi          |
|                                | Lowell Point CDP             | 80                    | 15%        | 5%                | 11.9 sq mi         | 7/sq mi           |
|                                | Seward CDP                   | 2,693                 | 22%        | 8%                | 21.9 sq mi         | 200.3/sq mi       |
|                                | <b>Seward Total</b>          | <b>4,729</b>          |            |                   | <b>73.3 sq mi</b>  | <b>64.5/sq mi</b> |
|                                | Rural                        | <b>Copper Landing</b> | <b>289</b> | <b>18%</b>        | <b>19%</b>         | <b>69.8 sq mi</b> |
| Hope CDP                       |                              | 192                   | 16%        | 17%               | 51.8 sq mi         | 3.7/sq mi         |
| Sunrise CDP                    |                              | 18                    | 28%        | 11%               | 13 sq mi           | 1.4/sq mi         |
| <b>Hope/Sunrise Area Total</b> |                              | <b>210</b>            |            |                   | <b>64.8 sq mi</b>  | <b>3.2/sq mi</b>  |
| Ninilchik CDP                  |                              | 883                   | 24%        | 15%               | 207.2 sq mi        | 4.2/sq mi         |
| Happy Valley CDP               |                              | 593                   | 22%        | 13%               | 88.2 sq mi         | 6.7/sq mi         |
| <b>Ninilchik Area Total</b>    |                              | <b>1,476</b>          |            |                   | <b>295.4 sq mi</b> | <b>5/sq mi</b>    |
| <b>Nanwalek</b>                |                              | <b>254</b>            | <b>43%</b> | <b>1%</b>         | <b>8.4 sq mi</b>   | <b>30.2/sq mi</b> |
| <b>Port Graham</b>             |                              | <b>177</b>            | <b>30%</b> | <b>11%</b>        | <b>6.4 sq mi</b>   | <b>27.6/sq mi</b> |
| Seldovia CDP                   |                              | 255                   | 20%        | 18%               | 0.5 sq mi          | 510/sq mi         |
| Seldovia Village CDP           | 165                          | 22%                   | 10%        | 19.2 sq mi        | 8.6/sq mi          |                   |
| <b>Seldovia Area Total</b>     | <b>420</b>                   |                       |            | <b>19.7 sq mi</b> | <b>21.3/sq mi</b>  |                   |

*Fish and Wildlife Use.* **Table 4** summarizes the most recent comprehensive subsistence survey conducted by the ADF&G, Division of Subsistence in each community. The study year column documents the most recent year for which data were gathered. The % use column documents the percentage of households

reporting use of fish and wildlife (which can include the use of fish and wildlife received from someone else and may not actually mean the household participated in harvest activities). The column showing % of households surveyed describe the sample achievement for each community. A census sample for large communities is hard to administer. In most large communities a random sample is conducted. Each survey attempts to interview as many households as possible to ensure accuracy and the most representative data. Also included are the % of households reporting harvest of resources, receiving resources, and giving resources. The pounds per person column averages out the entire harvest of fish, wildlife, and wild foods for the community and divides it by the number of full-time residents in the community to get the per person average. It is important to note that Moose Pass, along with Nikiski and Seward, are not qualified to hunt and fish under Federal regulations, which can result in reduced opportunity and limited harvest. All harvests that occurred during the study years were opportunities available to nonrural residents under State regulation. All rural communities on the Kenai Peninsula have a high household percentage use of fish and wildlife during their study year, ranging from 90% to 100% of households. The Moose Pass area reported 99% of households using wild resources, 92 % of households harvesting, 87 % of households reported receiving, and 60% of households reported sharing their resources with others. The per person harvest in Moose Pass was 87 pounds.

**Table 4.** Comparative Community Characteristics; Fish and Wildlife Use (Source: ADF&G. 2020).

| Rural/<br>Nonrural   | Community            |                    | Study<br>Year | % HH<br>Surveyed | % Use | % Harv | % Recv | % Give | Pounds<br>Per<br>Person |
|----------------------|----------------------|--------------------|---------------|------------------|-------|--------|--------|--------|-------------------------|
| Non<br>Rural         | Crown Point CDP      | Moose<br>Pass Area | 2000          | 66.9%            | 99    | 92     | 87     | 60     | 87                      |
|                      | Moose Pass CDP       |                    |               |                  |       |        |        |        |                         |
|                      | Primrose CDP         |                    |               |                  |       |        |        |        |                         |
|                      | Nikiski              |                    | 2014          | 12.90%           | 95    | 79     | 64     | 51     | 69                      |
| Seward Area          |                      | 2000               | 6.2%          | 97               | 86    | 87     | 65     | 97     |                         |
| Rural                | Copper Landing       |                    | 1990          | 61.60%           | 100   | 94     | 81     | 72     | 92                      |
|                      | Hope CDP             | Hope Area          | 1990          | 64.10%           | 100   | 94     | 90     | 74     | 111                     |
|                      | Sunrise CDP          |                    |               |                  |       |        |        |        |                         |
|                      | Nanwalek             |                    | 2014          | 96.60%           | 90    | 84     | 84     | 71     | 253                     |
|                      | Ninilchik CDP        | Ninilchik<br>Area  | 1998          | 25.30%           | 99    | 94     | 94     | 85     | 164                     |
|                      | Happy Valley CDP     |                    |               |                  |       |        |        |        |                         |
|                      | Port Graham CDP      |                    | 2014          | 70.70%           | 100   | 98     | 100    | 90     | 218                     |
| Seldovia CDP         | Combined<br>Seldovia | 2014               | 74.80%        | 99               | 94    | 97     | 76     | 138    |                         |
| Seldovia Village CDP |                      |                    |               |                  |       |        |        |        |                         |

The ADF&G Division of Subsistence also conducts a statewide “Subsistence in Alaska” update on the harvest and use of wild resources in both rural and urban areas (Fall 2018). The 2017 update describes an average harvest of 145 pounds per person for the rural Southcentral Alaska area. The highest per person

harvest of wild food in an urban or nonsubsistence area is 38 pounds in Valdez and the next highest is 32 pounds for the Kenai Peninsula urban area.

### **Effects of the Proposal**

If this proposal is adopted, residents of Moose Pass will be eligible to practice subsistence harvesting on Federal public lands under Federal regulations inclusive of “All rural residents.” The adoption of this proposal does not guarantee residents will be qualified to participate in all harvest opportunities on Federal lands in their region. For that to occur, the community will need to pursue customary and traditional use determinations for fish and wildlife species in their area.

If this proposal is not adopted, the status of Moose Pass will remain “nonrural,” and residents will not be eligible to participate in resource harvest under Federal subsistence regulations. Residents seeking to harvest wild resources for subsistence purposes would continue to be required to do so under State of Alaska regulations.

### **OSM PRELIMINARY CONCLUSION**

**Support** Proposal NR19-01 with **modification** to define the community of Moose Pass as encompassing the Moose Pass, Crown Point, and Primrose Census Designated Places.

### **Justification**

Moose Pass shares a rural experience with other Southcentral rural communities that includes a reliance on wild foods, reduced amenities and services, geographic isolation, and a shared sense of identity as a cohesive rural community. Public testimony, harvest surveys, and harvest reports demonstrate consistent participation in hunting and fishing opportunities. All residents providing testimony described the importance of wild foods in their diet and home. Residents also cited access to fish and wildlife as a main reason for living in their community and referred to the high level of fish and wildlife use as a primary justification for their status as rural.

Moose Pass has limited local amenities and a geographic isolation that can hamper access to important hub communities with critical services during extreme weather events. The location of the community as situated within a mountain pass requires residents to plan for potential conditions that will limit travel throughout the year. Residents point to a lack of local amenities, services, and business as a key distinguishing feature between their community and nearest nonrural hub of Seward. Regardless of the proximity to Seward, most Moose Pass area residents travel into Anchorage for bulk shopping and other important services.

Significantly, Moose Pass is surrounded by Federal public lands upon which residents rely for most of their wild harvest. Residents consistently mention these lands as bordering their properties, providing resources, and contributing to the rural character of their community. Finally, public testimony and available sources indicate that the community of Moose Pass, as defined by resident perception, shared experience, history, harvest patterns and other factors, extends beyond the boundaries described in the original proposal. The community of Moose Pass should be defined as inclusive of Crown Point, Moose Pass, and Primrose Census Designated Places.

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