



March 8, 2012

Alaska Board of Game
Boards Support Section
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Subject: **March 2012 RC on Proposal 40 – Permits for Falconry - Allow Nonresidents to Take Raptors for Falconry: Comment on the Proposal Contained in Public Comment # 201**

Dear Ladies and Gentlemen of the Board:

This RC is to comment on the raptor nonresident take proposal contained in PC 201 and to reaffirm that Proposal 40: was drafted with the assistance of Alaska falconers in order to address many of the concerns addressed by same; represents an extremely conservative path to introducing nonresident raptor take into Alaska; and provides a balanced, sensible approach that if adopted, should be able to withstand any constitutional challenges. Conversely, it appears that many of the PC 201-proposed additional restrictions on nonresidents are constitutionally unsupportable unless such restrictions are also placed on residents.

Since several of the conclusions in PC 201 are not supported by scientifically or rationally based accompaniments to the comment, we respectfully suggest the Board consider the information in this RC; and, rather than rushing towards piecemeal adoption of selected provisions as suggested in RC 117, it is suggested that if necessary, the Board again table the entire matter until the next meeting. We believe the Board will adopt a better, more defensible product once they have had ample time to comprehensively weigh the outstanding nonresident take issues, including any necessary legislative action that may be required and the conflicts that would exist between the several nonresident proposals and the recently adopted Alaska falconry regulations.

AFC's specific comments on restrictions proposed in PC 201 are as follows:

1) Item **2. Legal Considerations** on page 4 of PC 201 concludes that "*Non-resident take may be restricted as the state sees fit.*" Just prior to the conclusion, the text of Item 2 more correctly states "*States may*

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reasonably [emphasis added] *restrict such non-resident activity*” In the case where there is no measurable effect on a resource by residents and no restrictions are placed on such residents, but it can be demonstrated that the addition of nonresident harvest pressure will likely have a detrimental effect on the resource, it is reasonable to place restrictions on nonresidents only to the extent necessary to protect the resource. If however, there is no measurable effect on the resource from the combined harvest of both residents and nonresidents, which appears to be the case with falconry raptor harvest, it is unreasonable to place restrictions on nonresidents unless those same restrictions also are placed on residents.

2) Sub-item a. Logistics of Item **3. Administrative Considerations** on pages 5 and 6 of PC 201 concludes that *“Alaska should anticipate considerable non-resident alien interest in raptors.”* If by alien, the writer means non-U.S. aliens, AFC would agree. If, however, alien means nonresident U.S. citizens, AFC disagrees. The records across the U.S. of raptor harvest by nonresidents, examples of which are contained in Proposal 40, support that nonresidents exert no measurable effect on any resident raptor populations, including populations where no quotas are placed on either residents or nonresidents. The raptor resource management strategy contained in the USFWS Environmental Assessment (EA) accompanying the recent modifications of the federal falconry regulations was designed to ensure that an extremely conservative harvest level below 5% of the wild raptor populations would not occur through an annual 2-bird from the wild quota placed on each and all U.S. falconers. PC 201 supports this contention when it states *“The regulations the Board adopted last month recognize the self-limiting nature of falconry take of raptors”* The EA actually argues that a 20% harvest is sustainable. This is because 50% of first-year birds and another 50% of second year birds (combined 75% of wild raptors) are lost from the population through natural selection.

3) Sub-item c. Permit Allocation of Item **3. Administrative Considerations** on page 7 of PC 201 aptly states *“... there are no biological concerns for non-resident take equaling or even exceeding (within reason) resident raptor take”* In the second part of the sentence it is stated *“... we are aware of no other Alaska hunting seasons where non-residents are allowed to take more animals than resident.”* This is an illogical comparison and method for setting quotas for a specialized harvest that from the start represents no measurable impact on a resource. Furthermore, recalling the EA discussion in Number 2 above, Alaska resident harvest within Alaska is far below the 2-birds per falconer per year federal no-impact quota. If Alaska residents harvested at the no impact levels, that would constitute 80 birds per year, a level that is still not measurable when one considers the extremely large magnitude of the Alaska raptor resource.

4) Sub-item a. Protection of Eyries of Item **4. Other Considerations** on pages 7 and 8 of PC 201 contains the most unsubstantiated claims and conjecture of that entire PC. While it is true that *“... large falcons tend to reoccupy select sites repeatedly”* and *“Falconers have long held known eyrie locations closely,”* there is no basis in fact or reason to conclude that the act of harvesting nestling falcons has any impact on individual falcon pairs or populations. Contrary to the assertion in PC 201 that *“Cliffside scrapes with features favorable to large falcons are unusual,”* Alaska has a huge abundance of suitable nesting sites for large falcons; which are the very reason large falcons are common in Alaska.

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There are many examples of large falcons being subject to severe disturbance, whereupon they relocate to nearby alternate nesting sites and successfully complete nesting cycles and then return to the original eyrie the following year. Such disturbance occurs naturally when predators discover and decimate one or all of the eggs or nestlings and anthropomorphically when bridge-, building-, etc.-nesting falcons are disturbed or even displaced during building, bridge, etc. maintenance or other human activities at the eyrie. During less severe disturbances such as the temporary entrance of an eyrie by a human, which is the case during nestling harvest, the adults wait it out and then resume their normal activities. Year after year 100s of young falcons are removed from eyries for banding and sampling purposes throughout the world, and year after year the nesting pairs returns to and use the same eyrie. The PC 201 author's discovery that "*One site in Greenland was determined through radiocarbon dating to have been occupied as far back as 26,000 years ago*" is no basis for concluding that the disturbance or even elimination of specific eyries is "detrimental" to nesting pairs or populations.

During the process of formulating Proposal 40, AFC worked with several Alaska falconers and incorporated their desire to protect certain locations and eyries customarily utilized by Alaska resident falconers. This was the genesis of the inclusion of restrictions on nonresidents in certain GMUs even though AFC is aware of no other nonresident resource harvest scheme that locks nonresidents out of specific areas but does not apply the same restriction to residents.

5) Finally, Item 5. Recommended Features Of An Alaska Non-Resident Raptor Take of PC 201 contains some additional restrictions that are either not supported by any text or are unnecessary for accomplishing the stated goals.

a) As explained in Numbers 1, 2 and 3 above, there is no biological or rational justification for the Bullet 2 listed restriction of limiting nonresidents to 5 birds total annually. The Proposal 40 limits amended to include the Kodiak AC suggested revision at the January 2012 meetings are extremely conservative and will result in no measurable impact.

b) As explained in Numbers 1, 2, 3 and 4 above, there is even less justification for the Bullets 8 and 9 restrictions on taking only passage raptors during a Sept. 1 to Dec. 31 timeslot.

c) There has been absolutely no justification presented for adopting a provision that "*A successful applicant may not apply for another non-resident take permit for at least five years, whether or not he or she was successful in trapping a raptor.*" No U.S. state has such a limitation. If the intent of the provision is to manage fairness among nonresidents, there are other less drastic means for accomplishing such a goal, some of which are contained in PC 201. A reasonable alternative would be an annual lottery that ranks each entrant and then gives preference in accordance with rank in the second year, to first year entrants who did not receive permits during the first year. Second year entrants would be ranked and added to the bottom of the first-year list, and so on with subsequent annual lotteries.

In summary, PC 201 adds little if any additional information to the record before the Board on the subject of nonresident take of raptors for falconry, and the record as a whole does not appear to contain

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any justification for adopting nonresident take provisions more stringent than the extremely conservative ones contained in Proposal 40. The record justifies and AFC again recommends that the Board adopt a nonresident take provision as contained in Proposal 40 and modified by the Kodiak AC at the January 2012 meeting.

Thank you for the opportunity to provide additional comments on this subject.

Sincerely yours,

Bill Meeker
President
American Falconry Conservancy