

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKA WILDLIFE ALLIANCE,)

Plaintiff,)

v.)

STATE OF ALASKA, ALASKA) Case No. 3AN-23-07495 CI

BOARD OF GAME, DOUGLAS)

VINCENT-LANG, Commissioner of)

the Alaska Department of Fish &)

Game, in his capacity as an official of)

the State of Alaska,)

Defendants.)

**DEFENDANT STATE OF ALASKA'S NOTICE REGARDING MAY 7, 2025
ORDER**

In the interest of full candor to the Court, the State provides this notice of its activities relative to the Court's May 7, 2025, Order.

First, the State is filing today a motion for reconsideration of the Court's May 7 Order to address the dissonance between the Court's finding that it lacked jurisdiction to consider the validity of the emergency regulation adopted by the Board of Game on March 27, 2025, and the Court's finding that the emergency regulation violates Judge Guidi's March 14, 2025, Order, which "should [] moot" the emergency regulation. (May 7 Order at 6, 9).

This Court's May 7 Order did not enjoin implementation of the emergency regulation.¹ Neither did the Court review the substantive validity of the emergency regulation.² As such, the State believes that the emergency regulation remains valid.³

Second, the State, consistent with the applicable constitutional and statutory wildlife management mandates as well as this Court's order expressly declining to enjoin the emergency regulation, intends to implement the activities authorized by the emergency regulation as long as the regulation has not been vacated or enjoined.

The Board of Game and Department of Fish and Game remain subject to the constitutional and statutory mandates in Article VIII and the Intensive Management Act.⁴ The Board of Game has determined Mulchatna caribou are important for providing high levels of human harvest for consumptive use,⁵ meaning intensive management is statutorily required while Mulchatna caribou numbers are below the population objectives.⁶ High levels of predation by bears have been identified as the limiting factor for population improvement, calling for active management measures including predator control.⁷

¹ Order re TRO, Other Equitable Relief, p. 9.

² Order re TRO, Other Equitable Relief, p. 5.

³ AS 44.62.100(a).

⁴ AS 16.05.255(e)-(g), (l)

⁵ 5 AAC 92.108

⁶ 5 AAC 92.108

⁷ AS 16.05.255(l)(4)

This Court relied upon *State v. Alaska C.L. Union* in defining the scope of reviewing the Board’s actions on remand. That case reaffirmed that regulatory action taken in response to a Court order “must be accorded the usual presumption of constitutionality.”⁸ In this instance, the Board of Game’s actions on remand were to adopt a new regulation under different statutory authority—AS 44.62.250—than those at issue in this case. The question of whether the emergency regulation is procedurally or legally sound must be reviewed on the basis of the agency record and law applicable to that action.

DATED May 9, 2025.

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⁸ 159 P.3d 513, 514-15 (Alaska 2006).