

My name is Michelle Sinnott, I am an Anchorage resident, and a wildlife lawyer. I am writing to oppose RC009.

Last Friday, a superior court judge in Anchorage struck down the Mulchatna Predator Control program (5 AAC 92.111(c)) as “unlawfully adopted.” The court held that the Alaska Board of Game failed to provide constitutionally required due process, which at its core mandates adequate notice and an opportunity to be heard. The court also struck down the program because the Alaska Board of Game had authorized the mass slaughter of bears without having any “credible scientific evidence” about the bear population.

RC009 doesn’t fix these legal problems and The Alaska Board of Game should not be complicit in this flagrant attempt to disregard a court ruling.

This is not an emergency

It is state policy, dictated in statute, that “emergencies are held to a minimum and are rarely found to exist.” AS 44.62.270. The Board of Game regulations also make it clear that (5 AAC 96.625(f)) that an emergency petition will be denied unless the petition “makes a written finding” including facts “that the adoption of the regulation . . . is necessary for the immediate preservation of the public peace, health, safety, or general welfare.” AS 44.62.250(a). ADF&G’s petition does not contain any of the necessary written information, it just says trust us, we will provide some information to you later. That is not sufficient to meet the statutory and regulatory requirements.

Having a regulation struck down as unconstitutional because it was hastily crafted behind closed doors, didn’t provide the public with adequate notice and comment, and didn’t rely on “credible scientific evidence” is not the basis for an emergency regulation.

The original proposal was not adopted as an emergency petition. The *only* reason this is being presented as an emergency petition now is because the state is trying to circumvent the due process requirements that the court found lacking.

The notice for RC009 was not adequate

I am a wildlife lawyer. I follow news releases from ADF&G closely. I am signed up for alerts about all the notices on Board of Game meetings. I’d consider myself more tuned in to the ins and outs of ADF&G than your average person. I learned about RC009 late yesterday afternoon. I had to scramble to rearrange my day in order to show up here. Submitting an emergency petition late on a Friday (after 1pm) and giving the public less than 24 hours to show up in Anchorage in person to sign up to testify (before 10am on Saturday) is not adequate. The court just struck down the Mulchanta program because of not providing the public a meaningful opportunity to be heard. That is a constitutional requirement. RC009 may provide a crumb more notice than the original proposal, but a crumb won’t withstand constitutional scrutiny.

ADFG still has not presented “credible scientific evidence” of the bear population

The Alaska Constitution prevents ADF&G from aerial gunning predators into extinction. The court struck down the Mulchatna predator control program because ADF&G admitted it has no information about bear populations in Game Management Unit 17 and 18. Anecdotal evidence is not sufficient. The court made it clear that in order to meet the requirements in the Alaska Constitution ADF&G needs “credible scientific evidence” about the bear population.

RC009 does not have any evidence, let alone the “credible scientific evidence” that the court said was required.

Reject RC009 and require ADF&G to comply with the court’s order

ADF&G has already gunned down close to 200 bears in the 2 years that this unlawfully enacted program was in place. And yet, the state still hasn’t presented any credible scientific evidence about how many bears actually exist in this area. Gunning down every last bear and wolf in this area isn’t going to address the decline of the Mulchatna caribou herd and the sooner ADF&G starts looking at the science and addressing the actual issues, the sooner it has a stones throw chance in saving this herd.

Predator control programs don’t work. RC009 is also an attempt to circumvent a court order, and the Board of Game should reject it.

Respectfully submitted,

Michelle Sinnott

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