

Chelsey Cook
Record Copy
Opposition to RC009
26 March 2024

To the members of the Board of Game,

I am writing to voice my strong opposition to RC009, the emergency petition to reopen Mulchatna bear control, despite it being ruled unlawful and unconstitutional on March 17.

Violation of Due Process

This is the first year I have attended Board of Game meetings, and I am already disheartened with the lack of public process, a seeming keystone to the creation of Alaska's hunting regulations. Just last week, the State lost a lawsuit against the Alaska Wildlife Alliance for failing to follow due process and the constitutional sustained yield principle in their Mulchatna bear control program. Passing Proposal 21, which was heavily amended (from wolf control on federal lands to bear control on state lands) behind closed doors and without a public comment period, was already an egregious violation of due process. To then submit an "emergency regulation" in response to Judge Guidi's ruling that the bear control was **"unlawfully adopted and, therefore, void and without legal effect"** seems shockingly unethical.

The announcement of the emergency regulation at the beginning of Board of Game meetings (and the simultaneous posting of it online) left just over 24 hours for people to sign up to give oral testimony. This is hardly adequate public notice, and it would seem that ADF&G should agree. More than once during these meetings, Director Scott has called into question the possible lack of public process for heavily amended proposals (see audio from March 24 at 2:28PM). Clearly, adequate public process is important to both the Board and ADF&G; why is it not being upheld, either with the original adoption of bear control and now with RC009?

However, even with such short notice of the emergency regulation, over 10 people gave up their weekends to testify their opposition to RC009. Over 150 people have also submitted record copies in opposition; the thickness of the RC binder currently sitting on the table, filled with comments from former ADF&G researchers, wildlife viewers, and bear-hunting guides, speaks for itself. If ADF&G wishes to pursue reopening Mulchatna bear control, an emergency regulation is not the way to do it. Instead, issue a special meeting and allow the public (all of the public) to have their fair chance to weigh in.

Still No Data on Bear Population to Support the Sustained Yield Principle

As ADF&G submitted RC009 just a week after the ruling that their bear control program was unlawful, in part because they had no population data on Mulchatna bears, it is reasonable to assume that this has not changed. Article VIII Section 4 states that "Fish, forests, wildlife,

grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle.” Further, “the principle of sustained yield management is a basic tenet of conservation: the annual harvest of a biological resource should not exceed the annual regeneration of that resource.”

Without any bear population data for the Mulchatna predator control area, which the State has admitted they do not have, how can the State ensure they are not harvesting more bears than the annual regeneration rate? This is especially true for brown bears, which have one of the slowest reproductive rates of terrestrial animals, with females breeding small litters every 2 to 4 years.

Further, **ADF&G has yet to present a Feasibility Assessment for bear control in Mulchatna**, which is required to enact an Intensive Management program such as predator control.

Predators Aren’t the Problem

In 2020, a group of State biologists was tasked with studying the vanishing Mulchatna caribou herd. They found that the main reasons for the decline were disease and a lack of food. Brucellosis has decimated the herd, causing lameness, infertility, and lower birth rates. Over a third of the caribou tested during 2020 were infected. Likewise, climate change has slowly shifted the Mulchatna herd’s habitat. The lichen that caribou depend upon is disappearing, and the landscape is becoming more and more shrubby; prime moose habitat, but poor caribou habitat. Overpopulation and habitat damage when the herd boomed at 200,000 in the 1990s may have also contributed to the sharp decline.

Bear predation wasn’t even in the top three identified causes of mortality among the Mulchatna herd (and golden eagles have carried off more caribou calves than bears and wolves in some study years). There is no data to support that predator control programs and the mass killings of wolves and bears will recover the Mulchatna herd. In fact, having predators kill the caribou infected with Brucellosis may help keep disease levels down. As Indigenous Knowledge Holder Michelle Quillin notes in RC155, “by 2017, 250 wolves had been killed in the original Mulchatna predator control program, yet the caribou herd declined rapidly at nearly the same time.”

Further, as Christi Heun, former Region 4 ADF&G biologist for the Mulchatna herd, testified on Saturday and in RC100, the Mulchatna caribou herd has historically sat closer to 14,000 animals, and when it did boom in the 1990s, it did not do so through the help of predator control.

In Conclusion

The Mulchatna bear control program was recently ruled as **“unlawfully adopted and, therefore, void and without legal effect”** because it violated due process and the sustained yield principle. By submitting an Emergency Petition, ADFG is attempting to circumvent our

lawful right to due process and our constitutional right to the sustained yield principle. Further, they have given no reason that reinstating bear control constitutes an “emergency”- just that they will give us information at a later date. They have yet to provide any bear population data or a Feasibility Assessment (required for IM), presumably because they don’t have it.

The success of predator control programs is shaky at best, and the State’s own biologists have ascertained that predators are not the problem with Mulchatna caribou- disease and a lack of food are. Why then isn’t habitat enhancement being talked about, as was discussed for Proposal 101 when adding sheep to the IM? Why are we unlawfully targeting bears, which aren’t even in the top three reasons for Mulchatna caribou mortality?

I urge the Board to uphold the law and the public process that Alaska hunting regulations rest upon and deny the Emergency Petition.

Sincerely,

Chelsey Cook