

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

JOEL FARWELL BENNETT)
and the ALASKA WILDLIFE)
ALLIANCE,)
Plaintiffs,)
v.) Case No. 1JU-20-879CI
DOUGLAS VINCENT-LANG,)
Commissioner, and the)
STATE OF ALASKA,)
Defendants.)

**ORDER DENYING
APPLICATION FOR
TEMPORARY
RESTRAINING ORDER¹**

In an *Application* filed on October 29, 2020, the Plaintiffs (“Bennett”) request a temporary restraining order (“TRO”), and a preliminary injunction, ordering the “Alaska Department of Fish and Game (“ADF&G”) [to] rescind the 2019 estimated wolf population set at 316 wolves for GMU² 2 and not proceed with any scheduled wolf harvests based on this population metric until a more complete review of the underlying assumptions and justifications used to support the 316-wolf population metric are reviewed”³ by the court.

Wolf harvests in GMU 2 are currently scheduled to commence on various dates over approximately the next thirty days.⁴ The federal GMU 2 wolf hunting season is scheduled to open on October 31, 2020. The state and federal GMU 2 wolf trapping seasons are scheduled to open on November 15, 2020. The state GMU 2 wolf hunting season is scheduled to open on December 1, 2020.

¹ **Corrected** as to a spelling error, November 9, 2020.

² Game Management Unit.

³ Bennett’s *Proposed Temporary Restraining Order* at 1.

⁴ See, Exhibit A to Bennett’s *Application*, at 2.

Bennett asserts that the Fall 2020 GMU 2 wolf harvests are based on wolf population estimates that are “problematic from a sustainable yield perspective,” and that allowing the Fall 2020 GMU 2 scheduled wolf harvests to proceed will result in irreparable harm by rendering the population of Alexander Archipelago wolves on Prince of Wales Island (GMU 2) unsustainable in violation of the Alaska Constitution’s sustained yield mandate.⁵

The entry of TROs and preliminary injunctions is governed by Civil Rule 65. TROs may be entered without notice to adverse parties if irreparable harm will occur before notice can be provided, and upon the applicant’s certification of efforts made to give notice.⁶ Rule 65 generally limits TROs to ten days’ duration. A hearing is then held to determine whether a longer order—a preliminary injunction—will be entered.

The only GMU 2 wolf harvest scheduled to begin within the next ten days is the federal hunting season. The other three Fall 2020 GMU 2 wolf harvests would not be affected by entry of a TRO because they are all scheduled to begin after the TRO would expire (and after a decision on a preliminary injunction will have been made). It seems likely that some number of wolves will be harvested during the first approximately ten days of the GMU 2 federal hunting season scheduled to begin tomorrow (October 31, 2020), before a hearing on the preliminary injunction will occur. But it seems equally unlikely that the number of wolves harvested over the next approximately ten days will be so high as to constitute irreparable harm as alleged by Bennett. This is true regardless of whether the current wolf population estimates are problematic as claimed by Bennett. Bennett has not demonstrated irreparable harm.

Bennett’s request for a temporary restraining order is **DENIED**.

⁵ See, Alaska Constitution, Article VIII, Section 4.

⁶ Civil Rule 65(b). Bennett certifies efforts made to notify the Defendants via certified mail on October 26, 2020 and through conversation on October 27 and 28, 2020.

A hearing on Bennett's request for a preliminary injunction shall commence at 11:00 a.m. on November 9, 2020 at the court in Juneau.⁷ All participants shall appear by telephone.⁸

DATED this 30th day of October 2020 at Juneau, Alaska.



Daniel Schally
Superior Court Judge



11/9/20
Court of Superior Justice
Date
Plaintiff Goldhuf
SOA Brooking
3f - Susan -

⁷ Telephone: 1-800-768-2983. Code: 4634801#. Please call from a quiet location, preferably on a landline telephone. Please mute your phone unless you are permissively addressing the court.

⁸ The courtroom will be closed pursuant to orders of the Alaska Supreme Court, the Chief Justice, and the presiding judges, due to the ongoing coronavirus pandemic.