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

ALASKA WILDLIFE ALLIANCE, Plaintiff/Appellant, v. STATE OF ALASKA, ALASKA 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, Defendant/Appellee,	)	Case No. 3AN-23-07495CI

ORDER ON RENEWED APPLICATION FOR A TEMPORARY RESTRAINING ORDER OR OTHER EQUITABLE RELIEF

I. Introduction

On May 9, 2025, Appellant, the Alaska Wildlife Alliance ("AWA"), again asked this Court to issue a Temporary Restraining Order ("TRO"), or provide other equitable relief (e.g., a preliminary injunction), "consistent with this court's ***Decision and Order*** dated March 14, 2025, as interpreted and applied in this [sic] ***Order*** by this court on May 7, 2025," because AWA is concerned the Alaska Department of Fish & Game ("ADF&G"), Alaska Board of Game ("BOG" or "Board"), and/or Commissioner Douglas Vincent-Lang ("Commissioner")(collectively, "Appellees" or "the State") "misapprehend[] the full meaning and import of" the prior Court Orders.[1] Specifically, AWA asks the Court to "direct Commissioner Douglas Vincent-Lang to cease and desist from killing bears until and only after the Alaska Department of Fish & Game obtains

[1] Renewed Application for a Temporary Restraining Order (May 9, 2025), at 1.

proper legal authority, consistent with the ***Order and Decision*** of this Court dated March 14, 2025."[2]

For the reasons stated in the Court's Decision and Order, dated March 14, 2025 ("the Order"), the Order on Application for a Temporary Restraining Order, Other Equitable Relief, dated May 7, 2025 ("the TRO Order")(collectively "the Orders"),[3] and herein, the Court finds that, based on the bad faith conduct of the Appellees, the BOG's Emergency Regulation 5AAC 92.111(c), passed on March 27, 2025, is invalid and without legal effect.[4] Moreover, the State, including, but not limited to ADF&G, is temporarily restrained from engaging in predator control measures (i.e., the actual killing of bears) in Game Management Units ("GMU") 17 and 18, absent proper legal authority, defined more fully below.

II. Background

A. Case Background

On July 27, 2023, AWA filed a Complaint for Declaratory and Equitable Relief. The State filed an Answer to AWA's Complaint on October 25, 2023.

After subsequent filings by the parties, the Court held that the matter was substantively an appeal from the 2022 BOG decision to amend the intensive management plan under 5 AAC 92.111(c), to expand predator control in Game Management Unit 18 to include bears as well as wolves. The matter was briefed as an administrative appeal and oral arguments were held on March 3, 2025.

The Order found, in relevant part, that:

> 2) the Alaska BOG violated Appellant AWA's right to due process of law, by failing to provide AWA with adequate notice or a meaningful opportunity to be heard about a regulatory proposal, as is required by Art. 1, Sec 7 of the Alaska Constitution and amplified by provisions in the Alaska Administrative Procedures Act; and (3) the Alaska BOG failed to

[2] Memorandum in Support of Renewed Application for a Temporary Restraining Order (May 9, 2025), at 2.

[3] Both of those prior Orders are hereby incorporated by reference.

[4] However, as stated in the Order issued on May 8, 2025, any application of that regulation related to wolves is not impacted by this matter.

comply with the sustained yield provision of Art VIII, Sec. 4, of the Alaska Constitution by failing to consider all the important, relevant and material factors relating to the sustainability of a replenishable public wildlife resource prior to adoption of a regulatory proposal impacting a replenishable public resource.[5]

Based on this finding, the Order ultimately held that:

As a result, ... this Court hereby **DECLARES** that the Proposal 21, adopted as 5 AAC 92.111 (c), by the Alaska BOG on January 24, 2022, was unlawfully adopted and, therefore, void and without legal effect. The matter is remanded to the Alaska BOG for further proceedings consistent with this opinion.

B. Post-Order Background

On March 15, 2025, the Commissioner issued a Press Release stating that the State was "disappointed" with the Order and indicating that ADF&G was "considering petitioning the Alaska Board of Game to address this critical issue and build the necessary record."[6] On March 21, 2025, the first day of the regularly scheduled BOG meeting, Ryan Scott, Director of the Division of Wildlife Conservation, announced that ADF&G would be petitioning the BOG for an emergency regulation during the regular meeting. A Press Release on the subject, which attached a copy of the petition (RC-9), went out shortly thereafter.[7] The Press Release stated that oral and written comments would be accepted, but noted the deadline to sign up for oral testimony was 10 a.m. the next day.[8]

AWA Executive Director Nicole Schmitt was at the BOG meeting and, shortly after hearing about the petition, sent out an "action alert" through AWA's list serv.[9] She

[5] Order and Decision (March 15, 2025), at 10.
[6] Opposition to Application for TRO, at Exhibit B.
[7] *Id.* at Exhibit C.
[8] *Id.* Written comments could only be submitted as a Record Copy, because the time for "official" Written Comments had closed. Testimony of Nicole Schmitt.
[9] Testimony of Nicole Schmitt.

submitted a Record Copy ("RC") on behalf of AWA and was also able to provide oral testimony as an individual and as AWA's Executive Director.[10]

The BOG found there was an "emergency" on March 27, 2025. The basis of the "emergency" was included in RC 239 and referenced the Order as a factor in creating the "emergency."[11] The BOG's Notice of Adoption of Emergency Regulation, issued on March 27, 2025, stated, in relevant part: "5 AAC 92.111 is changed as follows: to reinstate 5 AAC 92.111(c), the Mulchatna Caribou Herd Predation Management Area plan, to aid in achieving the Mulchatna caribou herd intensive management objectives," (the "Emergency Regulation").[12]

On April 10, 2025, AWA filed the first Application, which the State opposed. At the May 6, 2025, evidentiary hearing and oral argument, AWA argued that the emergency regulation is an attempt to circumvent the Order because it allows for the bear killing program to continue for 2025 without addressing the issues found in the Order. The State argued that the emergency regulation was intended to, and did, correct the Constitutional issues found in the Order and was a valid action under the law.

At the May 6, 2025, evidentiary hearing, the Court also heard testimony from Nicole Schmitt; Natalie Weber, the Regulation Program Coordinator for the Division of Wildlife Conservation; and Ryan Scott. Findings of fact related to their testimony are included below.

On the invitation of the Court, both parties submitted supplemental authorities on May 7, 2025. The State's Notice included authority where the BOG "adopted emergency regulations to address deficiencies identified by the Superior Court."

On May 7, 2025, the TRO Order addressed the limited scope of the Court's review due to the posture of the case, finding that:

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[10] *Id.*

[11] Application for TRO, at Exhibit 3. At arguments on May 6, 2025, the State ultimately acknowledged that the emergency regulation was only necessary because of the Court's Order. However, it denied that the emergency regulation was intended to be a "work around" of the Order.

> [T]he scope of what the Court can do in this matter is limited and does not include a "full blown" administrative appeal review of the BOG's decision to adopt the emergency regulation in 2025. However, this Court can address whether the State is operating in bad faith or if the State has complied with the mandates in the Order in "a rational and non-arbitrary manner."[13]

Applying this scope, the TRO Order found "that the procedure followed by the BOG in adopting the emergency regulation did *not* address the due process notice mandate of the Order in 'a rational and non-arbitrary manner.'" Thus, because BOG had not cured the deficiencies found by the Order, the Court concluded, "it remains a valid Order of the Court, which the parties are bound by whether a TRO is issued or not."

C. Findings of Fact from Evidentiary Hearing

i. Nicole Schmitt's Testimony

Ms. Schmitt testified that she lives in Anchorage, Alaska and has been the Executive Director of AWA since 2019. As part of her role as the Executive Director she oversees regulatory actions which impact AWA members, specifically by the BOG. She was also a member of the Anchorage Advisory Committee to the BOG. Thus, she attends BOG meetings regularly.

She testified briefly about the process related to the passing of the initial Regulation, which ultimately led to this underlying action, and the issuance of the Order. After receiving the Order, she regularly monitored the proposals for the BOG and attended the regular March meeting of the BOG. The first day of the March meeting was the first time the request for an Emergency Regulation related to predator management of bears was raised, at all, and the basis of the "emergency" was not disclosed until shortly before the vote.

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[12] *Id.* at Exhibit 6.

[13] The State's oral arguments and Notice of Supplemental Authority also implicitly acknowledged that it is proper to use an emergency regulation to "address deficiencies identified by the Superior Court," but not to circumvent valid court orders.

She testified that she was "very surprised" and "shocked" by the State's actions in trying to pass the Emergency Regulation, and that her team struggled to figure out how to respond. Ms. Schmitt was ultimately able to notify AWA's list serve, and many responded, but she also heard that many were unable to respond in the time provided.

Ms. Schmitt did admit that since there was "no notice in the first meeting, any notice is more than zero notice," in comparing the process for the original Regulation versus the Emergency Regulation. Ms. Schmitt also admitted that she was able to provide an RC on behalf of AWA. She testified on the regulation, but had to pivot because she originally planned to testify on other proposals with her allotted five minutes.

Ms. Schmitt also testified about the "slippery slope" of BOG's use of an emergency process to allow a predator control program. Under the emergency process, BOG would be able to avoid the thirty days' notice required for a "regular regulation" and potentially avoid significant participation on a historically controversial topic. Moreover, the 120-day maximum length of an emergency regulation is ample time to cover the period for which the State would be engaged in actual control measures.

Ms. Schmitt testified that, ultimately, the process at the BOG meeting in passing the Emergency Regulation felt like a "disingenuous" coordinated effort to "pad" the record.

The Court finds Ms. Schmitt's testimony, as stated above, to be relevant and credible.[14]

ii. Natalie Weber's Testimony

Ms. Weber testified that she has been the Regulation Program Coordinator for the Division of Wildlife Conservation for eleven years and first started at ADF&G in 2003. Ms. Weber participated in BOG meetings, including submitting RCs and testified about that process in general and for RC-9, in particular.

She testified that a Press Release was released related to RC-9, which was opened by approximately 1,000 people and that approximately 1,750 reviewed the information

on a Facebook post. But, she admitted that the time to sign up for public comment was 10 a.m. the day after RC-9 was issued, and the time for official written comments had closed.

Ms. Weber admitted that she has never attended a BOG meeting where a predator control program was opened or continued by emergency regulation. She also testified that an emergency petition or emergency regulation is not commonly used because the Department tries hard to adhere to the standards for passing "regular regulations" to ensure that the public has a full opportunity to participate.

The Court finds Ms. Weber's testimony, as stated above, to be relevant and credible.

iii. Ryan Scott's Testimony

Mr. Scott testified that he has been the Director for the Division of Wildlife Conservation for eighteen months, but he was the Acting Director before that, and first started ADF&G in 1991. He has held a number of roles with ADF&G, including as a biologist. Mr. Scott described the Mulchatna Caribou herd and the predator control program to date.[15]

Mr. Scott testified that he was the one to announce the plan to use an emergency regulation to go forward with predator control of bears in GMUs 17 and 18 for 2025. He admitted that it occurred on the first day of the regular March meeting. He stated ADF&G used the regular meeting because it was already "well into" the process of preparing for the predator control program, and it was looking for an avenue to proceed. Mr. Scott testified that he was focused on the "statutes" and, thus, ADF&G was going to "move forward and conduct operations this year," if there was any conceivable way to do so.

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[14] The Court does not include testimony which it heard, but deemed irrelevant.

[15] Mr. Scott provide testimony related to information he believed was presented at the BOG hearing which addressed the sustained yield deficiencies noted in the Order. Because this Order did not reach that issue, and because the Court limited other testimony on that topic, that testimony is not relevant to the decision of the Court and not included here.

Mr. Scott specifically testified that the Emergency Regulation was not intended to "go around" the Order (and that its timing was not related to the Order), but that the Emergency Regulation was an avenue for the Department to continue to work on something *it* felt was an emergency. He testified that the announcement was made on the first day of the regular meeting to try to invite public participation in the emergency petition process because he was "conscious" of the Court's decision with regard to notice. However, he also admitted emergency regulations are not often considered, and "logistically" it is more difficult and time consuming to call a special BOG meeting with thirty days' notice.

The Court finds Mr. Scott's testimony, as stated above, to be relevant but mostly not credible. Specifically, the Court finds Mr. Scott's testimony that the timing of the Emergency Regulation was not related to the Order to be not credible. Similarly, the Court finds Mr. Scott's testimony that the Emergency Regulation was not intended to "go around" the Order to be not credible. The Court also finds Mr. Scott's implication that the six-days' notice of the Emergency Regulation was based on a "conscious" regard to meet the notice deficiencies found in the Order was not credible.

D. Post-TRO Order Background

On May 9, 2025, AWA filed the instant Petition. AWA later filed a Notice of Submission of Supplemental Evidence, attaching an Affidavit which indicated that AWA had reason to believe that ADF&G was going forward with engaging in predator control measures, including the actual killing of brown bears, in GMUs 17 and 18.

On May 9, 2025, the Commissioner issued a Press Release stating that "[a]s planned [ADF&G] will begin predator removal . . . on May 10, 2025" because "[t]he court order did not prohibit these activities or invalidate [the] emergency regulations."[16]

[16] The Court takes judicial notice of the Commissioner's Press Release because it is not subject to reasonable dispute and came from "sources whose accuracy cannot reasonably be questioned." Alaska R. Evid. 201(a)-(c); *see* Alaska R. Evid. 203(a)("[T]he judge may consult and use any source of pertinent information, whether or not furnished by a party."); *F.T. v. State*, 862 P.2d 857, 863–64 (Alaska 1993)("The question of whether or not to take judicial notice *of fact that*

On May 9, 2025 (after the Court closed and without including a courtesy copy to chambers), the State filed Defendant State of Alaska's Notice Regarding May 7, 2025 Order and a Motion for Reconsideration. The Motion for Reconsideration is not yet ripe and will not be addressed herein. The Notice echoed the Press Release stating: "This Court's May 7 Order did not enjoin implementation of the emergency regulation. Neither did the Court review the substantive validity of the emergency regulation. As such, the State believes that the emergency regulation remains valid." It also said "the State intends to implement the activities authorized by the emergency regulation as long as the regulation has not been vacated or enjoined." The Notice also included argument more suite for reconsideration, which will not be addressed here.

On May 12, 2025, AWA filed an Emergency Motion for Relief, seeking action on its Renewed Application for a TRO.

III. Standards of Review

A. Enforcement of Prior Orders

Again, the Court views this case, at this time, as purely an issue of enforcement of the Orders. As previously noted, the Alaska Supreme Court's decision in *State v. Alaska C.L. Union*, 159 P.3d 513, 514–15 (Alaska 2006) is instructive regarding the scope of authority which is retained when an issue is remanded. It states, in relevant part,

> Although our June 1, 2006 order might have been phrased more clearly, it was not meant to empower the superior court to subject the individual details of the state's implementation plan to constitutional scrutiny. Constitutional review of such details at the remedial stage of this case would hamper the primary goal of expeditious compliance and exceed the scope of the remedies sought in the original complaint. Accordingly, absent a basis for finding bad faith, discriminatory intent, or clear facial invalidity, we hold that the regulations adopted by the state must be accorded the usual presumption of constitutionality and must be reviewed under the test that applies when a regulation is challenged on non-constitutional grounds: as

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satisfies the conditions of subdivision [201](b) is thus left primarily to the court's discretion.") (internal citations omitted); *Fed. Trade Comm'n v. Kochava Inc.*, 671 F. Supp. 3d 1161, 1166 n. 1 (D. Idaho 2023)(taking proper judicial notice of a FTC press release, a FTC webpage, and an article published by the Wall Street Journal).

> long as the regulations attempt to offer the benefits mandated by our opinion in a rational and non-arbitrary manner, they must be approved. Any new constitutional questions arising from the details of the implementing regulations must be asserted by future challenge in separate proceedings.

Again, applying this standard, when the State passes new regulations on remand, this Court is not permitted to address "new constitutional questions arising from the details of the implementing [of new] regulations." Such challenges would need to be in a new matter, or properly procedurally added to this matter. However, if there is a basis for the Court to make a finding that the State is acting in bad faith in how it attempted to meet the "benefits mandated by" the Orders on remand, the Court *can* find the new regulation invalid.[17]

B. Temporary Restraining Orders

The Alaska Supreme Court has noted that injunctions and restraining orders are not an appropriate means for the judiciary to manage fish and game resources.[18]

The "serious and substantial question" test does not apply to requests for injunctive relief involving wildlife management.[19] Where injury to the respondents resulting from a temporary restraining order is considerable and may not be adequately indemnified by a bond, the plaintiff must show a probable success on the merits before a temporary restraining order may be issued.[20] Impairment of the State's ability to manage game pursuant to constitutional and statutory provisions could not be indemnified by a

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[17] *State v. Alaska C.L. Union* did not define bad faith. However, the Court takes guidance from how the Alaska Supreme Court denied criminal contempt as "[a]n intentional or willful failure to comply with an order occurs when such failure is not due to inability, but to purposefulness . . . that a party had notice of the court's order and was aware of the requirements but failed to comply with the order, in the absence of explanation of the reason for such failure." *Cont'l Ins. Companies v. Bayless & Roberts, Inc.*, 548 P.2d 398, 407 (Alaska 1976).

[18] *State v. Kluti Kaah Native Village of Copper Center,* 831 P.2d 1270, 1274 n.9 (Alaska 1992).

[19] *Id.* at 1273-74 (the trial court erred in applying the serious and substantial question analysis to Kluti Kaah's request for injunctive relief related to Board action on moose hunts).

[20] *State v. United Cook Inlet Drift Ass'n,* 815 P.2d 378, 379 (Alaska 1991)(the supreme court reversed injunctive relief where the superior court failed to consider the resulting injury to subsistence users).

bond.[21] Therefore, AWA must establish a probability of success on the merits before this Court may entertain the request to grant a temporary restraining order or preliminary injunction.

IV. Discussion

A. The State is Acting in Bad Faith.

Again, the scope of what the Court can do in this matter is limited and does not include a "full blown" administrative appeal review of the BOG's decision to adopt the Emergency Regulation. However, this Court can address whether the State is operating in bad faith, or if the State has complied with the mandates in the Order in "a rational and non-arbitrary manner." One of the deficiencies noted by the Order, which BOG was mandated to correct, was BOG's violation of Appellant AWA's right to due process of law, by failing to provide AWA with adequate notice or a meaningful opportunity to be heard about a regulatory proposal, as is required by the Alaska Constitution and amplified by provisions in the Alaska Administrative Procedures Act.[22]

i. The State did Not Cure its Notice Deficiencies.

As previously addressed in the TRO Order, the State argued that it has complied with the notice deficiencies in the Order because (1) AWA was provided *more* notice[23] of the emergency regulation now at issue than was provided for the original amendment adding bears in 2022;[24] (2) AWA did submit an RC in response to the emergency petition; (3) many AWA members and supporters submitted RCs in response to the emergency petition; and (4) Nicole Schmitt was able to provide oral testimony as an individual and as AWA's Executive Director. The State also argued that the Order did not specifically require the thirty days' notice of a meeting under the Alaska

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[21] *Kluti Kaah Native Village of Copper Center,* 831 P.2d at 1273-74.
[22] Order and Decision (March 15, 2025), at 10.
[23] Six days from first announcement of the petition to when it passed.
[24] Essentially no notice because bears were added after the close of testimony and written comment.

Administrative Procedures Act, or state that the BOG could not utilize emergency regulation provisions to reinstate the struck regulation.

In the TRO Order, the Court disagreed with those arguments and found that the procedure followed by the BOG in adopting the emergency regulation did *not* address the due process notice mandate of the Order in "a rational and non-arbitrary manner." Based on this finding, Court specifically found "that the requirements of the Order have not been met and are still binding on the State" and the Order "remains a valid Order of the Court, which the parties are bound by whether a TRO is issued or not."

ii. The State Disregarded the Directives of the Orders, Acting in Bad Faith, Which Invalidates the Emergency Regulation.

In the TRO Order, having found the State had not cured its notice deficiency, the Court declined to reach the issue of whether the State was acting in bad faith in how it attempted to meet the "benefits mandated by" the Order on remand. Based on the new information in the Renewed Application and the position of the State in the Press Release and Notice to Court, the Court will now address whether the State is acting in bad faith, which would allow the Court to invalidate the Emergency Regulation.

During arguments at the hearing on May 6, 2025, the State ultimately acknowledged that the emergency regulation was only necessary because of the Order. Yet, the State repeatedly and ardently denied that the Emergency Regulation was intended to be a "work around" of the Order. The State also implicitly acknowledged that it is proper to use an emergency regulation to "address deficiencies identified by the Superior Court," but not to circumvent valid court orders.

However, the Court finds that the testimony of Mr. Scott exhibited the actual position of ADF&G – that it was going to "move forward and conduct operations this year," if at all possible. Nothing in Mr. Scott's testimony (or any other actual evidence, as opposed to oral argument, from the State) indicated that ADF&G or the BOG found that compliance with the mandates of the Order needed to be a *priority*. On the contrary, Mr. Scott's testimony that six-days' notice was a "conscious" attempt to address the

notice deficiencies, compared to the emphasis he placed on the fact that the State was "well into" the process of preparing for the predator control program and were looking for an avenue to proceed, shows that ensuring meaningful notice was not a priority to ADF&G.

Likewise, ADF&G's conduct post-TRO Order, to move forward "as planned" with predator removal and intent "to implement the activities authorized by the emergency regulation as long as the regulation has not been vacated or enjoined," despite the clear directive that it had not complied with the Order, further demonstrates that it is not attempting to meet the "benefits mandated by" the Order at all, much less do so in good faith. Again, the State repeatedly argued that the intent of passing the Emergency Regulation was to *comply* with the deficiencies found in the Order. That the State intends to move forward with predator control *after* the Court found that it failed in that regard demonstrates that compliance was not the goal of the Emergency Regulation – continuing predator control by any means was the goal.

The Court also notes that, apart from filing Motions for Reconsideration (without requesting expedited consideration), the State made no efforts to stay the decision, or seek other relief from the courts (e.g., a petition for review).

This evidence together forms a basis for this Court to make a finding that the State acted in bad faith in how it attempted to meet the "benefits mandated by" the Order on remand. Having found that the State is acting in bad faith, per the authority granted by the Supreme Court in *State v. Alaska C.L. Union*, this Court need not provide the State "the usual presumption of constitutionality" or find "[a]ny new constitutional questions arising from the details of the implementing regulations must be asserted by future challenge in separate proceedings."[25] Therefore, because the Emergency Regulation was passed (and implemented) in bad faith, and it did not "attempt to offer the benefits mandated by [the Order] in a rational and non-arbitrary manner," it is invalid and without legal effect.

B. AWA is Now Entitled to a TRO.

Consistent with the TRO Order, having provided clarity that the Emergency Regulation is invalid (and, thus there is no regulatory authority to kill bears as predator abatement in GMUs 17 and 18), the Court does not believe that a TRO, or other injunction relief, should be necessary. However, since the Press Release indicated that the State did not believe the Court's Orders "prohibit these activities," and the Notice notes that the State was previously enjoined, the Court will address the request for injunctive relief.

In its Renewed Petition, AWA narrowed its requested equitable relief to "direct Commissioner Douglas Vincent-Lang to cease and desist from killing bears until and only after the Alaska Department of Fish & Game obtains proper legal authority, consistent with the ***Order and Decision*** of this Court dated March 14, 2025."[26] Contrary to their original request, this narrowed request fits within the parameters of the Order and AWA's original Complaint.[27]

i. The Requested Relief is Within the Authority of the Court.

Again, the Court acknowledges that the Alaska Supreme Court has consistently held that injunctions and restraining orders are not an appropriate means for the judiciary to manage fish and game resources.[28] However, at this stage, this matter is no longer related to the management of fish and game resources, but purely about enforcing prior Orders. Likewise, if this was a new administrative appeal, the State's authority to manage game pursuant to constitutional and statutory provisions would require AWA to establish a probability of success on the merits.[29] However, in this matter AWA *already prevailed* on the underlying merits when the Order issued. Likewise, per the TRO Order, AWA has

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[25] *State v. Alaska C.L. Union*, 159 P.3d 513, 514–15 (Alaska 2006).
[26] Memorandum in Support of Renewed Application for a Temporary Restraining Order, at 2.
[27] The Court does note that, while the Order does not include injunctive relief, it was originally requested in the Complaint.
[28] *Kluti Kaah Native Village of Copper Center,* 831 P.2d at 1274 n.9.

also already prevailed on the issue of whether the State corrected deficiencies on remand in "a rational and non-arbitrary manner" (and is thus not entitled to deference on the new regulation).

Thus, since AWA has narrowed its requested injunctive relief to comport with the Order, the injunctive relief is not an attempt by the judiciary to manage fish and game resources, and AWA has already prevailed on the merits, this Court has authority to issue a TRO.[30]

ii. The TRO.

Thus, for all of the reasons stated herein, the State, including, but not limited to ADF&G, is temporarily restrained from engaging in predator control measures (i.e., the actual killing of brown bears) in GMUs 17 and 18, until ADF&G obtains proper legal authority, consistent with the Orders of this Court dated March 14, 2025, and May 7, 2025. "Proper legal authority" includes specific authority of this Court (or a higher Court), or that ADF&G passes a non-emergency regulation ("as is required by Art. 1, Sec 7 of the Alaska Constitution and amplified by provisions in the Alaska Administrative Procedures Act"[31]), which addresses the deficiencies noted in the Order.

V. Conclusion

For the reasons stated herein, the Renewed Application for a TRO is GRANTED.

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[29] *United Cook Inlet Drift Ass'n,* 815 P.2d at 379; *Kluti Kaah Native Village of Copper Center,* 831 P.2d at 1273-74.

[30] Based on the procedural posture of this case (including that the Court already held an evidentiary hearing on May 6, 2025), the Court believes it could have granted a permanent injunction. That said, the Court is only issuing a TRO at this juncture because the State has not yet opposed the Renewed Petition. If the State believes there is a legal basis for the Court to allow them an additional opportunity to provide new relevant information, it must file a pleading requesting an additional evidentiary hearing by May 16, 2025. Absent such a request, this TRO will become a preliminary injunction. *See State v. Galvin,* 491 P.3d 325, 333 (Alaska 2021)(holding that "the party seeking relief must make a clear showing of probable success on the merits of the dispute before a court may grant the preliminary injunction")(internal quotations and citations omitted).

[31] Order and Decision.

IT IS SO ORDERED.

DATED this 12th day of May, 2025, at Anchorage, Alaska.

Christina Rankin
Superior Court Judge

I certify that on 5/12/25
a copy of the above was emailed
via Case Parties (unless noted otherwise below)
to each of the following at their address of record:

MW
~~C Fernthell~~, Judicial Assistant
J. Bennett, J. Geldhof,
C. Brooking, and
K. Del Frate.