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

RONALD T. WEST.	)
Intervenor/Plaintiff	RECEIVED
ALASKA WILDLIFE	)
ALLIANCE, Plaintiffs,	) )
v.	) )
STATE OF ALASKA, et al.	)
Defendants.	) Case No. 3AN-06-101956 CI
FRIENDS OF ANIMALS, INC., and THOMAS CLASSEN,	) )
Plaintiffs,	) )
v.	)
STATE OF ALASKA, et al.,	) )
Defendants.	<ul><li>Case No. 3AN-06-13087 CI</li><li>(Consolidated with 3AN-06101956 CI)</li></ul>
Certificate of Service	
	DEFENDERS OF WILDLIFE and ALASKA WILDLIFE ALLIANCE,  Plaintiffs, v.  STATE OF ALASKA, et al.  Defendants.  FRIENDS OF ANIMALS, INC., and THOMAS CLASSEN,  Plaintiffs, v.  STATE OF ALASKA, et al.,  Defendants.

I hereby certify that I am a law office assistant for the State of Alaska,

Office of the Attorney General and that on the this date, I caused to be served by mail

# State's Status Report on the following:

Michael Grisham Dorsey & Whitney LLP 1031 West 4<sup>th</sup> Ave, Ste. 600 Anchorage, AK 99501

OFFICE OF THE ATTORNEY GENERAL ANCHORAGE BRANCH 1031 W. FOURTH AVENUE, SUITE 200 ANCHORAGE, ALASKA 99501 **DEPARTMENT OF LAW** 

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# IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

#### THIRD JUDICIAL DISTRICT AT ANCHORAGE

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## State's Status Report

Pursuant to this court's March 30, 2007 temporary restraining order, the State of Alaska hereby submits a status report on the issues raised in the pending injunction requests in this case.

Immediately following this court's March 30 decision, the Department of Fish and Game ("Department") terminated the incentive program that was at issue in the temporary restraining order motions filed by both sets of plaintiffs. The Department's decision is that it will not pursue any further incentive-type payments for the remainder of the current predator control season; that is, through April 30, 2007. This means that the

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Department will not pay to purchase specimens, offer payments for aviation fuel, or otherwise offer any direct monetary benefit to permittees. The Board of Game has given no indication that it intends to meet to adopt emergency regulations on point. Thus, there will be no state-sponsored incentive program for the remainder of this season. This moots the injunction request filed by the Defenders of Wildlife, et al., and moots the part of the temporary restraining order request filed by the Friends of Animals, et al., that deals with such issues.

Insofar as the allegations that the State is using "Judas wolves" that are radio-collared for control purposes, the attached letter and proposed stipulation sets out the State's position. If the offer is accepted, the Friends of Animals' temporary restraining order motion would be completely moot.

The Department may, if snow and other weather conditions improve, elect to use its employees to take wolves with the use of helicopters in areas where doing so would be likely to help achieve control objectives. However, there are no existing plans to do so, as weather conditions are not currently conducive to aerial control in the areas where such an effort is needed most. In any event, none of the pending motions challenge the Department's ability to undertake such an effort, so there is no ripe controversy on this issue.

The Department has suspended wolf control operations in the GMU 13 predation control area for this season, as control objectives have been reached. Thus, all pending injunction requests are most as to this area. There is no reason why a dispositive

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ruling can not be made in this case before operations resume in the late fall of 2007. It is likely that the same situation will exist for the GMU 16 area within the next few days.

The Department currently anticipates that wolf control activities will be permitted to continue through April 30, 2007 for the Upper Tanana, GMU 19A, and GMU 19D-East predation control areas.

DATED this Lord day of Light, 201.

TALIS J. COLBERG ATTORNEY GENERAL

By:

Kevin M. Saxby

Assistant Attorney General Attorney for State of Alaska

#### DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

1031 WEST 4<sup>2</sup> AVENUE, SUTTE 200 ANCHORAGE, ALASKA 99501-5903 PHONE: (90°)269-5100 FAX: (90°)276-369°

April 5, 2007

Michael Grisham Dorsey and Whitney LLP 1031 West 4<sup>th</sup> Ave. Ste 600 Anchorage, AK 99501

Dear Mr. Grisham;

This is in response to your April 3, 2007, letter requesting information about the Department of Fish and Game's use of telemetry. During the March 30 hearing, Director Robus was unequivocal in stating that radiotelemetry is not used for purposes of locating and killing wolves and that the Department has no intention of using it to do so. Moreover, no averment in the Friends of Animals' complaint even arguably asserts that the Department is doing so. Accordingly, documents concerning the Department's use of telemetry are not calculated to lead to the discovery of any relevant evidence in this lawsuit. Furthermore, at least some of the information you have requested is confidential under AS 16.05.815(d). Also, my argument to the trial court was that all (genuine) issues should be addressed as quickly as possible, at the same time. I have no desire to waste the court's time on something that is not happening and will not happen. For these reasons, the State opposes informal discovery about the use of radiotelemetry by ADF&G personnel, and will also resist formal discovery on point.

That being said, it seems foolish to Director Robus and I to fight about this non-issue. Accordingly, the Department is willing to take this topic off the table by executing the following stipulation, which may be submitted to the trial judge for his signature and entered as an order in this matter.

Sincerely,

TALIS COLBERG ATTORNEY GENERAL

K M. E

Kevin M. Saxby
Assistant Attorney General

Department of Law

Exhibit of 4

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# IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

### THIRD JUDICIAL DISTRICT AT ANCHORAGE

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Intervenor Plaintiff	)
DEFENDERS OF WILDLIFE and	)
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# Stipulation and Order Regarding Use of Radiotelemetry

- 1. Whereas the Friends of Animals have asserted, in a motion for a temporary restraining order, that the Department of Fish and Game, or its personnel, are using radiotelemetry to locate wolves for purposes of relaying their locations to wolf control permittees so that they may be killed; and
- 2. Whereas the Department of Fish and Game asserts that it is not doing so and that its employees, agents and permittees have been instructed that they are prohibited from doing so, and that the Department has no intention of using radiotelemetry

Exhibit 1

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for purposes of locating wolves to be killed, and has committed to this policy for the foreseeable future: and

3. Whereas the trial court denied the requested temporary restraining order, finding no evidence that the Department has used radiotelemetry to locate wolves for predator control purposes. Nevertheless, in order to avoid wasting time and judicial resources on any further debate on this topic, the Department is willing to stipulate and be subjected to an order as follows:

## Stipulation

As it implements the predation control implementation plans currently set forth at 5 AAC 92.125 (b), (c), (d), (e), and (f), the Department of Fish and Game will not use radiotelemetry to locate wolves for predator control purposes unless it first obtains specific regulatory authority from the Board of Game on point.. Absent such authority, the Department will also not relay wolf location information acquired through use of radiotelemetry to any predator control permittees during active predator control seasons except to the extent such information is within public records that must be disclosed when requested under Alaska's public records laws. In any event, the Department will not disclose any such public records to permittees on the same day that wolves were located using radiotelemetry. The Department will, in its discretion. continue to use radiotelemetry location data for all other purposes and cooperate and

Stipulation Regarding Use of Radiotelemetry Defenders of Wildlife v. SOA Case No. 3AN-06-13087 CI

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share information with other ag	gencies, researchers, law enforcements officials, and oth
who may be involved in radiote	elemetry studies or have authorized uses for such data.
Date:	Matthew Robus
	Director of the Division of Wildlife
Approved as to form:	Conservation: ADF&G
Date:	Kevin M. Saxby
	Assistant Attorney General Bar No. 8611132
IT IS SO ORDERED, th	ORDER nis day of, 2007.
, in the second	
	** *******
	Hon. William F. Morse Superior Court Judge

Stipulation Regarding Use of Radiotelemetry Defenders of Wildlife v. SOA Case No. 3AN-06-13087 CI

Exhibit \_\_\_\_\_\_ of 4