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March 6, 2023

Supreme Court declines to hear case concerning Fish and Wildlife Service rule prohibiting brown bear baiting in the Kenai Refuge

The U.S. Supreme Court today declined to hear a case in which the U.S. Ninth Circuit Court of Appeals upheld a 2016 U.S. Fish and Wildlife Service rule that enshrines the Kenai National Wildlife Refuge’s long-standing prohibition on brown bear baiting, along with its decades-long approach of managing the Skilak Wildlife Recreation Area for wildlife viewing and education.

The Safari Club and state of Alaska petitioned the Supreme Court to review the Ninth Circuit Court decision in January, and we filed a brief opposing that petition in February. The Supreme Court decision to not take the case means that the Ninth Circuit Court ruling is final and that the Fish and Wildlife Service will continue to manage wildlife on lands it oversees and to set management priorities within National Wildlife Refuges.

“The Supreme Court correctly rejected this final attempt by the State of Alaska and Safari Club International to overturn the Ninth Circuit decision that prevented them from decimating the iconic wildlife populations of our magnificent Kenai National Wildlife Refuge,” **said Dr. David C. Raskin, president of the Friends of Alaska National Wildlife Refuges.** “The science-based regulations in the 2016 Kenai rule uphold the legal obligation of the Fish and Wildlife Service to maintain wildlife populations in their natural diversity. This is a great victory for intelligent management for the long-term benefit of wildlife for all Americans to enjoy and cherish.”

The Ninth Circuit’s decision upholds Fish and Wildlife Service’s authority and duty to protect a natural diversity of wildlife, which includes precluding hunting practices like brown bear baiting that result in the overharvest of bears and public safety risks related to baiting practices. The Ninth Circuit flatly rejected the State and Safari Club’s arguments that Alaska’s Statehood Act and the Alaska National Interest Lands Conservation Act allowed the State to manage hunting in the Kenai Refuge in a way that conflicts with the purposes for which those lands were designated. It reaffirmed that “the federal government, and not a single state, has control over federal lands which benefit the entire country.”

“We celebrate the Supreme Court’s refusal to take up this appeal, along with the affirmation of the Fish and Wildlife Service’s authority to manage wildlife refuges to protect wildlife diversity and ensure that the Refuge supports a variety of visitor experiences, including wildlife viewing,” **said Rachel Briggs, staff attorney with Trustees for Alaska.** “The ruling means that the Kenai

Refuge will continue to function as a true refuge for vulnerable Kenai brown bears and other species.”

The nonprofit law firm Trustees for Alaska intervened in the case on behalf of 15 clients, defending the rule alongside the Fish and Wildlife Service and arguing that the agency has an obligation to manage wildlife refuges for biological health and diversity, and necessarily has the authority to do so.

Trustees represents the following clients in the case: The Alaska Wildlife Alliance, Alaskans for Wildlife, Friends of Alaska National Wildlife Refuges, Denali Citizens Council, Copper Country Alliance, Kachemak Bay Conservation Society, Defenders of Wildlife, National Parks Conservation Association, National Wildlife Refuge Association, Northern Alaska Environmental Center, The Wilderness Society, Wilderness Watch, Alaska Chapter of the Sierra Club, Center for Biological Diversity, and the Humane Society of the United States.

Group statements:

“The U.S. Supreme Court delivered a win for brown bears and biological diversity by refusing to hear an appeal of a Ninth Circuit decision upholding a 2016 U.S. Fish and Wildlife Service rule that prohibits brown bear baiting in Alaska’s Kenai National Wildlife Refuge,” **said Nicole Whittington-Evans, Alaska program director, Defenders of Wildlife.** “Bear baiting allows hunters to use donuts, dog food, bacon grease or other foods to attract bears, making it much easier to shoot bears. When the state of Alaska first authorized brown bear baiting on Kenai Peninsula state lands, human-caused bear mortality rose six-fold, causing a significant decline in this isolated population and prompting emergency closures of bear hunting in the refuge. With this prohibition, the Fish and Wildlife Service can better ensure the sustainability of Kenai brown bears, fulfilling its responsibility to conserve biological integrity and diversity on our refuge lands.”

“Our members and supporters are very pleased that the Supreme Court let the Ninth Circuit court ruling stand, thus assuring that brown bear baiting in the Kenai National Wildlife Refuge and Wilderness area will not be allowed, and that final authority for administration of National Wildlife Refuges remains under the US Fish and Wildlife Service,” **said Fran Mauer, Alaska chapter representative for Wilderness Watch.**

“The Fish and Wildlife Service was established under the ethos that Wildlife Refuges maintain a natural diversity of wildlife,” **said Nicole Schmitt, executive director of the Alaska Wildlife Alliance.** “This decision establishes that the Fish and Wildlife Service has the absolute, unwavering authority to manage wildlife to those values, and ends a years-long legal battle. This is a huge relief to the wildlife in the Kenai National Wildlife Refuge, especially who have been targeted by state predator control programs.”

“Today’s denial marks the end of the State of Alaska and trophy hunting groups’ attempt to force the U.S. Fish and Wildlife Service to allow cruel brown bear baiting on the Kenai National Wildlife Refuge,” **said Nicholas Arrivo, managing attorney for the Humane Society of the**

United States. “It affirms what has been clear all along: the Service was justified and well within its authority to prohibit inhumane practices that threaten wildlife diversity in this special place.”

Contacts:

David Raskin, president of the Friends of Alaska National Wildlife Refuges, davidc.raskin@me.com, 425-209-9009

Nichole Schmitt, executive director of the Alaska Wildlife Alliance, nicole@akwildlife.org, 907-917-9453

Sue Libenson, Defenders of Wildlife, slibenson@defenders.org, 907-303-0022

Dawnell Smith, communications director, Trustees for Alaska, dsmith@trustees.org, 907-433-2013