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January 29, 2024

The Office of Management and Budget
Office of Information and Regulatory Affairs
725 17th Street, NW
Washington, D.C. 20503

Submitted via www.reginfo.gov

Re: E.O. 12866 Meeting
Department of the Interior / National Park Service
Alaska; Hunting and Trapping in National Preserves
88 Fed. Reg. 1,176 (January 9, 2023) RIN: 1024-AE70

Dear OMB / OIRA:

On behalf of Alaska Professional Hunters Association, Sportsmen's Alliance Foundation, and the Alaska Outdoor Council, thank you for today's E.O. 12866 meeting regarding the National Park Service's ("NPS") proposed rule addressing hunting in Alaska's National Preserves. 88 Fed. Reg. 1,176 ("Proposed Rule").

In my presentation, I quoted from Judge Gleason's final order in *Alaska Wildlife Alliance v. Haaland* (632 F. Supp. 3d 974), where plaintiffs from environmental organizations challenged the validity of NPS's 2020 Rule, which the National Park Service now proposes to repeal.¹ In that litigation Judge Gleason declined to vacate the 2020 Rule and upheld most aspects of the 2020 Rule, most significantly being her ruling that predator management does not inherently conflict with federal law governing Alaska's national preserves. Furthermore, Judge Gleason remanded the 2020 Rule without vacatur, leaving it as the regulation governing Alaska's National Preserves while allowing NPS to reconsider the few identified errors on remand. I have uploaded the full text of Judge Gleason's final order as a supporting document to the presentation and, given the length of that order, provide citations to some key holdings as set forth below:

- "The Court concludes that the plain text of the Organic Act and ANILCA demonstrates that predator reduction efforts are permissible in the National Preserves of Alaska, provided that these efforts do not impair the wildlife

¹ 85 Fed. Reg. 35,181 (June 9, 2020).

resources under the Organic Act or the maintenance of healthy populations under ANILCA.” --p. 24.

- “These statutory mandates taken together show that NPS can permit predator reduction efforts in the National Preserves of Alaska, provided that the agency strikes the proper balance between hunting and wildlife population protection.” --p. 24
- “But the Court finds that substantial evidence in the record as a whole supports NPS’s finding that the contested State hunting regulations have not and do not have the potential of disrupting the natural abundance of the predator and prey populations in the National Preserves.” --p. 28.
- “...general statements of policy do not expressly prohibit predator reduction efforts in the National Preserves of Alaska. Rather, the two statutes [ANILCA and the Organic Act] direct NPS to allow hunting in a manner that maintains sound populations of wildlife. To decide whether predator reduction efforts are permissible, NPS must determine whether these hunting practices will prevent the maintenance of sound populations of wildlife.” --p. 21.
- “ANILCA directs NPS to maintain wildlife populations, but does not prohibit any localized impacts of hunting...” --p. 33.

I have also uploaded for review the joint comment submitted on behalf of Alaska Professional Hunters Association, Sportsmen’s Alliance Foundation, and Alaska Outdoor Council in response to the Proposed Rule. If we can provide any additional materials or respond to any subsequent questions please let me know.

Sincerely,

Birch Horton Bittner & Cherot, P.C.

/s/ Brian V. Gerd

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*Attorneys for Alaska Professional
Hunters Association, Sportsmen’s
Alliance Foundation, and Alaska
Outdoor Council.*