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**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

ALASKA WILDLIFE ALLIANCE, ALASKA
WILDERNESS LEAGUE, ALASKANS FOR
WILDLIFE, CENTER FOR BIOLOGICAL
DIVERSITY, COALITION TO PROTECT
AMERICA’S NATIONAL PARKS, COPPER
COUNTRY ALLIANCE, DEFENDERS OF
WILDLIFE, DENALI CITIZENS COUNCIL, THE
HUMANE SOCIETY OF THE UNITED STATES,
NATIONAL PARKS CONSERVATION
ASSOCIATION, NORTHERN ALASKA
ENVIRONMENTAL CENTER, SIERRA CLUB,
and WILDERNESS WATCH,

Plaintiffs,

v.

DAVID BERNHARDT, in his official capacity as
Secretary of the U.S. Department of the Interior;
GEORGE WALLACE, in his official capacity as
Assistant Secretary for Fish and Wildlife and Parks;
U.S. DEPARTMENT OF THE INTERIOR; and
NATIONAL PARK SERVICE,

Defendants.

Case No. 3:20-cv-00209-TMB

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

(Administrative Procedure Act,
5 U.S.C. §§ 702–06; Alaska
National Interest Lands
Conservation Act, 16 U.S.C. §
3101 et. seq., 16 U.S.C. §§
410hh, 410hh-1; Organic Act,
54 U.S.C. § 100101 et. seq.)

Plaintiffs Alaska Wildlife Alliance, Alaska Wilderness League, Alaskans FOR Wildlife, Center for Biological Diversity, Coalition to Protect America’s National Parks, Copper Country Alliance, Defenders of Wildlife, Denali Citizens Council, the Humane Society of the United States, National Parks Conservation Association, Northern Alaska Environmental Center, Sierra Club, and Wilderness Watch (collectively “Wildlife Alliance”) file this Complaint for Declaratory and Injunctive Relief, alleging:

I. NATURE OF THE CASE

1. The Wildlife Alliance — on behalf of millions of members and supporters — brings this action to protect wildlife in national preserves in Alaska from regulations adopted in violation of the National Park Service’s (“Park Service” or “NPS”) Organic Act, the Alaska National Interest Lands Conservation Act (“ANILCA”), and the Administrative Procedure Act (“APA”).

2. On June 9, 2020, the Park Service adopted regulations (the “2020 Rule”) reversing its longstanding position, codified in Park Service regulations in 2015, that sport hunting regulations that reduce, or are aimed at reducing, populations of predators — like wolves and bears — on national preserves are fundamentally at odds with the Park Service’s statutory mandates. *Alaska; Hunting and Trapping in National Preserves*, 85 Fed. Reg. 35181 (June 9, 2020); *compare with* *Alaska; Hunting and Trapping in National Preserves*, 80 Fed. Reg. 64,326 (Oct. 23, 2015). The Park Service’s decision to allow sport hunters to take bears over bait, shoot wolves during the denning season, and

use other methods that increase or are intended to increase overall take of predators within the national preserves is arbitrary and contrary to federal law.

3. To remedy the Park Service's arbitrary decision to adopt the 2020 Rule, the Wildlife Alliance seeks vacatur of the 2020 Rule, and declaratory and injunctive relief.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over the parties and subject matter of this action pursuant to 5 U.S.C. §§ 702–06 (Administrative Procedure Act), 28 U.S.C. § 2201–02 (declaratory judgment), and 28 U.S.C. § 1331 (federal question jurisdiction).

5. Venue is proper in the District of Alaska under 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claims occurred within the District of Alaska and the lands and wildlife at issue are in Alaska.

III. PARTIES

6. Plaintiff Alaska Wildlife Alliance is a 501(c)(3) nonprofit. It is a conservation organization that seeks to conserve Alaska's natural wildlife for its intrinsic value as well as for the benefit of present and future generations. Alaska Wildlife Alliance advocates for a natural predator-prey balance and supports stewardship of Alaska's wildlife for healthy ecosystems and all user groups.

7. Plaintiff Alaska Wilderness League is a nonprofit organization founded in 1993 to further the protection of public lands and waters in Alaska. Its mission is to lead

the effort to preserve Alaska's wild lands, waters, and wildlife by engaging citizens and decision makers. It has offices in Anchorage and Washington, D.C., as well as other locations.

8. Plaintiff Alaskans FOR Wildlife is an Alaskan organized group whose mission is to work through education and advocacy to promote respect, love, and protection for Alaskan wildlife. Alaskans FOR Wildlife is an all-volunteer group that is a collection of working and retired professionals and lay persons, including wildlife scientists, educators, mushers, hunters, oilfield workers, wildlife photographers, and those of other pursuits, all interested in promoting the welfare of living wildlife.

9. Plaintiff Center for Biological Diversity is a nonprofit organization that works through science and environmental law to advocate for the protection of endangered, threatened, and rare species and their habitats throughout the United States, including Alaska. The Center for Biological Diversity has a long-standing interest in maintaining healthy populations and natural diversity of wildlife their habitats in Alaska. The Center for Biological Diversity has 74,000 active members, including 305 members in Alaska, and over 1.7 million supporters nationwide.

10. Plaintiff Coalition to Protect America's National Parks is a 501(c)(3) nonprofit organization working to support the Park Service's mission, the national parks, and Park Service employees. The Coalition to Protect America's National Parks has over

1,800 members, who are all current, former, or retired employees and volunteers of the Park Service. These include former National Park Service directors, superintendents, park rangers, resource managers, scientists, and other professionals who collectively represent over 40,000 service years devoted to the parks. Since 2003, the Coalition to Protect America's National Parks has advocated for a range of actions to protect the resources and values, including wildlife, conserved within the units of the National Park System in furtherance of their statutory purposes and to perpetuate their time-honored values for the benefit of all generations.

11. Plaintiff Copper Country Alliance is a 501(c)(3) nonprofit organization. Its mission is to protect the rural and wild natural environment — including wildlife — of the Copper Basin/Wrangell Mountains region. Copper Country Alliance is based out of Kenny Lake, Alaska and has approximately 47 members. It is an all-volunteer organization.

12. Plaintiff Defenders of Wildlife is a nonprofit organization founded in 1947. Its mission is to protect all native animals and plants in their natural communities. It advocates for the sound management of our public lands, including national preserves in Alaska, and is committed to ensuring that Alaska's wildlife and their habitats remain healthy and viable. Defenders of Wildlife is headquartered in Washington, D.C., with field offices around the country, including one in Anchorage. Defenders of Wildlife has

approximately 1.8 million members and supporters throughout the United States, including 6,000 in Alaska.

13. Plaintiff Denali Citizens Council is a 501(c)(3) education and advocacy organization representing approximately 300 local, regional, and national citizens, incorporated in 1974. Denali Citizens Council provides a conservation voice in the management of Denali National Park & Preserve. Denali Citizens Council works to promote the natural integrity of the park by supporting the ecological and wilderness values for which the park was established. Denali Citizens Council seeks to ensure that the park's ecosystems exist in a natural and minimally managed condition. Outside the park, Denali Citizens Council works — among other things — to protect wildlife habitat values on lands that are part of the greater Denali ecosystem.

14. Plaintiff the Humane Society of the United States is a 501(c)(3) nonprofit organization founded in 1954 and headquartered in Washington, D.C., with regional offices throughout the country. The Humane Society of the United States is the nation's largest animal protection organization, with millions of members and constituents, including many in Alaska. Its mission is to promote the humane treatment of all animals, including animals in the wild. The Humane Society of the United States has a long history of working to protect wildlife from unsustainable hunting and to fight inhumane

and unsporting methods of killing predators — such as using bait, dogs, or traps — throughout the country, including on national preserves and other federal lands in Alaska.

15. Plaintiff National Parks Conservation Association is a 501(c)(3) nonprofit organization working to protect and enhance America’s National Park System for present and future generations. The National Parks Conservation Association was founded in 1919, and today has nearly 1.4 million members and supporters. It is headquartered in Washington, D.C., and has various regional and field offices, including an Alaska Regional office in Anchorage. Among other things, it works to ensure that national park and preserve lands, and surrounding federal and state lands, are managed to protect natural diversity on park and preserve lands.

16. Plaintiff Northern Alaska Environmental Center is a 501(c)(3) nonprofit organization founded in 1971 that promotes conservation of the environment and sustainable resource stewardship in Interior and Arctic Alaska through education and advocacy. Its office is located in Fairbanks, Alaska and has approximately 900 members. The Northern Alaska Environmental Center is dedicated to protecting the land, waters, and wildlife of Interior and Arctic Alaska, and works to protect wildlife throughout northern Alaska, including in national preserves.

17. Plaintiff Sierra Club is the nation’s oldest and largest grassroots environmental organization. The Sierra Club is a national nonprofit organization with

over 830,000 members dedicated to exploring, enjoying, and protecting the wild places of the Earth; to practicing and promoting the responsible use of the Earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. The Sierra Club's concerns encompass a variety of environmental issues in Alaska and beyond, including an interest in protecting wildlife. The Alaska Chapter of the Sierra Club has over 1,800 members.

18. Plaintiff Wilderness Watch is a nonprofit organization founded in 1989. Its mission is to defend the nation's 111 million-acre National Wilderness Preservation System. Wilderness Watch advocates for appropriate stewardship according to the requirements of the Wilderness Act of 1964. Wilderness Watch monitors agency stewardship of designated Wilderness in Alaska and organizes its approximately 2,800 members and tens of thousands of supporters to participate in public processes in Alaska that impact designated Wilderness.

19. The Wildlife Alliance and associated members and supporters have long-standing interests in preserving and enjoying the wildlife, habitat, and wilderness values of national preserves in Alaska. The Wildlife Alliance's staff and members have visited, and plan to continue visiting, many of the national preserves in Alaska impacted by the 2020 Rule for the purpose of viewing the diverse and natural balance of wildlife and

experiencing the intact, wild, and natural ecosystems present on these federally protected lands. The Wildlife Alliance's staff and members have also visited, and plan to continue visiting, national parks geographically and ecologically connected to the national preserves for those same purposes. The Wildlife Alliance's interests in the protection of wildlife, especially bears and wolves, in the national preserves are legally protected interests under several federal statutes. The Wildlife Alliance has worked for years to protect wildlife, on both state and federal lands. The Wildlife Alliance submitted comments during the rulemaking process for the Park Service regulations challenged in this litigation.

20. The Wildlife Alliance and their members' and supporters' interests are adversely affected by the 2020 Rule. Their actual, concrete injuries are fairly traceable to the Park Service's decision to adopt the 2020 Rule, and would be redressed by the relief sought in this case.

21. Defendant David Bernhardt is the Secretary of the U.S. Department of the Interior and is being sued in his official capacity. As the Secretary, he is charged with the supervision and management of all decisions, operations, and activities of the Department and its divisions.

22. Defendant George Wallace is the Assistant Secretary for Fish and Wildlife and Parks and is being sued in his official capacity. He signed the decision to adopt the 2020 Rule.

23. Defendant U.S. Department of the Interior is an executive agency of the United States responsible for oversight of the National Park Service.

24. Defendant National Park Service is an agency within the U.S. Department of the Interior and is responsible for the management of the National Park System, including national preserves in Alaska.

IV. LEGAL FRAMEWORK

25. The Park Service's Organic Act requires the Park Service to manage the National Park System "to conserve the scenery, natural and historic objects, and wild life" and provide for visitor enjoyment of the same for this and future generations. 54 U.S.C. § 100101(a).

26. Park Service management policies implementing the Organic Act require the Park Service to protect natural systems, processes, and wildlife populations, including the natural abundances, diversities, distributions, densities, age-class distributions, populations, habitats, genetics, and behaviors of wildlife. NPS Management Policies 2006 §§ 4.1, 4.4.1, 4.4.1.2, 4.4.2.

27. Park Service management policies implementing the Organic Act specifically prohibit the manipulation of wildlife populations to increase human harvest of prey. NPS Management Policies 2006 § 4.4.3.

28. Congress passed ANILCA in 1980, which established most of the national park units in Alaska, including all of the national preserves.

29. Congress passed ANILCA to preserve nationally significant areas “for the benefit, use, education, and inspiration of present and future generations” and to preserve wildlife, wilderness values, and natural, undisturbed, unaltered ecosystems while allowing for recreational opportunities, including sport hunting. 16 U.S.C. §§ 3101(a)–(b).

30. By establishing national preserves and other conservation system units, ANILCA protects populations of wildlife and their habitats.

31. ANILCA requires the Park Service to manage nearly all of the national preserves specifically to protect populations of brown and/or grizzly bears and wolves, and their habitat. 16 U.S.C. §§ 410hh, 410hh-1.

32. ANILCA provides that national preserves in Alaska shall be administered and managed as units of the National Park System in the same manner as a national park, except that sport hunting is allowed “under applicable State and Federal law and regulation.” 16 U.S.C. § 3201.

33. ANILCA grants authority to the Park Service to prohibit or limit hunting and trapping in national preserves for a variety of reasons, including public safety, administration, protection of wildlife and vegetation, and public use and enjoyment. 16 U.S.C. § 3201.

34. When crafting ANILCA, Congress specifically found that “[i]t is contrary to the National Park System concept to manipulate habitat or populations to achieve maximum utilization of natural resources.” S. Rep. No. 96-413, at 171 (1980), *reprinted in* 1980 U.S.C.C.A.N. 5070, 5114. Rather, the Park Service is to “maintain the natural abundance, behavior, diversity, and ecological integrity of native animals as part of their ecosystem” and “to insure that consumptive uses of fish and wildlife populations within national park service units not be allowed to adversely disrupt the natural balance which has been maintained for thousands of years.” *Id.* Accordingly, Congress directed the Park Service not to manipulate habitat or “control other species” to support such consumptive uses. *Id.*

35. The Alaska State Constitution requires the State of Alaska (“State”) to manage wildlife under the “sustained yield principle, subject to preferences among beneficial uses.” AK Const. Art. VIII, § 4. The Alaska legislature has defined “sustained yield” to mean “the achievement and maintenance in perpetuity of the ability to support a high level of human harvest of game.” AS 16.05.255(k)(5). The Alaska legislature has

directed the Board of Game to achieve “human consumptive use goals” by conducting “intensive management programs.” AS 16.05.255(e). The Alaska Board of Game is also to “establish population and harvest goals and seasons for intensive management of identified big game prey populations to achieve a high level of human harvest.” AS 16.05.255(g). “Intensive management” is defined as “management of an identified big game prey population consistent with sustained yield through active management measures to enhance, extend, and develop the population to maintain high levels or provide for higher levels of human harvest, including control of predation and prescribed or planned use of fire and other habitat improvement techniques.” AS 16.05.255(k)(4). The Alaska Supreme Court has held that sustained yield “may include a selection between predator and prey populations” and has upheld State regulations as complying with sustained yield “[e]ven where the regulation sets an objective of reducing black and brown bear populations to ‘the lowest level possible’ within a portion of a [Game Management Unit].” *West v. State, Bd. of Game* 248 P.3d 689, 698, 700 (Alaska 2010).

36. In 1982, the Park Service and the Alaska Department of Fish and Game signed a Master Memorandum of Understanding regarding wildlife management on Park Service lands in Alaska. In the Master Memorandum of Understanding, the Alaska Department of Fish and Game recognized the Park Service’s statutory mandates under the Organic Act, ANILCA, and other applicable laws and agreed to manage wildlife on

Park Service lands for natural diversity. Both the Alaska Department of Fish and Game and the Park Service recognized that the Park Service may preclude State hunting regulations from applying on national preserves where the State regulations are incompatible with “Preserve goals, objectives or management plans.”

37. The APA requires a court to “hold unlawful and set aside agency action, findings, and conclusions found to be — (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

38. An agency change in position is arbitrary and capricious under the APA unless the agency (1) displays “awareness that it is changing position,” (2) shows that “the new policy is permissible under the statute,” (3) “believes” the new policy is better, and (4) provides “good reasons” for the new policy, which, if the “new policy rests upon factual findings that contradict those which underlay its prior policy,” must include “a reasoned explanation . . . for disregarding facts and circumstances that underlay or were engendered by the prior policy.” *Fed. Commc’ns Comm’n v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–516 (2009).

V. FACTUAL BACKGROUND

39. Since as early as 1984, the Park Service has taken the position that State wildlife management actions and decisions intended to reduce predator populations conflict with Park Service statutory mandates. Accordingly, the Park Service has a long

history of requesting that the State take the Park Service's mandates into account when developing and implementing State programs. For years, the Park Service and the State successfully negotiated their differing statutory mandates regarding wildlife management.

40. But in 2003, the Alaska Board of Game began implementing an increasingly aggressive approach to wildlife management, aimed at maintaining high levels of human harvest of game species, such as moose and caribou. One way the Board of Game has sought to do this is by liberalizing sport hunting regulations for the take of predators in an effort to reduce predator populations and, at least in theory, increase prey populations available for human harvest.

41. The Park Service has repeatedly asked the Board of Game to exempt national preserves from such liberalized sport hunting regulations. The Board of Game has refused most of over fifty requests from the Park Service to exempt national preserves from these liberalized sport hunting regulations. The Park Service based its requests on its long-held view that such attempts to manipulate populations violate its statutory mandates and management policies, regardless of whether those attempts are successful or not.

42. From 2010 to 2015, the Park Service issued temporary regulations in annual compendiums to prevent conflicting State sport hunting regulations from applying in national preserves.

43. In 2015, the Park Service adopted a regulation (“2015 Rule”) to clarify that, under applicable federal statutes, the Park Service does not allow the State to conduct “predator reduction efforts” on national preserves. *Alaska; Hunting and Trapping in National Preserves*, 80 Fed. Reg. 64,326 (Oct. 23, 2015).

44. The 2015 Rule defined predator reduction efforts as “those with the intent or potential to alter or manipulate natural predator-prey dynamics and associated natural ecological processes, in order to increase harvest of ungulates by humans.” 80 Fed. Reg. at 64,343.

45. The Park Service found that the 2015 Rule was necessary “to eliminate the adverse impacts associated with the Alaska Board of Game harvest regulations that are inconsistent with federal laws and policies intended to protect the resources and values of the National Park System in Alaska.” Nat’l Park Serv., *Wildlife Harvest n Nat’l Park System Preserves in Alaska: Eenvtl. Assessment*, at 5, Sept. 2014.

46. The 2015 Rule precluded State sport hunting regulations intended as predator reduction efforts and barred specific methods of harvest within national preserves, such as bear baiting, the use of artificial lights, hunting big game with the use of a dog, and lengthening wolf and coyote hunting seasons to include the denning season, among others.

47. The Park Service adopted the prohibition on bear baiting in national preserves in the 2015 Rule to “avoid public safety issues, to avoid food-conditioning bears and other species, and to maintain natural bear behavior as required by NPS law and policy.” 80 Fed. Reg. at 64,329.

48. The 2015 Rule prohibited the use of artificial lights to hunt any wildlife. Hunting bears by using artificial lights at den sites is done, in part, to increase harvest and reduce bear populations. 80 Fed. Reg. at 64,325.

49. The 2015 Rule prohibited hunting black bears and big game with the use of dogs. Using dogs to hunt black bears involves letting the dogs run free to track the bear. When adopting the 2015 Rule, the Park Service stated that using unleashed dogs to hunt black bears is inconsistent with ANILCA. 80 Fed. Reg. at 64336. In most national parks, monuments, and preserves, dogs are only permitted in restricted areas and must be leashed because dogs can harm wildlife, be harmed by wildlife, and have the potential to transmit disease to wildlife.

50. The 2015 Rule prohibited taking wolves and coyotes during the denning season, from May 1 through August 9. When adopting this prohibition, the Park Service noted that “[t]hese dates reflect previously longstanding State harvest seasons that provided harvest opportunities while maintaining viable wolf and coyote populations” and maintain the “decades-old management paradigm of State and federal managers,

rather than adopting recently liberalized State regulations that lengthen the hunting seasons.” 80 Fed. Reg. at 64,337. When adopting the 2015 Rule, the Park Service recognized that the State’s intent in lengthening the seasons is to reduce predator populations.

51. When adopting the 2015 Rule, the Park Service anticipated that the Board of Game would continue to further liberalize State regulations in a way that would conflict with federal law and policies. Accordingly, the 2015 Rule included a provision requiring the Regional Director to “compile a list updated at least annually of State laws and regulations not adopted” on national preserves because they qualify as predator reduction efforts.

52. When adopting the 2015 Rule, the Park Service recognized that allowing predator reduction efforts or any of the specific activities prohibited by the 2015 Rule would conflict with federal statutory mandates that govern wildlife management on national preserves.

53. When adopting the 2015 Rule, the Park Service specifically stated that “neither the temporary restrictions nor this rule are based on particular wildlife population levels, and do not require the preparation of such scientific data.” Rather, the Park Service based the 2015 Rule on “the NPS legal and policy framework.” 80 Fed. Reg. at 64331.

54. In early 2017, the State, Safari Club International, and Alaska Professional Hunters Association (along with the Sportsmen's Alliance Foundation and two individuals) filed litigation challenging the 2015 Rule and two related rules adopted by the U.S. Fish and Wildlife Service. Those cases were consolidated. One of the three cases has been voluntarily dismissed. Summary judgment briefing regarding provisions of the 2015 Rule is scheduled to begin in mid-September, 2020. Most of the plaintiffs here are defendant-intervenors in the two remaining, consolidated cases, in support of the 2015 Rule.

55. On January 20, 2017, President Trump took office. On March 1, 2017, Ryan Zinke was confirmed by the United States Senate and sworn in as the 52nd Secretary of the Interior.

56. On March 2, 2017, Secretary Zinke signed Secretarial Order 3347, Conservation Stewardship and Outdoor Recreation. Secretarial Order 3347 directed the Department of the Interior to expand hunting opportunities on public lands and to improve cooperation with State wildlife managers regarding hunting.

57. On April 3, 2017, Congress issued a joint disapproval under the Congressional Review Act, which invalidated a rule adopted by the United States Fish and Wildlife Service for Alaska National Wildlife Refuges that contained similar provisions as the Park Service's 2015 Rule. Public Law 115-20, 131 Stat. 86. At the time,

members of Congress made statements criticizing the Park Service's 2015 Rule, despite the time period during which Congress could have issued a joint disapproval of the 2015 Rule having already expired.

58. In a July 14, 2017 memorandum, the Acting Assistant Secretary of the Interior for Fish, Wildlife and Parks directed the Park Service to initiate a rulemaking process to reconsider the 2015 Rule and “to focus this reconsideration on certain aspects of that rule that . . . include various prohibitions that directly contradict State of Alaska authorizations and wildlife management decisions.”

59. On September 15, 2017, the Secretary of the Interior signed Secretarial Order 3356, Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with the State, Tribes, and Territories. Secretarial Order 3356 directs the Park Service, among other things, to expand hunting opportunities and to work with states to ensure that Park Service regulations complement state regulations.

60. On May 22, 2018, the Park Service initiated the rulemaking process for what ultimately became the 2020 Rule. Alaska; Hunting and Trapping in National Preserves, 83 Fed. Reg. 23621 (May 22, 2018).

61. On September 10, 2018, the Secretary of the Interior issued a memorandum directing agencies within the Department of the Interior to review their regulations

applicable to wildlife management, specifically those more restrictive than state provisions.

62. The Park Service adopted the 2020 Rule on June 9, 2020.

63. The 2020 Rule reverses the Park Service’s longstanding interpretation of its statutory duties under ANILCA and the Organic Act. The 2020 Rule deletes 36 C.F.R. § 13.42(f) and (g), provisions the Park Service adopted in the 2015 Rule. It also deletes the definitions of “big game,” “cub bear,” “fur animal,” and “furbearer” from 36 C.F.R. § 13.1 because — with the deletion of 36 C.F.R. § 13.42(f) and (g) — those terms are no longer used in the Park Service’s regulations.

64. The now-deleted 36 C.F.R. § 13.42(f) barred predator reduction efforts by the State on national preserves, providing: “State of Alaska management actions or laws or regulations that authorize taking of wildlife are not adopted in park areas if they are related to predator reduction efforts. Predator reduction efforts are those with the intent or potential to alter or manipulate natural predator-prey dynamics and associated natural ecological processes, in order to increase harvest of ungulates by humans.” 36 C.F.R. § 13.42(f).

65. The now-deleted 36 C.F.R. § 13.42(g) barred specific sport hunting methods from national preserves. Some of these specific methods are currently allowed by the State in areas including national preserves.

66. The now-deleted 36 C.F.R. § 13.42(g) prohibited: (1) shooting from, on, or across a park road or highway; (2) using any poison or other substance that kills or temporarily incapacitates wildlife; (3) taking wildlife from an aircraft, off-road vehicle, motorboat, motor vehicle, or snowmachine unless the motor had been completely shut off and the vehicle had stopped; (4) using an aircraft, snowmachine, off-road vehicle, motorboat, or other motor vehicle to harass wildlife, including chasing, driving, herding, molesting, or otherwise disturbing wildlife; (5) taking big game while the animal is swimming; (6) using a machine gun, a set gun, or a shotgun larger than 10 gauge; (7) using the aid of a pit, fire, artificial salt lick, explosive, expanding gas arrow, bomb, smoke, chemical, or a conventional steel trap with an inside jaw spread over nine inches (except that killer style traps with an inside jaw spread less than 13 inches were allowed for trapping, except to take any species of bear or ungulate); (8) using any electronic device to take, harass, chase, drive, herd, or molest wildlife, including but not limited to: artificial light, laser sights, electronically enhanced night vision scope, any device that has been airborne, controlled remotely, and used to spot or locate game with the use of a camera, video, or other sensing device, among other limitations (and subject to limited exceptions); (9) using snares, nets, or traps to take any species of bear or ungulate; (10) using bait, except to trap furbearers; (11) taking big game with the aid or use of a dog, except using a leashed dog to track wounded big game; (12) taking wolves and coyotes

from May 1 through August 9; (13) taking cub bears or female bears with cubs; and (14) taking a fur animal or furbearer by disturbing or destroying a den, except for muskrat pushups or feeding houses.

67. The Park Service based its decision to adopt the 2020 Rule on Secretarial Orders 3347 & 3356, and the September 10, 2018 memorandum from the Secretary. The Park Service failed to adequately explain how these Secretarial Orders and memorandum override applicable statutory mandates, reasonably justify its changed interpretation of those mandates, and otherwise justify its complete reversal in its decades-long position that predator reduction efforts are not allowed on national preserves under federal law.

68. The Park Service also based its decision to adopt the 2020 Rule on Congress's issuance of a joint resolution of disapproval in 2017 under the Congressional Review Act of a regulation adopted by the U.S. Fish and Wildlife Service in 2016, and associated comments made by members of Congress that were critical of the Park Service's 2015 Rule. In so doing, the Park Service acted arbitrarily and ignored the fact that national wildlife refuges are administered under different statutory mandates than the national preserves and, while Congress had the authority under the Congressional Review Act to issue a joint resolution of disapproval for the 2015 Rule, it did not do so.

69. The Park Service also based its decision to adopt the 2020 Rule on 2012–2016 harvest data provided by the State after completion of the 2015 Rule.

70. The State’s 2012–2016 harvest data included information regarding (1) brown and black bears harvested over bait in GMUs that overlap with national preserves; (2) total annual harvest of brown and black bears and wolves in Uniform Coding Units (“UCUs”), which are smaller areas within GMUs that overlap with national preserves; (3) total annual wolf harvest in UCUs that overlap with national preserves for the months of May-June; (4) population data of brown and black bear and wolves by GMUs overlapping with national preserves; and (5) UCU boundaries (which are generally not made available to the public by the State). The State specifically did not provide the number of registered bait stations in GMUs overlapping with national preserves.

71. The State’s 2012–2016 harvest data had numerous shortcomings documented in scientific literature in early 2019.

72. The Park Service arbitrarily concluded that it would comply with its statutory mandates when relying on such faulty data.

73. The Park Service arbitrarily relied on the State’s 2012–2016 harvest data rather than its own data specific to the national preserves and other data provided in public comments that demonstrates increased take of predators in response to the liberalization of sport hunting regulations.

74. When adopting the 2020 Rule, the Park Service did not know the size of bear and wolf populations within the national preserves.

75. When adopting the 2020 Rule, the Park Service arbitrarily failed to consider the impact of the State’s other wildlife-related actions intended to reduce populations of wolves and bears on lands surrounding the national preserves.

76. The Park Service failed to adequately explain its reversal in position from the 2015 Rule regarding the relevance of: (1) wildlife population levels, (2) levels of anticipated human harvest, (3) whether the predator reduction efforts would be reasonably expected to reduce predator populations, and (4) other factual underpinnings of the 2015 Rule.

77. When adopting the 2020 Rule, the Park Service asserted that it “determined that its 2015 characterization of the harvest methods as conflicting with NPS laws and policies was inconsistent with applicable law allowing hunting and trapping in national preserves,” 85 Fed. Reg. at 35183, but failed to adequately explain the stark reversal of opinion and long administrative history supporting the Park Service’s 2015 Rule and the 2015 Rule’s supporting factual and legal analysis.

78. When adopting the 2020 Rule, the Park Service failed to adequately address its reversal from its previous factual findings that the State adopted these specific sport hunting practices with the intent of reducing predator populations.

79. The Park Service also based its decision to adopt the 2020 Rule on the requirement under the State of Alaska’s Constitution that the State manage wildlife in

Alaska for sustained yield, which is defined as “the achievement and maintenance in perpetuity of the ability to support a high level of human harvest of game.” AS 16.05.255(k)(5). The Park Service failed to adequately explain how management in accordance with Alaska’s sustained yield principle — which, under Alaska law allows for the drastic reduction of predator populations — ensures compliance with applicable federal statutes.

80. When adopting the 2020 Rule, the Park Service relied on the State’s assertions in its comments on the proposed rule that the liberalized hunting regulations were intended only to increase hunter opportunity to hunt predators, and not to reduce predator populations. The Park Service’s reliance on the State’s comments, in the face of years of contradictory evidence, is arbitrary.

81. When adopting the 2020 Rule, the Park Service arbitrarily minimized, dismissed, and/or ignored State publications and years of statements from the State, the Board of Game, the Alaska Department of Fish and Game, and others that the Board of Game’s liberalization of its sport hunting regulations is an integral part of the State’s management approach of suppressing predator populations with the goal of increasing ungulate populations to support higher human harvest of those ungulates.

82. When adopting the 2020 Rule, the Park Service arbitrarily ignored actions the State has taken under its sustained yield mandate, some of which have resulted in the

near elimination of predators in certain areas, including predator populations that occupy national preserve lands that have been targeted by the State when those predators have gone outside national preserve boundaries.

83. When adopting the 2020 Rule, the Park Service arbitrarily concluded that predator reduction efforts, including liberalized sport hunting regulations, such as bear baiting and taking any black bear — including cubs and sows with cubs — with artificial light at den sites, were consistent with its statutory mandates.

84. The Park Service also based its decision to adopt the 2020 Rule on its statutory authority to close sport hunting on any of the national preserves should impacts to wildlife become too significant. The Park Service arbitrarily concluded that harvest data from the State — which is not specific to national preserves and is unaccompanied by any population-level monitoring specific to the preserves or real-time monitoring of hunter harvest on the preserves — would be adequate to ensure the protection of wildlife within the national preserves as required by the Organic Act and ANILCA.

FIRST CLAIM

Failure to Comply with the National Park Service Organic Act (54 U.S.C. § 100101 et seq. and 5 U.S.C. § 706)

85. Wildlife Alliance incorporates by reference all preceding paragraphs.

86. The Organic Act requires the Park Service to “promote and regulate the use of the National Park System by means and measures that conform to the fundamental

purpose of the System units, which purpose is to conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” 54 U.S.C. § 100101(a).

87. Current Park Service management policies specifically prohibit the manipulation of wildlife populations to increase human harvest of prey. NPS Management Policies 2006 § 4.4.3.

88. The Park Service arbitrarily determined that management under the Alaska’s sustained yield mandate — under which the State may drastically reduce predator populations — is sufficient to ensure compliance with the Organic Act and the Park Service’s management policies.

89. The Park Service’s decision to delete its regulation prohibiting predator reduction efforts is arbitrary and inconsistent with the Organic Act and the Park Service’s management policies, especially in light of the State’s authorization of increasingly liberal sport hunting methods intended to reduce predator populations.

90. The Park Service’s determination that the specific practices prohibited by the 2015 Rule are not predator reduction efforts is arbitrary.

91. The Park Service’s determination that the specific practices prohibited by the 2015 Rule would not violate the Organic Act is arbitrary.

92. The Park Service’s decision to adopt the 2020 Rule violates the Organic Act and its implementing management policies and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706.

SECOND CLAIM

Failure to Comply with the Alaska National Interest Lands Conservation Act (16 U.S.C. § 3101 et. seq.; 16 U.S.C. §§ 410hh, 410hh-1; and 5 U.S.C. § 706)

93. Wildlife Alliance incorporates by reference all preceding paragraphs.

94. Congress passed ANILCA to preserve nationally significant areas “for the benefit, use, education, and inspiration of present and future generations” and to preserve wildlife, wilderness values, and natural, undisturbed, unaltered ecosystems while allowing for recreational opportunities. 16 U.S.C. §§ 3101(a)–(b).

95. ANILCA provides that national preserves in Alaska shall be administered and managed as units of the National Park System in the same manner as national parks, except that sport hunting is allowed on national preserves when consistent with the mandate to protect and conserve wildlife resources. 16 U.S.C. § 3201.

96. ANILCA specifically requires the Park Service to protect populations of brown and/or grizzly bears and wolves in almost all of the national preserves. 16 U.S.C. §§ 410hh, 410hh-1.

97. The practice of reducing or seeking to reduce predator populations to increase human harvest of prey in national preserves is inconsistent with ANILCA.

98. The Park Service's decision to delete its regulation prohibiting predator reduction efforts is arbitrary and inconsistent with ANILCA, especially in light of the State's authorization of increasingly liberal sport hunting methods intended to reduce predator populations.

99. The Park Service's determination that the specific practices prohibited by the 2015 Rule would not violate ANILCA is arbitrary.

100. The Park Service arbitrarily determined that management under Alaska's sustained yield mandate — under which the State may drastically reduce predator populations — is sufficient to ensure compliance with ANILCA.

101. The Park Service's determination that ANILCA limits its authority to regulate sport hunting activities in national preserves to complete closure to such activities is arbitrary and contrary to law.

102. The Park Service's decision to adopt the 2020 Rule violates ANILCA and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706.

THIRD CLAIM

Failure to Adequately Explain Reversal in Agency Position in Violation of the National Park Service Organic Act, the Alaska National Interest Lands Conservation Act, and the Administrative Procedure Act (54 U.S.C. § 100101; 16 U.S.C. § 3101 et. seq.; 16 U.S.C. §§ 410hh, 410hh-1; and 5 U.S.C. § 706)

103. Wildlife Alliance incorporates by reference all preceding paragraphs.

104. When an agency changes policy or course, it must “supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance.” *Motor Vehicles Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983). More specifically, it must acknowledge the change in course, show that the new rule is permissible under applicable statutes, express that it is a better policy, and provide good reasons for the change in policy. *Fed. Commc’ns Comm’n*, 556 U.S. at 515-16. When reversing a policy, “an agency may not simply discard prior factual findings without reasoned explanation.” *Organized Village of Kake v. U.S. Dep’t of Agric.*, 795 F.3d 956, 968 (9th Cir. 2015). Instead, when a policy change rests on new factual findings that contradict prior findings and circumstances, the agency must “provide a more detailed justification than what would suffice for a new policy created on a blank slate.” *Fed. Commc’ns Comm’n*, 556 U.S. at 515–16.

105. Until adopting the 2020 Rule, the Park Service consistently maintained that predator reduction efforts, including liberalized sport hunting regulations, were inconsistent with its statutory mandates. When adopting the 2020 Rule, the Park Service failed to adequately explain its change in this long-held position.

106. When adopting the 2020 Rule, the Park Service failed to adequately explain its change in position regarding the specific practices prohibited by the 2015 Rule.

107. The Park Service's failure to acknowledge and adequately explain its reversal of its long-standing position that the Organic Act and ANILCA prohibit predator reduction efforts — and the agency's long-standing position that the specific practices prohibited by the 2015 Rule are predator reduction efforts — is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706.

108. The Wildlife Alliance is entitled to its reasonable fees, costs, and expenses associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

REQUEST FOR RELIEF

The Wildlife Alliance requests the Court grant the following relief:

A. Under 28 U.S.C. § 2201 and the APA, declare that the National Park Service's decision to adopt the 2020 Rule is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, in violation of the Organic Act and ANILCA;

- B. Vacate and set aside the 2020 Rule;
- C. Enter appropriate injunctive relief;
- D. Award the Wildlife Alliance all reasonable costs and fees as authorized by law; and
- E. Award the Wildlife Alliance such other and further relief as this Court deems just and proper.

Respectfully submitted this 26th day of August, 2020.

s/ K. Strong
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