

1 Law Office of Joseph W. Geldhof  
2 2 Marine Way, Suite # 207  
3 Juneau, Alaska 99801  
4 Telephone: (907) 723-9901 [Mobile]  
5 E mail: joeg@alaskan.com  
6 Counsel for Joel F. Bennett and the Alaska Wildlife Alliance

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8 STATE OF ALASKA, FIRST DISTRICT  
9 AT JUNEAU

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**SUPERIOR COURT FOR THE STATE OF ALASKA  
FIRST JUDICIAL DISTRICT AT JUNEAU**

**JOEL FARWELL BENNETT )**  
**and the ALASKA WILDLIFE )**  
**ALLIANCE, )**  
**Plaintiffs, )**

**vs. )**

**1JU-20-00 879 Civil**

**DOUGLAS VINCENT-LANG, )**  
**Commissioner and the )**  
**STATE OF ALASKA )**  
**Defendants )**

**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE  
RELIEF**

**INTRODUCTION**

Joel Farwell Bennett and the Alaska Wildlife Alliance ("Plaintiffs"), by and through the Law Office of Joseph W. Geldhof, bring this action for declaratory relief and, as necessary, injunctive and other equitable relief, against the Commissioner of the Department of Fish and Game, Doug Vincent-Lang ("Vincent-Lang"), and the Alaska State Board of Game ("BOG"), in regard to the 2020-2021 wolf trapping and hunting seasons on state land in Game Management Unit 2 ("GMU 2"). Plaintiffs seek closure of the 2020-2021 wolf trapping and hunting seasons in GMU 2 to prevent an unsustainable harvest of a wildlife

1 resource in violation of Article VIII, Section 4 of the Constitution of the State of  
2 Alaska.

### 3 4 **NATURE OF THE CASE**

- 5 1. Plaintiffs bring this public interest case to protect a wildlife resource in the  
6 State of Alaska from irreparable harm.
- 7 2. Vincent-Lang and the BOG, an entity located within the Alaska Department of  
8 Fish and Game ("ADF&G"), have failed to adhere to constitutional mandates  
9 requiring that the wolf population of GMU 2 be maintained on a sustainable basis.

### 10 **PARTIES**

- 11 3. Plaintiff Joel Farwell Bennett is a resident of Juneau, Alaska, with a long-  
12 established history of wildlife use in the state.
- 13 4. Plaintiff Alaska Wildlife Alliance is a wildlife advocacy group, based in  
14 Anchorage, Alaska. Its members have a special interest in conserving and  
15 protecting the wildlife resources of Alaska.
- 16 5. Vincent-Lang is the current commissioner of the Alaska Department of Fish &  
17 Game, an agency of the State of Alaska. Vincent-Lang is sued in his official  
18 capacity as commissioner and the designee for taking emergency action on behalf  
19 of the Alaska BOG.
- 20 6. The State of Alaska is a sovereign state of the United States of America and  
21 governed by the principles contained in the Alaska Constitution.

### 22 **JURISDICTION**

- 23 7. The Superior Court has jurisdiction over this action based on AS 22.10.020.

### 24 **VENUE**

- 25 8. Under AS 22.10.030 and Alaska Rule of Civil Procedure 3 (c), venue is proper  
26 in the First Judicial District because at least one Plaintiff resides in the First  
27 Judicial District, and because the events, acts or omissions that give rise to this  
28 lawsuit occurred in the First Judicial District.

## FACTS

### Wolf Population Metrics and Facts for GMU 2

9. The wolf population estimate in GMU 2 in 2014 was 89, according to ADF&G data.

10. The wolf population estimate in GMU 2 in 2015 was 108, according to ADF&G data.

11. The wolf population estimate in GMU 2 in 2016 was 231, according to ADF&G data.

12. The wolf population estimate in GMU 2 in 2017 was 225, according to ADF&G data.

13. The wolf population estimate in GMU 2 in 2018 was 170, according to ADF&G data.

14. The ADF&G has not released the wolf population estimate for GMU 2 in 2019.

15. The combined wolf harvest in GMU 2, based on trapping, hunting and subsistence harvest was 165 wolves in 2019-2020.

16. Additional wolves were likely taken illegally in GMU 2 during the 2019 – 2020 harvest season, as well as an unknown number that died from natural causes.

17. ADF&G is required to manage wolves under a mandate of sustained yield as provided in Article VIII, Section 4 of the Alaska Constitution, as follows:

Fish, forests, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed and maintained on the sustained yield principle, subject to preferences among beneficial uses.

18. In addition to the Constitutional mandate, ADF&G manage wolves and other wildlife according to recognized principles of game management.

19. Wolves and other wildlife are managed by separate Game Management Units (including GMU 2).
20. GMU 2 is a game management unit comprising Prince of Wales Island and nearby associated islands.
21. Wolves in Alaska are harvested according to management principles developed by the BOG and utilized by ADF&G.
22. Wolves in GMU 2 are an isolated population with little immigration from other island clusters or from the mainland.
23. Sitka black-tailed deer are the main prey species for wolves in GMU 2.
24. As a result of extensive clear-cut timber harvest and associated road building throughout GMU 2, a significant reduction in deer habitat capability (sometimes referred to as "carrying capacity"), has occurred compared with historical conditions that supported deer and other wildlife in the unit.
25. A scientific report, entitled, *The Alexander Archipelago Wolf: A Conservation Assessment* (1996), concluded that GMU 2 wolves were under growing pressure from loss and fragmentation of deer habitat, extensive road access and human population increase.
26. Wolves are harvested on state land in GMU 2 by resident and non-resident trappers and hunters.
27. The 2020-2021 wolf trapping season on state land for GMU 2 is scheduled to commence on November 15, 2020 and last until March 31, 2021.
28. The 2020-2021 wolf trapping season on state land for GMU 2 provides for an unlimited bag limit per person.
29. The 2020-2021 wolf hunting season on state land for GMU 2 is schedule to commence on December 1, 2020 and last until March 31, 2021.
30. The proposed harvest limit for the 2020-2021 GMU 2 wolf hunting season on state land is set at 5 wolves per hunter.

1 31. Wolves harvested in GMU 2 are required to be “sealed” within thirty (30),  
2 days of the close of the season.

3 32. The requirement to “seal” a wolf taken by a hunter or trapper is a procedure  
4 used by ADF&G to calculate the harvest level of wolves taken within the unit.

5 33. Wolves are harvested on federal land in GMU 2 under trapping and hunting  
6 regulations adopted by the Federal Subsistence Board, in co-operation with  
7 ADF&G, and implemented by the U.S. Forest Service.

8 34. The federal regulations pertaining to subsistence trapping and hunting ensure  
9 a rural priority for federally-qualified subsistence users on federal lands.

10 35. Federal seasons and bag limits pertaining to subsistence trapping and hunting  
11 wolves in GMU 2 generally align to state seasons and bag limits, except that for  
12 2020-2021, the federal subsistence trapping season begins on October 31, 2020.

13 36. Wolf trapping and hunting seasons in GMU 2 are set based on annual  
14 population estimates.

15 37. The annual population estimate of wolves in GMU 2 is established after a  
16 review of population data gathered according to scientific methodology based on  
17 field sampling and laboratory analysis.

18 38. In determining the annual wolf population for GMU 2, there is a one-year  
19 time lag between when data are collected and analyzed and a population estimate  
20 is produced, *e.g.*, the 2019-2020 seasons was based on population data from 2018,  
21 gathered before the 2019-2020 trapping and hunting seasons began.

22 39. Wolves in GMU 2 are managed according to a Wolf Harvest Strategy which  
23 includes harvest guidelines.

24 40. In 2019, the harvest strategy for wolves in GMU 2 was changed by the BOG  
25 and ADF&G from a harvest guideline system based on harvest quotas, to one  
26 based on a population range.  
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1 41. The shift from a wolf harvest guideline system in GMU 2 based on quotas to  
2 a harvest system based on the wolf population estimate within a range was more  
3 acceptable to trappers and hunters.

4 42. The harvest-based system for wolves in GMU 2 based on an estimate of the  
5 wolf population within a range resulted in less control over the overall harvest and  
6 presented more risk of overharvest.

7 43. A wolf harvest quota strategy that provided more control over the harvest was  
8 employed by the BOG in 2003 when it created the Douglas Island Management  
9 Area in GMU 1(C) in response to a low wolf population on the island. The BOG  
10 provided for a season closure by emergency order when the number of wolves  
11 harvested by trapping and hunting reached a threshold cap of 3, unless identified  
12 conditions related to deer harvest were met and the area manager determined a  
13 higher harvest was appropriate. Additional restrictions included a registration  
14 requirement for trappers intending to trap in the management area, a 2-day harvest  
15 reporting requirement, and a 5-day sealing requirement.

16 44. The current GMU 2 Wolf Harvest Strategy, based on a population range  
17 instead of a quota, provides for a trapping and hunting season for wolves if the  
18 fall population estimate is 100 wolves or more.

19 45. Under the current GMU 2 Wolf Harvest Strategy, if the fall population is  
20 between 100-149 wolves, the season can open up to 6 weeks; if it is between 150-  
21 200 wolves, the season can open up to 2 months; if it is more than 200 wolves,  
22 the season can open up to 4 months.

23 46. The most recent wolf population data for GMU 2 was gathered by ADF&G  
24 in the fall of 2019 prior to the wolf trapping and hunting season of 2019-2020.

25 47. The wolf population data for GMU 2 gathered by ADF&G in 2019, prior to  
26 the 2019-2020 harvest, has not been released.  
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1 48. The wolf population for GMU 2, according to the most recent data collected  
2 and analyzed by ADF&G in 2018, was estimated at 170 wolves, a value the  
3 department determined was within the object range of 147-202 wolves.  
4

5 49. In the 2019-2020 season, 165 wolves were harvested, the highest wolf harvest  
6 ever recorded for GMU 2.

7 50. The 165 wolves harvested in GMU 2 during the 2019-2020 hunting and  
8 trapping season compared to the 2018 GMU 2 wolf population data developed  
9 and utilized by ADF&G indicates only 5 wolves could be left in GMU 2.

10 51. Even if the highest number of wolves in the population range of 147-202  
11 wolves for GMU 2 utilized by ADF&G in 2018 is used for the wolf population  
12 estimate, the known harvest of 165 wolves during the 2019-2020 hunting and  
13 trapping season would leave but 47 wolves, a harvest of 81%.

14 52. The legal and reported wolf harvest for GMU 2 does not account for an  
15 additive harvest of illegal and unreported wolves killed by trappers and hunters,  
16 or for natural wolf mortality.

17 53. The additive harvest of illegal and unreported wolves in GMU 2, combined  
18 with natural wolf mortality within the unit, are unknown.

19 54. The unknown additive harvest of illegal and unreported wolves in GMU 2,  
20 combined with natural wolf mortality within the unit are significant.

21 55. The unknown additive harvest of illegal and unreported wolves in GMU 2,  
22 combined with natural wolf mortality within the unit, are not included in the  
23 annual ADF&G wolf harvest numbers for any season.

24 56. The fact that unknown additive harvest of illegal and unreported wolves in  
25 GMU 2 and natural wolf mortality within the unit are not included in the annual  
26 ADF&G wolf harvest numbers makes utilization of the high range of any wolf  
27 population estimate for GMU 2 problematic according to sustained yield  
28 management practices.



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2 57. According to the ADF&G July 2008-June 2011 wolf management report of  
3 survey-inventory activities for GMU 2, the extent of the mortality from unknown  
4 additive harvest of illegal and unreported wolves in GMU 2 was stated to be  
5 substantial, and may approach the same level as the reported harvest.

6 58. The ADF&G July 2008-June 2011 wolf management report of survey-  
7 inventory activities for GMU 2 indicates that the total wolf mortality could be  
8 35% to 50% higher than reported.

9 59. ADF&G's July 2008- June 2011 wolf management report of survey-inventory  
10 activities for GMU 2, stated that the management objective for wolves in that unit  
11 was to maintain a sustainable harvest amounting to no more than 30% of the  
12 estimated autumn population, an objective that implies that a harvest above 30%  
13 is unsustainable.

14 60. In March 2014, ADF&G used the 30% guideline of the estimated wolf  
15 population to close the wolf trapping and hunting seasons in GMU 2 by  
16 emergency order.

17 61. No reliable wolf population estimate exists based on available up-to-date data  
18 gathered in the fall of 2020, indicating that wolves can be harvested sustainably  
19 in GMU 2 during the 2020-2021 season.

#### 20 **Previous Administrative Acts**

21 62. On August 27, 2020, Plaintiffs petitioned Commissioner Vincent-Lang to  
22 close the wolf trapping and hunting season for wolves in GMU 2 by emergency  
23 order.

24 63. Plaintiff's right to petition is constitutional in nature and founded on Article  
25 I, Section 6, a provision that guarantees:

26 The right of the people to peaceably assemble, and to  
27 petition the government shall never be abridged.  
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2 64. In their petition, Plaintiffs asserted that an emergency order was necessary  
3 because they were unable to propose a regulation change under the normal BOG  
4 process because there was no BOG meeting scheduled prior to the beginning of  
5 the 2020-2021 GMU 2 trapping and hunting season for wolves.

6 65. On September 8, 2020, Commissioner Vincent-Lang determined that no  
7 emergency existed.

8 66. Vincent-Lang's decision was based on the fact that no wolf hunting or  
9 trapping season would be open within 30 days of Plaintiff's request.

10 67. On September 18, 2020, in correspondence to Commissioner Vincent-Lang,  
11 plaintiffs renewed their petition to close the GMU 2 wolf trapping and hunting  
12 season.

13 68. Plaintiff's renewed petition was based on the likelihood that harm to the GMU  
14 2 wolf population would occur because the data from 2019 (not yet available),  
15 regarding wolf population status would be insufficient and unreliable to allow any  
16 wolf harvest given the inability of the year-old data to reflect the historically high  
17 level of wolf harvest in GMU 2 during the 2019-2020 season.

18 69. On October 8, Commissioner Vincent-Lang again rejected plaintiff's renewed  
19 petition and declined to make an emergency finding.

### 20 **ALLEGATIONS**

21 70. The wolf trapping and hunting harvest for GMU 2, combined with the wolf  
22 mortality and additive harvest of illegal and unreported wolf harvest in GMU is  
23 well beyond the sustained yield principles required by the Alaska Constitution.

24 71. The reported 2019-2020 wolf harvest data for GMU 2 indicates a harvest rate  
25 between 81% and 95% of the available estimated fall population (not including  
26 unreported and illegal kills and natural mortality), a rate of harvest that is  
27 unsustainable and risks causing the wolf population long-term irreparable harm.  
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1 72. Vincent-Lang's failure to close the GMU 2 wolf harvest season during 2020-  
2 2021 is inconsistent with the constitutional mandate to manage wildlife resources  
3 according to the sustained yield principle required in Article VIII, Section 4 of the  
4 Alaska Constitution.

5 73. Vincent-Lang's failure to close the GMU 2 wolf harvest season during 2020-  
6 2021 is inconsistent with the ADF&G policies developed by the BOG in order to  
7 maintain the sustained yield principle required in Article VIII, Section 4 of the  
8 Alaska Constitution.

9 74. Vincent-Lang's unwillingness to utilize reliable up-to-date wolf population  
10 data for GMU 2 and close the GMU 2 wolf harvest season during 2020-2021 was  
11 arbitrary and capricious.

#### 12 **PRAYER FOR RELIEF**

13 A. Plaintiffs seek a legal declaration that the acts or failure to act by  
14 Commissioner Vincent-Lang in regard to the 2020-2021 wolf harvest season for  
15 GMU 2 were inconsistent with the constitutional mandates in Article VIII, Section  
16 4 of the Alaska Constitution.

17 B. Plaintiffs pray for injunctive and other equitable relief, as necessary, to enjoin  
18 defendants and their agents, employees, and all persons acting under, in concert  
19 with, or for them, from opening any wolf trapping and hunting season on state  
20 lands in GMU 2 for the 2020-2021 season, and to maintain such closure until  
21 reliable data indicates that the wolf population in GMU 2 can undergo additional  
22 harvest without jeopardizing the sustainability and long-term viability of the wolf  
23 population in GMU 2.

24 C. Plaintiffs ask the Court to award them attorney's fees and the costs of bringing  
25 this public interest case.


26 D. Such other and additional relief as the Court may determine to be just and  
27 proper.  
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**VERIFICATION**

On my Oath, having read and reviewed this document, I swear the facts contained in this Complaint are true to the best of my knowledge.

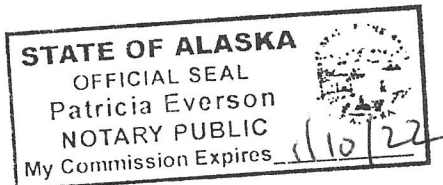
**DATED** this 26<sup>th</sup> day of October, 2020 at Juneau, Alaska.


  
**Joel Farwell Bennett,**  
Plaintiff

STATE OF ALASKA           )  
  ) ss  
FIRST JUDICIAL DISTRICT )

**THIS CERTIFIES** that on this 26<sup>th</sup> day of October, 2020, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared **Joel Farwell Bennett**, known to me to be the person named in and who executed this document, and he acknowledged that he executed the same freely and voluntarily, for the uses and purposes specified in the document.

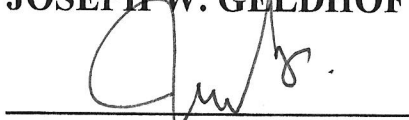
**GIVEN** under my hand and official seal the day and year first above written.



  
Notary Public for Alaska  
My Commission Expires: 1/10/22

**DATED** this 26<sup>th</sup> day of October, 2020 at Juneau, Alaska.

**LAW OFFICE OF  
JOSEPH W. GELDHOF**

  
Joseph W. Geldhof  
Alaska Bar # 8111097

THIS MATTER IS FORMALLY  
ASSIGNED TO  
DANIEL SCHALLY  
SUPERIOR COURT JUDGE