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Ninth Circuit Court upholds prohibition of brown bear baiting in the Kenai Refuge

Ruling protects Kenai brown bears and maintains the Skilak recreation area for wildlife viewing

ANCHORAGE, Alaska —A coalition of groups celebrated a U.S. Ninth Circuit Court of Appeals decision today that 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 [decision](#) confirms that the Fish and Wildlife Service necessarily has the authority to manage wildlife on lands it oversees and to set management priorities within Refuges.

“The court soundly rejected repeated attempts by the State of Alaska and Safari Club trophy hunters to decimate 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.”

In its ruling in *Safari Club International v. Haaland*, released on April 18, the Ninth Circuit Court upheld the rule, which included a ban on brown bear baiting and emphasis on wildlife viewing in the Skilak area.

“This decision affirms the authority of Fish and Wildlife Service to manage wildlife refuges to protect wildlife diversity and an array of Refuge users,” **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.

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 Court 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. It reaffirmed that "the federal government, and not a single state, has control over federal lands which benefit the entire country."

The Court upheld the Service's Kenai Rule as entirely reasonable under the Administrative Procedure Act. It also upheld the Rule as consistent with the laws governing the National Wildlife Refuge System and Alaska Refuges.

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:

"Victory! The Ninth Circuit Court of Appeals delivered a win for brown bears and other wildlife on the Kenai National Wildlife Refuge," **said Nicole Whittington-Evans, Alaska program director, Defenders of Wildlife.** "Prohibiting the baiting of brown bears on the Kenai Refuge is an important reminder of the federal government's responsibility to manage these public lands in the interest of biological integrity and diversity."

"We are pleased the court has reaffirmed, [once again](#), that the Fish and Wildlife Service acted in a lawful manner in carrying out its responsibility to conserve wildlife in their natural diversity on the Kenai National Wildlife Refuge by prohibiting brown bear baiting, and maintaining the Skilak area for wildlife viewing," **said Fran Mauer, Alaska chapter representative for Wilderness Watch.**

"This is fantastic news for Alaska's wildlife, and for Alaskans who believe in sustainable, fair-chase hunting principles," **said Elisabeth Balster Dabney, interim executive director at the Northern Alaska Environmental Center.** "Bear baiting does not belong in wildlife refuges, and we're grateful to see the court recognize that."

"We believe that the Fish and Wildlife Service is obligated to protect Kenai brown bears on the Refuge and this opinion recognizes the agency's authority to do just that," **said Nicole Schmitt, executive director of the Alaska Wildlife Alliance.** "At a time when so many of Alaska's wildlife protections are being rolled back, this ruling comes as a sigh of relief for all those who enjoy the Refuge and its wildlife."

“This win confirms that bear baiting doesn’t belong on our national wildlife refuges,” said **Collette Adkins, carnivore conservation director at the Center for Biological Diversity**. “The court decision makes clear that the federal government has the power to protect our public lands in Alaska.”

“This win confirms that wildlife refuges exist to protect our vulnerable and threatened species, and the wild systems that depend on them,” said **Dan Ritzman, director of Sierra Club’s Lands, Water and Wildlife campaign**. “We are in the midst of a mass extinction crisis, which requires immediate action to prevent the loss of more wildlife. Stopping cruel hunting methods in the Kenai National Wildlife Refuge will allow these public lands to serve their purpose and help slow extinction.”

“The State of Alaska and trophy hunting groups like Safari Club International have failed in their attempt to force the U.S. Fish and Wildlife Service to allow hunters to bait brown bears on the Kenai National Wildlife Refuge,” said **Nicholas Arrivo, managing attorney for the Humane Society of the United States**. “Luring in and killing brown bears over rotting bait is not only inhumane, but it is also disastrous for the conservation of Kenai’s delicate brown bear population, and this court opinion makes clear that the agency was justified in banning this cruel and unsporting practice.”

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