

WILDLIFE MANAGEMENT BY BALLOT INITIATIVE

THE ALASKA CHAPTER OF THE WILDLIFE SOCIETY POSITION STATEMENT ON WILDLIFE MANAGEMENT BY BALLOT INITIATIVE

INTRODUCTION

The Wildlife Society is an international professional organization of wildlife researchers, managers, and enforcement personnel dedicated to the sound stewardship of wildlife resources and the environments upon which wildlife and humans depend. The Alaska Chapter is an affiliate organization of over 300 wildlife professionals living and working in Alaska. Most Chapter members are wildlife biologists for state, federal, private, or academic institutions.

The Alaska Chapter adopts position statements on important wildlife management issues in the state. Our purpose in this resolution is to examine the use of ballot initiatives to manage wildlife in Alaska and to recommend an appropriate course of action for Alaskans to take in managing wildlife.

BACKGROUND

Alaska is fortunate in that there is an established democratic process by which the direction for wildlife management in the state is deliberated and decided. That process is the system of local advisory committees and the governor-appointed Board of Game, which has been statutorily delegated the responsibility by the Alaska Legislature. The public is involved at all stages of this regulatory process. In recent years, there has been an increasing tendency for wildlife management decision-making to be taken from the Board of Game and made by the Legislature or by ballot initiatives. Neither of these methods utilizes a deliberative process with both professional biological advice and public input. In 1996 the Alaska Chapter passed a resolution on legislating wildlife management in Alaska. In the following position statement, the Chapter discusses the use of ballot initiatives.

Ballot initiatives addressing wildlife management have become more frequent in Alaska and other states as various interest groups have been unsuccessful using the existing management structures to influence wildlife management decisions according to their own political agenda. The ballot initiative method was used in Alaska in 1996 when an initiative to eliminate same-day airborne hunting of wolves was passed. Now, an initiative to ban snaring of wolves is on the 1998 ballot.

FINDINGS

Wildlife in Alaska and the other 49 states enjoys a unique legal status with distinctive legal principles grounded in the common law of public trust doctrine. Under this concept, wildlife is not legal property and therefore cannot be owned by anyone so long as it remains in its natural condition. The state has a legal duty to manage wildlife for the benefit of its citizens. No state is

permitted to abrogate this duty. The state must ensure that no single use interferes with the equality of opportunity for access to wildlife for public trust uses. Hunting, fishing, and trapping are recognized public trust uses of the wildlife resource. The state has primary responsibility for determining the means by which wildlife may be reduced to possession.

Under recent Alaska Supreme Court rulings (Pullen vs. Ulmer 1996, McDowell vs. Alaska 1989, Owsichek vs. Alaska 1988, and CWC Fisheries vs. Bunker 1988), the concept of public trust duty has come to be understood to lie with the Alaska Legislature. The Board of Game, with technical assistance from the Department of Fish and Game, has been delegated the duty, by the Legislature, to manage and allocate the wildlife resource under the strictures of public trust. There is reason to believe that, because the Legislature cannot divest itself of its trust responsibility, allocation and management decisions cannot be delegated to a decision-making process where the Legislature retains no finality on approval; this is the case with ballot initiatives. The argument that wildlife management is exempted from ballot initiatives has yet to be determined by a higher court, but its potential should cause citizens to want clarification before casting their votes.

While we recognize that ballot initiatives are part of a participatory democratic process, it is clear they do not meet the needs of Alaskans to fully deliberate the complexities of harvest methods and means or allocations. Managing wildlife and its use in Alaska is a very complex process that must simultaneously consider biology, culture, and economics. Ballot initiatives bypass the checks and balances of deliberation and possible changes to regulations present in the existing public processes. In ballot initiatives, open debate is usually reduced to sound bites in the media by opposing sides and results in a good deal of misinformation. It is not possible to adequately prepare the voting public to make an informed decision in such a polarized atmosphere.

The current and usual process for dealing with wildlife management issues in Alaska consists of local advisory committees and the governor-appointed Board of Game. These organizations carry out knowledgeable deliberation of proposals submitted by the public, the Department of Fish and Game, and other organizations on a wide variety of issues. Their deliberations and decisions are based on their education from extensive public testimony, presentation from technical experts, and their own specific knowledge of wildlife issues. Although it may occasionally have been affected by politics or was sometimes less responsive to minority views than desirable, the Board of Game system has served Alaskans well and is regarded as a model of democratic wildlife management in the country.

Finally, the role federal subsistence management currently plays with regards to the initiative process must be considered. State statutes, whether passed by legislative action or ballot initiative, cannot countermand federal directives for subsistence management of wildlife on federal lands as provided in the Alaska National Interest Lands Conservation Act (ANILCA) of 1980. While state statutes apply to all lands in Alaska, they can be preempted by federal subsistence regulations on federal lands (approximately 60% of the land area in the state). The Federal Subsistence Board regulates subsistence harvest of fish and game on federal lands pursuant to ANILCA. Overtly restrictive measures, such as a proposed ban on the use of snares for wolves, would almost certainly have strong opposition from qualified subsistence users in rural Alaska, and the Federal Subsistence Board would likely reflect their wishes.

RECOMMENDATION

Therefore, The Alaska Chapter of The Wildlife Society recommends that:

1. Wildlife management in Alaska should continue to be guided by the Board of Game system as the most appropriate mechanism to meet the needs of Alaskans and fulfill the requirements of public trust doctrine.
2. The Attorney General of Alaska, under direction by the Governor and Legislature, should investigate the legality of ballot initiatives as applied to wildlife management in Alaska.
3. The Board of Game, under direction by the Governor and Legislature and with assistance from an ad hoc citizen advisory panel, should explore ways of ensuring that the advisory committee and board processes continue to be open and responsive to minority opinion or alternative views of wildlife management and, if necessary, should suggest improvements to these processes.