

Senate State Affairs

January 22, 2013

Department of Law
Examples of Federal Overreach Litigation

Topic	Case Name	Court	Brief Description
ESA Listing of Polar Bear	<i>In Re Polar Bear Endangered Species Act Listing</i>	D.C. Cir.	State sought to overturn listing of polar bear as threatened under ESA and trial court upheld the listing. The state appealed.
ESA Designation of Critical Habitat for Polar Bear	<i>State of Alaska v. Salazar</i>	AK Dist. Ct.	State is challenging the final designation of critical habitat for the polar bear. The state recently received a favorable decision at the district court. There is likely to be an appeal.
ESA Biological Opinion re: Stellar Sea Lions	<i>State of Alaska v. Lubchenko</i>	9th Cir.	State is challenging National Marine Fisheries Service biological opinion finding that existing fishing regulations jeopardize the Western Distinct Population of Stellar Sea Lions. Oral argument was held on December 4, 2012.
Emission Control Area	<i>State of Alaska v. Clinton</i>	AK Dist. Ct.	State is challenging Secretary of State Clinton's extension of Emission Control Area to coastal areas of Alaska. The state filed a motion for preliminary injunction that is still pending.
Tongass Roadless Rule	<i>State of Alaska v. U.S. Dept. of Agriculture</i>	D.C. Dist. Ct.	State is challenging application of roadless rule in Tongass. The U.S. filed a motion to dismiss that is still pending.
Tongass Roadless Rule Exemption	<i>Organized Village of Kake v. U.S. Dept. of Agriculture</i>	9th Cir.	State intervened to support the Alaska exemption to the roadless rule. Oral argument was held on August 30, 2012.
Title to Submerged Lands in Fortymile	<i>State of Alaska v. U.S.</i>	AK Dist. Ct.	State seeks to quiet title to submerged land underlying Mosquito Fork of the Fortymile River. The case is on-going.
Interference with State Navigable Waterways	<i>Sturgeon v. Masica</i>	AK Dist. Ct.	Alaska intervened to challenge the U.S. Dept. of Interior's application of National Park Service regulations to state navigable waterways. Summary judgment briefing is underway.
Voting Rights Act	<i>State of Alaska v. Holder; Shelby County v. Holder</i>	D.C. Dist. Ct.; U.S. Sup. Ct.	State is challenging federal preclearance requirement under the Voting Rights Act by bringing its own action and filing an amicus brief in <i>Shelby County</i> . Oral argument in <i>Shelby County</i> will be held on February 27.