

HB

443

DRAFT AMENDMENT FOR HB 443

Page 1, line 7, after "(2)":

delete: [WHEN THE KNOWLEDGE MAY BE DETRIMENTAL TO THE FISH OR WILDLIFE POPULATION]

insert: "when in the opinion of the commissioner, the knowledge may be detrimental to fish, wildlife, human safety, or research or management programs being conducted by the department or authorized by the department,"

Page 2, line 2, following "population.":

insert: "The department may also release records and information that are kept confidential under this subsection, except for telemetry radio frequencies and other electronic locating information, to a requestor conducting scientific research or other specific activities if the requestor agrees to use the records and information only as provided under terms of a contract or agreement with the department."

3/24/94

AMENDMENT

OFFERED IN THE HOUSE RESOURCES COMMITTEE
TO: HB 443

BY ADF&G

Page 1, line 14:

Delete "or"

Page 2, line 2:

Insert ",or if the requestor has been authorized by the department to perform specific activities, and the requestor agrees to use the information only for purposes as provided under contract or agreement."

GOVERNOR HICKEL'S RADIO-TELEMETRY BILL (SB 277 & HB 443)

Governor Hickel has introduced legislation which will allow the Department of Fish and Game (ADF&G) to keep radio-frequency information confidential. It is in the state's best interest and essential for good wildlife management to keep this information confidential.

The release of radio-frequencies and other information that reveals the specific location of wildlife has the potential to: compromise ADF&G studies or approved research projects of authorized permittees through removal of animals from the wild, displacement of animals by disturbance, or alteration of their behavior; lead to disturbance of wildlife-sensitive locations (e.g., dens, breeding areas, rendezvous sites); facilitate harassment of ADF&G research and management programs by individuals or organizations that may oppose them; and lead to increased vulnerability of collared animals and associated animals to hunting or harassment by people.

AS 16.05.815 was amended in 1990 to allow ADF&G to keep frequencies of radio-collared animals confidential. Exact wording of the statute now reads, "the department shall keep confidential...when the knowledge may be detrimental to the fish or wildlife population, the records of the department concerning telemetry radio-frequencies of monitored species..." The use of the words "when the knowledge may be detrimental to the fish or wildlife populations" have caused a problem.

The department was sued in the summer of 1993 for refusing to release radio-frequency information on wolves to a private individual wishing to track the animals. We were required by the court to release the information because we could not prove that release of the information would be detrimental to the population. It will be nearly impossible to ever prove population level damages because only small numbers of animals are collared and damage or death to a few individuals would rarely damage the population.

This bill will allow these records to be kept confidential by removing the words, "When the knowledge may be detrimental to the fish and wildlife population." Present wording in AS 16.05.815 allows release of this information to state or federal agencies. This legislation adds the provision for the release of information if the requestor is under contract with the state to conduct research on a fish or wildlife population. This provision would allow ADF&G to cooperate on projects with University researchers and private consultants through cooperative agreements when such cooperation is mutually beneficial.



THE WILDLIFE SOCIETY

5410 Grosvenor Lane • Bethesda, MD 20814-2197
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Jamaa M. Peek
Northwest Section Representative
Dept. of Fish & Wildlife Resources
University of Idaho
Moscow, ID 83843
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(208) 885-6226 Fax

24 June 93

Harry Hodgdon, Executive Director
The Wildlife Society
5410 Grosvenor Lane
Bethesda, MD 20814

Dear Harry:

I believe the Freedom of Information Act requests that Gordon Haber provided to the Superintendent of Denali Park and Preserve warrant our close attention because of the possible precedent they set if approved. Enclosed are the FOIA requests. One specifies that the radio frequencies of certain instrumented wolves should be provided, and the other requests a limited amount of data in the form of relocations of collared wolves. Haber was not a part of the project that spent the money and effort to collar the wolves, but he is working with the same packs when they appear outside of DNPP. There is apparently no firm guidance for the administrators concerning the legitimacy of these requests and whether to honor them or not.

A similar request to Alaska Dep of Fish & Game, under the state of Alaska FOIA, was honored and Haber was given the signals. I am informed by Dave Kelleyhouse of ADFG that they are highly concerned and are considering options, since a private trapper, an ecotourism group, and a private consulting firm also were going to request the frequencies until they were persuaded not to.

There are obviously serious consequences to making the radio signals available. First the safety of the study animals and their associates cannot be guaranteed. This means that use of telemetry may be precluded on certain species. Additionally, study animals may be subject to interference and alter their behavior, which makes the information obtained from them questionable.

There are equally serious consequences to requiring research people to provide raw data of any sort to the public, regardless of what they investigate. This compromises the integrity of the research by not allowing the researcher to analyze and interpret the information prior to its dissemination. Raw data is fraught with biases of many kinds and one problem for the researcher is to detect the biases and interpret the information in their light. Many times a project is designed to account for such problems which the raw data do not reflect. There are analytical tools provided by biometricians and wildlife researchers which are useful in interpreting radiotelemetry data. These tools, and the careful documentation of the environment in which the relocations are obtained in the field, require diligent efforts to make a database useful. The researcher who has designed the project and has an understanding of the environment in which the research is conducted deserves to carry out a project to its logical conclusion and present the data in a form which he or she can be comfortable with and can defend before a group of peers. If FOIA can be used to obtain raw scientific data, no matter how limited, from a researcher by another person engaged in research, then there is the possibility that the same data will have to be made public.

I have been involved in situations where our radiofrequencies were requested. I was able to discuss this with individuals and we provided maps showing the home ranges of instrumented animals, a satisfactory arrangement in that case. Many wildlife researchers routinely provide informal reports showing locations of animals, mortality, and other pertinent information, as a matter of public interest. However, most such reports are given with the proviso that information may be modified pending further analysis, and not infrequently there is a reinterpretation of the information when a more adequate analysis and more data becomes available. But such interim reports generally provide information the researcher is comfortable with in giving out and of his or her own volition. When one is dealing with wolves or other species of economic value, location data needs to be provided with extreme caution lest animals become hunted or specifically sought out.

However, I know of many instances where a researcher has located a signal from a study animal not a part of his own project. Typically, phone calls are made and the locations are turned over to the people involved. In other instances, researchers have cooperated in locating radiocollared animals of different species, or of the same species in different areas, to increase the information base or alternatively to reduce costs. In one instance I cooperated with other researchers at the same time with the same instrumented animals with little problem. There are a lot of ways people may cooperate to enhance the data base where radiocollared animals are concerned, when the atmosphere for cooperation is present.

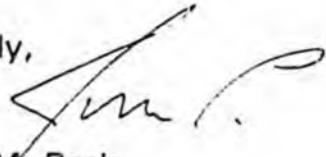
In the DNPP situation, an attempt is being made to force researchers to provide unanalyzed information, a quite different situation. Also, the instrumented wolves are the legitimate study animals of an NPS-financed research project with which Haber is not associated. Essentially he is trying to obtain information from someone else's study animals without consent. However, I was able to visit with Steve Welles of the Alaska Wildlife Coalition and Paul Joslin of Wolf Haven, who are supporting Haber's research. They have agreed to encourage Haber to withdraw his federal FOIA requests if the researchers who have the data and the marked wolves agree to provide him with knowledge of where the wolves in question are. While Haber's research has been questioned, and he has apparently made statements which make it difficult for others to want to cooperate with him, both Joslin and Welles strongly support his efforts and consider them to be of value. Haber investigated wolf ecology in the 1970s in DNPP, and is familiar with the area and lives nearby. All considered, I would conclude that there is reason for all concerned to try to work out some means of cooperating. There is the potential for enhancing the total amount of information obtained in the process. I do believe that any cooperation should be worked out and agreed to in writing in this instance, given the degree to which relationships have deteriorated.

I have been personally involved in research in DNPP and have some lifetime experiences to remember from it. When I was there ten years ago, it was obvious that research into bears and wolves was needed. Since then, an excellent research program on the entire large mammal complex has been developed, with researchers from several agencies involved. This park provides a unique opportunity to understand more about the large mammals in a relatively undisturbed setting. It is not surprising that controversy will creep into the situation given the species involved. I am hoping that we may recognize the 'big picture', and that we not get mired in conflicts which threaten the research.

This situation has broad implications beyond the boundaries of DNPP that TWS needs to address. TWS members are working on these projects and need our support. Telemetry is a very important means by which we collect information. Issues concerning what may be done with scientific data prior to the time researchers are ready to present it are of concern to the entire scientific community. Accordingly, I am requesting that we obtain a clear opinion from the Department of Justice or a federal court concerning whether raw scientific information collected by federal employees or with federal support falls within the purview of FOIA. We also need to find out whether signals from radio-frequency marked individuals fall under the provisions of FOIA, and whether regulations of the Federal Communications Commission have application. If we can be provided information on these

items by the fall Council meeting we can take action then, but we really need it as soon as possible. While the DNPP situation may well work itself out, it illustrates a situation which threatens the integrity of research of all kinds, including wildlife research.

Sincerely,



James M. Peek

- cc: R. Berry, DNPP
- G. Haber
- P. Joslin, Wolf Haven
- D. Kelleyhouse, Alaska Dep. Fish & Game
- D. Mech
- J. Morehead, Alaska Region NPS
- H. Salwasser, TWS
- S. Welles, Alaska Wildlife Alliance
- TWS Council members

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 463 3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 4, 1994

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to amend AS 16.05.815(d) to better protect the confidentiality of certain Department of Fish and Game records regarding the location of fish and wildlife. The existing language was enacted at the request of the Department of Fish and Game in 1990. However, as demonstrated by a recent court case, the existing language is subject to an interpretation not anticipated by the department.

An Anchorage superior court recently found that the current statute places the burden on the department to prove to the court that the particular request for those records poses a detriment to the fish or wildlife population. While a single specific request for records might not be overly burdensome, the cumulative effect of several such requests might cause a severe impact on the limited staff of the department. Existing AS 16.05.815(d) leaves the door open for requests entirely unrelated to legitimate scientific research or management goals.

This bill will not disrupt critical scientific research and management efforts. Government agencies, both state and federal, sometimes need the information to complement or verify similar research studies or to further management and conservation responsibilities. This bill will leave the department with discretion to share the information with other government agencies that might have legitimate need for those records, as well as with researchers under contract with the state.

I urge your support of this important bill.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel".

Walter J. Hickel
Governor

FISCAL NOTE

BILL NO.

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date _____
 Title Confidentiality of radio frequencies/
 tracking wildlife
 Sponsor _____
 Requestor: Governor

Dept. Affected: Department of Fish and Game
 BRU: Wildlife Conservation
 Component: Wildlife Conservation
 COMPONENT SERIAL NO. 0473

Expenditures/Revenues	(Thousands of Dollars)					
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Geron Bruce
 Division: Commissioner's Office
 Approved by Commissioner: [Signature]
 Agency: Alaska Department of Fish and Game

Phone: 465-6143
 Date: 12/16/93
 Date: 12/16/93

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COMMITTEE COPY

STATE OF ALASKA
DEPARTMENT OF FISH AND GAME
DIVISION OF WILDLIFE CONSERVATION

MEMORANDUM

TO: Dave Kelleyhouse
Director

DATE: February 22, 1994

FILE NO:

TELEPHONE NO: 465-4190

FROM: Wayne Regelin *wregelin*
Deputy Director

SUBJECT: Gordon Haber's Scientific
Permit

We issued Gordon Haber a scientific permit to radio-track wolves and conduct ungulate surveys in GMUs 13, 20A and 20E on February 4, 1994. The permit conditions were similar to those in his 1993 permit, with three additional stipulations. We added a requirement that a minimum altitude of 500 feet above ground level (AGL) be maintained when flying over wolves or ungulates. We further stipulated that continued observation of animals exceeding 5 minutes be at a minimum of 1000 feet AGL. We added these stipulations because a photograph taken by Haber, published in the Fairbanks Newsminer on December 22, 1993, clearly showed he was approaching wolves at very low altitudes. Also, radio-collared packs in Unit 20E are showing unusually evasive behavior to fixed-wing aircraft flying over 1000 feet AGL. The unusual wolf behavior is indication of severe harassment from aircraft and has occurred in seven widely distributed packs (see Boertje memo to Regelin of January 24, 1994). Haber's annual report indicates he located these wolf packs on 18 days between June 20 and November 17, 1993. Some observation periods were likely of long duration based on comments made in the report.

On February 16, 1994, at 10:30am Gordon Haber called me. He was very upset about the new stipulations in his permit prohibiting observation of wolves and ungulates below 500 feet AGL. He said he routinely flew between 200 and 300 feet AGL and such low altitudes were required for his observations on wolf behavior. Haber said he frequently observed wolves continuously for 1 to 2 hours at 200 to 300 feet AGL. He said he had flown as low as 50 feet above wolves and could observe "facial expressions" and reproductive status. He demanded that we allow him to fly lower than 500 feet. I told him to put his request in writing and I would consider it as soon as possible.

Haber faxed me a letter within an hour (see letter to Regelin from Haber dated February 16). In his letter Haber said he took the photograph published in the Fairbanks Newsminer on December 22, 1993, at 2-300 feet from the wolves and that such low level flights are essential to his research effort and that he has to fly at low elevations to carry out **prolonged** observation.

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FEB 23 1994

DEPARTMENT OF FISH AND GAME

Haber requested that we add language to his permit saying if there is a sustained flight response for more than 5 minutes that he be required to maintain a 500 foot elevation AGL.

It is obvious from my discussion with Haber and his letter that he has been flying at very low levels and harassing wolves if they have a sustained flight response.

Haber's 1993 permit did not specify minimum elevation for his surveys, but his report did say, "Nothing in this permit waives any FAA regulation or relieves the permittee from compliance with other applicable state or federal regulations. FAA regulation prohibits flying below 500 feet AGL. Also Haber may have violated the Federal Airborne Hunting Act and state regulations prohibiting harassment of animals from aircraft.

Gordon Haber called me again on February 18, 1994, at about 11:00am. He asked that I ignore his request to fly lower than 500 feet AGL when surveying wolves and other ungulates. He said he had learned that FAA rules prohibiting lower level flights. He went on to claim that he had never flown below 500 feet AGL, that he had been mistaken about his altitude because he sits in the backseat during surveys and cannot see the altimeter. This is surprising because most of his survey flights have occurred in a M-5-235 Maule aircraft. The passenger sits besides the pilot in this plane and there is no backseat.

Gordon Haber filed an affidavit in the lawsuit filed by Sierra Club Legal Defense Fund regarding same day airborne hunting of wolves. In the affidavit, signed February 15, 1994, Haber discusses flying as low as 50 feet above wolves during his research. In the same affidavit, Haber states he has flown over 1200 hours of aerial surveys as a passenger and 50-75 hours as a student pilot (see attached affidavit). Anyone with this much experience would know if he were 50 vs. 500 feet AGL.

I did not respond to Mr. Haber during this phone call except to say I would consider his request.

cc: Jeff Killup, Dept. of Law
McKie Campbell
Chris Smith
Phil Koehl

MEMORANDUM


State of Alaska

Department of Fish and Game


TO: Wayne L. Regelin
Deputy Director

DATE: January 24, 1994

FILE NO:

THRU: Christian A. Smith 
Regional Supervisor

TELEPHONE NO: 456-5156

FROM: Rodney D. Boertje 
Wildlife Biologist
Division of Wildlife Conservation
FairbanksSUBJECT: Possible Wolf
Harassment

The purpose of this memo is to document the unusual behavior of 9 of 10 radio-collared wolf packs in Subunits 20B, 30D, and 30E that I radio-tracked January 14-19, 1994. These nine packs exhibited strong reaction to fixed-wing aircraft including running and hiding under the nearest tall spruce available following initial approach of high-altitude (> 1000' above ground level) radio-tracking aircraft. I've radio-tracked seven of these packs for two winters and three packs for one winter and have not observed this behavior in so many packs. One or two packs may exhibit this behavior occasionally, but it is unprecedented that so many packs are attempting to avoid being approached by aircraft. This behavior is indicative of harassment by aircraft, because most wolves are not innately afraid of aircraft.

In my own experience, harassment during darting can temporarily (up to 1 or 2 months) cause this behavior but I doubt that anyone is attempting to dart wolves in this area. We darted three of these packs in November 1992, and the remainder during winter 1991-92. An alternative hypothesis is that the wolves are being subject to harassment by fixed-wing aircraft to obtain photographs, to obtain aerial-shot wolves, and/or to count wolves in dense cover. Patrick Valkenburg and Ken Whitten have experience in attempting to obtain aerial photography of wolves from fixed-wing aircraft and report that high-magnification lenses (200-300mm) are inadequate because images are blurred. Low-level flights, using low-power magnification (50-100mm lenses), can cause harassment. Attempts at aerial gunning would also likely cause the observed behavior. Until we again observe the packs, we will not know if wolf numbers observed in November 1993 have declined. Department staff encountering wolves in dense cover do not harass wolves in attempts to count them. The result of harassment is that packs split up resulting in poor total counts.

The short-term effect of this unusual behavior on our research and management programs is that we will not be able to accurately count

Wayne L. Regelin

2

January 24, 1994

wolves in radio-collared packs unless tracking conditions are suitable. We will also not be able to monitor pack associations based on colors of the wolves. Based on prior experience with darting and radio-tracking wolves, wolves readily become accustomed to the overflights necessary to radio-track and count wolves when aerial harassment ceases (e.g., darting).

I bring this to your attention because it is possible that someone is using radio-frequencies to harass collared packs. The collared packs exhibiting harassed behavior are spread too widely and snow conditions have been inadequate for pilots to locate these packs without telemetry. Our disclosure of these radio-frequencies and this simultaneous unprecedented wolf behavior suggest that disclosure may not be in the best interest of the state or its wildlife.

cc: DuBois, S.
Eagan, R.
Gardner, C.
McNay, M.
Reed, D.
Taylor, K.

P.O. Box 64
Denali Park, Alaska 99755
February 16, 1994

Wayne Regegin, Deputy Director
Division of Wildlife Conservation
Alaska Department of Fish and Game
P.O. Box 25526
Juneau, Alaska 99802-5526

Dear Wayne:

Today I received ADFG Scientific Research Permit 94-25, signed by you on February 4. This permit contains several new provisions that are unreasonable, unnecessary, and which would seriously hinder my ability to carry out this research in a high quality way.

1 The most problematic of the new provisions is the one requiring me to maintain a minimum altitude of 500 feet above ground level (AGL) during my wolf-ungulate surveys and observations, or 1,000 feet AGL for observations lasting more than five minutes. My research over the past 28 years - which to date includes approximately 1,200 hours of low level aerial wolf-ungulate surveys and observations - is unique in terms of the high quality detail that it has produced particularly on the natural behavior of wolves (e.g., Haber, 1977, 1988). In order to maintain this high standard in my present research (e.g., Haber, 1993, 1994), it is essential that I be allowed to carry out the same kind of close, prolonged aerial observations, to the extent (as in the past) that this does not result in any major problems for the study animals. I can assure you that I am as concerned as anyone about potential problems; your agency should understand that by now, as, apparently, do other agencies with which I continue to work closely on wildlife protection matters (e.g., Alaska State Troopers [F&W], U.S. Fish and Wildlife Service [law enforcement], National Park Service).

Regularly, as an integral part of my research, I observe the response of wolves (and other species) to airplanes, and have done so since 1966. This response varies considerably. In many cases, wolves do not show any obvious response to a closely approaching airplane, for example as can be seen from the attached December 22, 1993 Fairbanks Daily News-Miner front page photograph of nine wolves, which I took while conducting aerial surveys in Game Management Unit 20A recently, while flying less than 2-300 feet from the wolves. I can produce much additional photographic evidence showing this same behavior, from the permit areas and Denali National Park. (I'm not sure that I understand the "concern about the level of disturbance to wolves" that you say you and your ADFG colleagues are feeling about wolves in GMU 20A and elsewhere, given that ADFG personnel recently killed all of the wolves in the foregoing photo, along with at least 75 others in GMU 20A, and that ADFG is currently undertaking more wolf killing in this permit area).

Thus, a rigid restriction on the way I conduct my aerial observations would be inappropriate. I would like to replace this with a formalization of essentially the operating procedure that I already use without problems, per the following passage (this should be inserted between the first and fourth sentences of the second paragraph, page 1, of Permit No. 94-25, replacing your present sentences 2-3:

[If there is a sustained flight response to permittee's aircraft by wolves or ungulates (i.e., for more than approximately 5 minutes and over a ground distance of approximately 50 yards), permittee will then maintain a minimum altitude of 500 feet AGL over these wolves and ungulates, if further observations are needed. Permittee may resume observations from a lower altitude over these wolves and ungulates if the flight response ceases. If more than 15 minutes of observation time is needed and there is a continuing flight response, permittee will then maintain a minimum altitude of 1,000 feet.]

I emphasize that, since my observations usually feature natural or near-natural behavior, there is usually no point in persisting when the wolves flee, beyond obtaining important basic information such as on numbers and identities. Generally I am able to do this within about 15 minutes, and then I leave, if the wolves are still showing a flight response. It is important to remember that virtually any non-permittee/pilot can legally fly 500 feet AGL over wolves, ungulates, and other wildlife in these study areas and elsewhere, and, as you know, many commonly do.

-2-

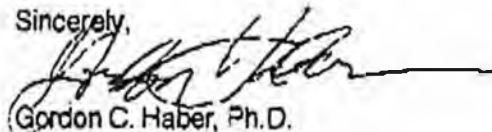
2. In your second sentence (par. 1), you indicate that I am authorized to conduct ungulate surveys "to determine their distribution within the tracking area." Note from my first two project reports (Haber, 1993, 1994), among other reports, that my ungulate surveys emphasize much more than just their "distribution." Therefore, I ask that the last eight words of this sentence be deleted (i.e., the sentence should end with the word "populations."

3. Regarding the last sentence on p. 1: "The permittee may not approach from the ground within 1/4 mile of any home site or den (sic) that was located with the use of radio-telemetry." Again this is an unnecessarily and unreasonably rigid restriction. Observing wolves from the ground at their homesites has been a major feature of my research in Alaska for the past 28 years (more than 3,600 hours of such observations to date - Haber, 1968, 1977, 1994, in prep), and it is from this research and my related recommendations that the current National Park Service protective measures against wolf homesite disturbances in Denali National Park originated 22 years ago (NPS files). As with the response of wolves to airplanes, their responses and response distances to ground observers can vary widely. Accordingly, I ask that the permit provision read as follows: "The permittee may not approach from the ground any occupied wolf homesite that was located with the use of telemetry in a manner that causes the wolves to abandon this site. The permittee will immediately leave the area if the occupying wolves display an obvious adverse response to his presence." I emphasize that I am currently operating in this manner without problems in Denali National Park, where potential disturbance to wolves is a matter of utmost concern to the National Park Service and many others.

4. With regard to the January 31, 1995 report (p. 2), I will be happy to provide details as to the locations and identities of my non-telemetry-assisted wolf pack observations in GMU 20A (as I am already doing for the other areas), if the ADFG wolf control program in 20A has ended by that time or if ADFG can provide assurances that my information will in no way, directly or indirectly, contribute to this ill-conceived control effort (e.g., Haber, 1993). I omitted all such 20A wolf information from my January 31, 1994 report. Recall that in the legal action I took against the state last June, it was emphasized that I would not provide information that could be used to hunt or trap the wolves I am studying.

I hope these problems can be resolved quickly, as I may be departing for my next block of aerial surveys/observations as early as sometime next week. I thank you.

Sincerely,



Gordon C. Haber, Ph.D.

Attachment (copy of newspaper photo)

References cited:

- Haber, G.C. 1968. The social structure and behavior of an Alaskan wolf population. M.A. thesis, Northern Michigan Univ., Marquette, Mich. 235 pp.
- Haber, G.C. 1977. Socio-ecological dynamics of wolves and prey in a subarctic ecosystem. Ph.D. dissertation, Univ. of British Columbia, Vancouver. 817 pp. Published as a Special Report, 1978, by the Federal-State Land Use Planning Commission for Alaska.
- Haber, G.C. 1988. Wildlife management in northern British Columbia: Kechika-Muskwa wolf control and related issues. Wolf Haven International, Tenino, Washington. 194 pp. Available from Arctic Environmental Information and Data Center, Univ. of Alaska, Anchorage.
- Haber, G.C. 1993. Wolves and wolf-prey-human interactions, Interior and southcentral Alaska. Res. Rep. No. 1. The Alaska Wildlife Alliance, Anchorage; Friends of Animals, Darien, CT; Wolf Haven International, Tenino, WA. 44 pp. (provided to ADFG, July 1993)
- Haber, G.C. 1994. Wolves and wolf-prey-human interactions, Interior and southcentral Alaska. Summary of research activities, June-December 1993. 10 pp. Available from Alaska Dept. of Fish and Game, Juneau.



UNDER CONTROL—A pack of nine wolves rests in a forest in Game Management Unit 20A, where a state wolf-control program is in progress. The photo was taken by independent wildlife scientist Gordon Haber, who is conducting aerial surveys in the area. Haber

claims some of the wolves in the photo have been killed in the control program. More than 150 wolves could be killed in the control program this winter.

Gordon Haber photo

Insurance rule draws lawsuit

Doctors sue to block hospital requirement

By TIM P. RAKER
Staff Writer

A group of doctors filed a lawsuit Tuesday against Fairbanks Memorial Hospital hoping to delay or stop a requirement that the doctors carry a minimum of \$1 million in medical malpractice insurance.

Without a temporary restraining order, the \$1 million minimum would start Jan. 1.

Twelve of the 105 doctors now practicing at the hospital do not carry the \$1 million minimum, said Dr. Keith Gianni.

However, even if the 12 doctors are barred from working at the hospital, their patients will continue to receive care. The doctors have made arrangements to continue care as long as necessary, Gianni said.

The hospital wants all doctors to carry the minimum amount of insurance to protect the hospital and patients from malpractice judgments, said Sally DeWitt, a hospital spokeswoman.

In addition, the requirement would also save the hospital money. The hospital has paid about \$100,000 per year since 1987 into a self-insurance program run by Lutheran Health Systems, the company hired to run the hospital.

But doctors at the hospital don't see it that way. Continued into a second column on the medical

P.O. Box 64
Denali Park, Alaska 99755
February 21, 1994

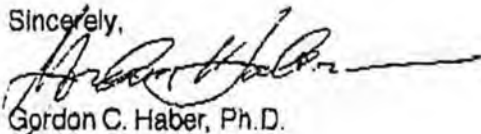
Wayne Regelin, Deputy Director
Division of Wildlife Conservation
Alaska Department of Fish and Game
P.O. Box 25526
Juneau, Alaska 99802-5526

Dear Wayne,

Per our phone conversation on February 18, I am withdrawing the request that I made in my letter of February 16 to conduct observations below 500 feet AGL. My pilots inform me that FAA regulations would not allow you to authorize such a request. Therefore, with regard to the discussion of aircraft altitudes (p.1) in my February 16 letter, I ask only that you substitute the last sentence of the insert I provided (i.e., "If more than 15 minutes of observation time is needed and there is a continuing flight response, permittee will then maintain a minimum altitude of 1,000 feet.") in place of sentence #3 of paragraph #2 of the permit, for the reasons given in my letter. My other (p. 2) requests for changes in the permit remain the same.

Thank you.

Sincerely,



Gordon C. Haber, Ph.D.

Eric P. Jorgensen
Thomas S. Waldo
Jeanne M. Cochran
SIERRA CLUB LEGAL
DEFENSE FUND, INC.
325 Fourth Street
Juneau, AK 99801
(907) 586-2751

IN SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT

DEFENDERS OF WILDLIFE, ALASKA WILDLIFE)
ALLIANCE and WOLF HAVEN INTERNATIONAL)

Plaintiffs,)

v.)

ALASKA BOARD OF GAME, ALASKA DEPARTMENT)
OF FISH AND GAME and STATE OF ALASKA)

Defendants.)

No. _____

AFFIDAVIT OF DR. GORDON C. HABER

AFFIDAVIT OF DR. GORDON C. HABER

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Gordon C. Haber, being duly sworn upon oath, deposes and states as follows:

1. I am a professional wildlife scientist and a resident of Alaska. My permanent residence is located in Game Management Unit 20A, Interior Alaska. I also have a residence in Anchorage.

2. I am presently beginning my 29th year of research as a professional wildlife scientist on the ecology and behavior of wolves and the dynamics of wolf-prey systems in Alaska. I have also conducted field research as a professional wildlife scientist on the ecology and behavior of wolves and the dynamics of wolf-prey systems in northern British Columbia and, informally, in Isle Royale National Park, Michigan.

3. I have a Ph.D. in Zoology which I received from the University of British Columbia in 1977. I also have a Masters in Biology from Northern Michigan University that I received in 1969. Both my Ph.D. and Masters dissertations were written from field research that I did in Alaska on the ecology and behavior of wolves and the dynamics of wolf-prey systems. I received a B.S. in Biological Sciences from Michigan Technological University in 1966,

where I also majored in Geophysical Engineering for three and a half years.

4. I am currently conducting field research on the ecology and behavior of wolves and the dynamics of wolf-prey systems in areas of Alaska where same day airborne hunting is authorized under the state trapping regulations, including Game Management Units 12, 13A, 13B, 13C, 13D, 13E, 20A, 20B, 20C, 20D, and 20E. I am collecting extensive information on the ecology and behavior of 21 wolf packs via aerial radio tracking and on other wolf packs using non-telemetry aerial and ground methods.

5. Since 1966, I have conducted approximately 1200 hours of aerial wolf-prey surveys and observations (with a pilot) in Alaska as a professional wildlife scientist. I have also flown approximately 50-75 hours by myself - as a student pilot - in and near the areas where I am conducting wolf-prey research.

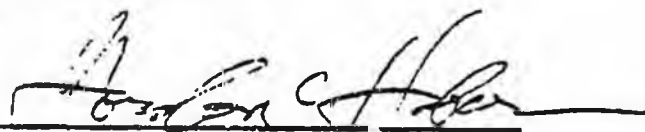
6. Regularly, as an integral part of my research, I observe the response of wolves to airplanes, and have done so since 1966. Their response to airplanes varies considerably. Some wolves begin running in response to an approaching airplane flying at low to moderate altitudes while it is still several miles away. Some wolves begin running in response to an approaching airplane when it is at lesser distances. Some allow an airplane to approach within fifty feet overhead without any obvious response. However, in

almost all cases when an airplane lands within a few hundred yards of wolves, the wolves are likely to run away. Some wolves run away when an airplane lands at a greater distance, if the airplane is within view and/or earshot of the wolves.

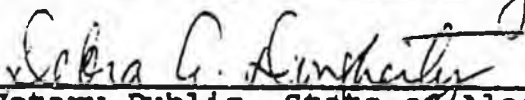
7. February, March and April are the best times of the year for same day airborne taking of wolves. I make this statement based on my extensive experience in directly tracking and observing wolves with airplanes as part of my field research and on my extensive knowledge of weather conditions, snow conditions, tracking conditions and flying conditions as these variables relate to finding and observing wolves. Same day airborne taking of wolves is best during this period primarily because the air is typically calm, which makes flying ideal, and the snow and light conditions are typically good for aerial tracking of wolves and for associated ski landings. The pleasant, long, sunny days at this time of the year both encourage and allow pilots and hunters to venture into remote areas for same day airborne taking.

8. On February 12, 1994, while conducting aerial wolf surveys in the Fortymile region of eastcentral Alaska (in Game Management Unit 20E), I observed fresh evidence of what appeared to be a land and shoot or attempted land and shoot taking of wolves. A ski-equipped Super Cub had landed at two locations approximately three miles apart on the North Fork of the Fortymile River, directly atop the tracks of approximately 8-10 wolves that had been traveling along the same river. The wolf tracks and the Super Cub

tracks appeared to be of the same age; both were likely made on February 10, one day after an excellent tracking snow had fallen over this region. In my opinion, these tracks indicated that the 1-2 occupants of the Super Cub may have successfully taken wolves in this area by pursuing them along the river and landing at least twice to shoot at them. In neither case was there any tracks to indicate that the occupant(s) moved at least 100 yards from the airplane. One of the landings (about three miles upstream from the other) was on a difficult bend in the river. In my opinion, there would have been no reason to land at this difficult location -- directly atop the wolf tracks -- except for the purpose of attempting to take wolves. I was flying in a ski-equipped Super Cub at the time of this observation on February 12 but due to turbulence was unable to land at these sites myself.


Gordon C. Haber, Ph. D.

Subscribed and sworn to before this 15th day of February,
1994.


Notary Public, State of Alaska
My commission expires: 1-5-98

JUL 27 1993

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

GORDON C. HABER, Ph.D.,
ALASKA WILDLIFE ALLIANCE,
ALASKA CENTER FOR THE
ENVIRONMENT,

Plaintiffs,

vs.

CARL L. ROSIER, COMMISSIONER
ALASKA DEPARTMENT OF FISH &
GAME, and THE ALASKA DEPART-
MENT OF FISH & GAME,

Defendants.

Case No. 3AN-93-04671 CI


ORDER GRANTING PRELIMINARY INJUNCTION

This matter having come on for hearing before the Honorable Peter Michalski and the Court being duly advised in the premises, the Court makes the following Findings of Fact and Conclusions of Law, and orders as follows:

1. Plaintiffs have shown they will suffer irreparable harm by delay in granting the injunction in that the lack of access to radio telemetry frequencies for the radio-collared wolves will, in large part, preclude meaningful scientific studies during a critical period of the biological year. Further, plaintiffs have shown irreparable harm in that they seek the results of said studies in order to prepare public comments for presentation to the Board of Game at a meeting scheduled for June 26-July 1, 1993.

2. Defendants have failed to demonstrate that they will suffer harm from the release of the radio frequencies in that

JUN 25 1993


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ANCHORAGE, AK 99501
(907) 278-5231

plaintiffs will be subject to a strict confidentiality order which will preclude any further dissemination of the frequencies. Further, defendants' concern that other parties or individuals may seek access to radio frequencies for scientific studies in sufficient numbers to pose a potential detriment to the wildlife involved is a future and speculative issue and may be resolved by the Department through the drafting of appropriate regulations.

3. Plaintiffs have demonstrated a probability of success on the merits in that the regulation relied upon by the state is inconsistent with the enabling legislation and overbroad in that it limits release of the radio frequencies to state or federal agencies. Further, there has been no showing that the scientific studies proposed by plaintiffs may pose a detriment to the wildlife.

4. The court finds that the Commissioner of the Department of Fish & Game has authority, pursuant to the statute, to impose reasonable restrictions on the release of said frequencies, including, but not limited to, the authority to require confidentiality orders enforceable pursuant to the contempt powers of the court; the authority to limit the release of said frequencies to private individuals, government agencies, or other parties engaged in valid scientific studies and observations; and the authority to impose reasonable restriction by permit or other processes which will preclude studies, which, by their number, intensity or other criteria, may prove detrimental to the wildlife.

NOW, THEREFORE, this Court orders as follows:

1. The Alaska Department of Fish & Game shall immediately release to Dr. Haber the radio frequencies for those radio-collared wolves which are, or may be located, in Game Management Unit 20A, the Upper Tanana Forty-Mile Region, and Game Management Unit 13.

2. The Alaska Department of Fish & Game shall immediately release to Dr. Haber the identifying characteristics of each of said radio-collared wolves, including information on sex, age, color of each wolf, its pack affiliation, territory location and other characteristics which shall help correlate the radio-collar frequencies to the identified wolves.

3. The radio frequencies shall be released solely to Dr. Haber and shall not be released to the plaintiff organizations. Dr. Haber is hereby ordered to not release said frequencies to any other individual or organizations other than the manufacturer of the receiver. It is understood by the Court and the parties that Dr. Haber will be using a private pilot who has adequate credentials in the use of aerial telemetry tracking. The Department may, should it so choose, require a confidentiality agreement from Dr. Haber's pilot. The confidentiality provisions of this order shall, if violated, be enforced by the contempt power of the court.

4. Dr. Haber shall apply for, and the Department shall issue in a prompt and reasonable manner, a scientific-educational permit providing, *inter alia*, requirements of reasonable notice to

the Department of the overall study plan and of specific flight plans as well as such other cooperative arrangements as may be necessary to coordinate the respective parties' use of said frequencies.

5. The subject frequencies are to be used only in conjunction with Dr. Haber's scientific studies and observations. No commercial or recreational use of said frequencies is authorized by this order.

DATED: July 26, 1993, at Anchorage, Alaska.

eff. June 9, 1993.

Peter A. Michalski
PETER A. MICHALSKI
JUDGE OF THE SUPERIOR COURT

7-26-93
a copy of the above was mailed to each of the following at their addresses of record: Rice/AFB-Nelson
R. S. [Signature]
Secretary/Deputy Clerk



* PLEASE PRINT AND INCLUDE *
COMPLETE MAILING ADDRESS

HOUSE RESOURCES COMMITTEE

DATE: 3/25/94

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HB 498 - MINERAL EXPLORATION INCENTIVE CREDITS
 HB 443 - FISH AND WILDLIFE CONFIDENTIAL RECORDS
 HJR 61 - COMMUNITY DEVELOPMENT FISHING QUOTAS

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Wayne Regelin	Fish & Game	PO Box 25526 Juneau	99801			<input checked="" type="radio"/>	<input type="radio"/>	HB 443
Carl Meyer	Revenue	PO Box 110420 Juneau	99801	465-2343		<input type="radio"/>	<input checked="" type="radio"/>	HB 498
KAREN BRAND	Rep MOSES	Rm 204		321	3765	<input checked="" type="radio"/>	<input type="radio"/>	HJR 61
						<input type="radio"/>	<input type="radio"/>	
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