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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF ALASKA, THE ALASKA
DEPARTMENT OF FISH & GAME, and
DOUG VINCENT-LANG, in his official
capacity as Commissioner of the Alaska
Department of Fish & Game,

Defendants,

Case No.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

United States v. Alaska

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

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Plaintiff the United States of America, through its undersigned attorneys, by the authority of the Attorney General, and at the request of the United States Department of the Interior and the United States Department of Agriculture, through their Federal Subsistence Board, brings this civil action for declaratory and injunctive relief against Defendants State of Alaska, its Department of Fish & Game and Commissioner Doug Vincent-Lang (collectively, the “State of Alaska” or “State”), and alleges as follows:

INTRODUCTION

1. The United States brings this action against the State of Alaska to protect subsistence use of the Kuskokwim River Chinook and chum salmon populations by local rural residents who depend on these salmon for their physical, economic, traditional, and cultural existence. The United States seeks a declaration under the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, that the State’s actions in contravention of a rural Alaskan subsistence priority are preempted by federal law and are therefore unlawful.

2. Title VIII of the Alaska National Interest Lands Conservation Act, Pub. L. No. 96-487, 94 Stat. 2371, 2371-2551 (1980) (codified at 16 U.S.C. §§ 3111–3126) (“ANILCA”), requires the Secretaries of the Interior and Agriculture to accord priority for the nonwasteful subsistence uses by rural Alaskans of fish and wildlife on public lands in Alaska. 16 U.S.C. § 3114.

3. The Federal Subsistence Board (“FSB”) accomplishes this mandate, under a delegation from the Secretaries of the Interior and Agriculture, through the adoption of regulations that implement the rural priority in a manner consistent with the preservation

of healthy populations of fish and wildlife within national wildlife refuges and other conservation system units in Alaska. 16 U.S.C. § 3124-5; 50 C.F.R. § 100.18. This includes the FSB’s authority to: (a) adopt short-term emergency special actions to restrict or close public lands to the taking of fish and wildlife for non-subsistence uses when necessary to ensure the conservation of healthy populations of fish and wildlife or to continue subsistence uses, 16 U.S.C. § 3125(3); 50 C.F.R. § 100.19; and (b) to re-delegate its authority to agency field officials to set harvest limits, define harvest areas, and open or close harvest seasons within frameworks established by the FSB, 50 C.F.R. § 100.10(d)(6).

4. In 2021 and 2022, the FSB and agency field officials exercised their authority under ANILCA to issue emergency special actions to close the 180-mile-long section of the Kuskokwim River within the Yukon Delta National Wildlife Refuge (the “Refuge”) to non-subsistence uses, while allowing limited subsistence uses by local rural residents under narrowly prescribed terms and means of harvest. The FSB and authorized agency officials determined these actions to be necessary to conserve the fish population for continued subsistence uses of the Chinook salmon upon which rural residents of the area depend.

5. In contravention of the federal regulatory scheme of ANILCA Title VIII and the associated federal regulatory actions addressing Kuskokwim River fishing within the Refuge, the State of Alaska, through the Alaska Department of Fish & Game (“ADF&G”), issued emergency orders in 2021 and 2022 that purported to provide

opportunities for all Alaskans – not just rural Alaskan subsistence users – to fish on the same stretch of the Kuskokwim River that had been closed to non-subsistence harvest by federal emergency special action.

6. The State of Alaska’s actions conflict with ANILCA Title VIII and federal regulations. The State’s actions threaten the conservation of the Chinook and chum salmon populations, usurp the rural priority, and reduce opportunities for those who are most dependent on the salmon resources of the Kuskokwim River for their physical, economic, traditional, and cultural existence – local rural residents.

7. The United States therefore seeks a declaratory judgment that the State’s regulatory actions that contravene or interfere with federal actions are preempted by federal law. The United States also seeks to enjoin the State of Alaska, ADF&G, and their officers, employees, and agents from continuing to adopt, implement or enforce any state action that purports to authorize or encourage harvest of fish or wildlife that contravenes or interferes with federal law or regulatory actions instituted by the FSB or authorized federal officials.

PARTIES

8. Plaintiff is the United States of America, acting through the United States Department of the Interior and the United States Department of Agriculture, and the FSB. The FSB administers subsistence uses in Alaska pursuant to and in accordance with federal law.

9. Defendant, the State of Alaska, is a State of the United States. The State of

Alaska includes all of its officers, employees, and agents.

10. Defendant ADF&G is an agency of the State of Alaska charged with implementing state law to manage, protect, maintain, improve, and extend the fish, game, and aquatic resources of Alaska.

11. At all times relevant to the events that are the subject of this dispute, Defendant Doug Vincent-Lang has served as Commissioner of the ADF&G. Commissioner Vincent-Lang is the highest-ranking official within the ADF&G and, in that capacity, has ultimate responsibilities for the administration and implementation of fish and wildlife management under Alaska law and for ADF&G's compliance with all applicable federal laws. He is sued in his official capacity.

JURISDICTION AND VENUE

12. This Court has jurisdiction pursuant to 28 U.S.C. § 1345 (United States as plaintiff), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2201 (declaratory relief), and 28 U.S.C. § 2202 (injunctive relief).

13. Venue is proper in the District of Alaska pursuant to 28 U.S.C. § 1391(b)(1)-(2) because Defendants reside within this judicial district, a substantial part of the acts or omissions giving rise to this action arose from events occurring within this judicial district, and the Kuskokwim River and Refuge are situated in this judicial district.

LEGAL BACKGROUND

14. The Supremacy Clause states “[t]his Constitution, and the laws of the United States . . . shall be the supreme law of the land; and the judges in every state shall

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