Status of SCI Litigation – May 2025

Ensuring Commissioners Follow the Law (SCI v. CPW Comm'n): SCI and Sportsmen's Alliance Foundation (SAF) sued two Colorado Parks and Wildlife Commissioners for a violation of the state Open Meetings Law, which prohibits public officials from discussing public business outside of public meetings. These Commissioners signed an op-ed in support of Proposition 127, a voter initiative to ban the hunting of mountain lions and bobcats. The complaint alleged the Commissioners must have met to discuss the drafting of the op-ed and challenged demonstrably false statements in the op-ed against mountain lion hunting. The Commissioners publicly admitted they did not speak to each other but signed an op-ed proposed by a third-party advocacy organization. The parties agreed to settle the suit, with the Commission paying some of SCI's attorneys' fees and requiring that the Commissioners be trained on the Open Meetings Law and hunting regulations. This represents a significant victory, even though it sounds small, because it has improved the relatively anti-hunting Commission's handling of hunting-related matters.

Preserving Access for Recreational Shooting (SAF v. BLM): SCI and SAF sued the Bureau of Land Management (BLM) and its director over the closure of 99% of the Sonoran Desert National Monument to recreational target shooting. The John Dingell Jr. Act requires federal agencies to open hunting, fishing, and recreational shooting except in limited circumstances. The BLM ignored this mandate in closing shooting in response to a lawsuit brought by anti-hunting groups. SCI and SAF's complaint also allege claims under the National Environmental Policy Act and Administrative Procedure Act. The new Administration is reviewing the case and requested a 60-day extension of the response deadline, to June 7, 2025.

Protecting Delisted Wolves (CBD v. FWS, WEG v. FWS, AWA v. FWS): Three sets of plaintiffs petitioned the Fish and Wildlife Service (FWS) to reinstate Endangered Species Act (ESA) protections for gray wolves in the Northern Rocky Mountains states, based on changes in state laws that potentially increased offtakes from hunting and trapping. The FWS denied the petitions. SCI, SAF, and Rocky Mountain Elk Foundation intervened to defend the FWS' decision. Idaho was granted leave to file an amicus brief. Montana and Utah have also intervened to defend their management of gray wolves. Summary judgment briefing began in February 2025. SCI's reply brief is due on May 21, 2025.

Gray Wolf Delisting (DoW v. FWS, WildEarth Guardians v. Haaland, NRDC v. DOI): Three sets of plaintiffs sued to vacate the FWS's 2021 removal of gray wolves in the lower 48 States from the ESA lists of endangered and threatened species. SCI and NRA jointly intervened to defend the rule. A California federal district court granted summary judgment in favor of plaintiffs and overturned the delisting. The judge's decision largely turns on technical issues of ESA interpretation; in one positive finding, the court held that state regulatory mechanisms did not threaten the recovery of wolves. SCI and NRA were the first to appeal the judge's ruling. The appeal was stayed for over a year under a mediation order allowing the FWS to review the status of wolves in the lower 48 states. The FWS did not complete this review by the deadline, and SCI and NRA led efforts to reopen the appeal. All parties are participating in the appeal, and briefing concluded in April 2025.

Challenge to Wage and Overtime Policy (Bradford v. U.S. Dep't of Labor): SCI submitted an amicus brief in support of plaintiff-outfitters' challenge to a 2021 Executive Order and Department of Labor regulation which raised the minimum wage for federal contractors and requires time-and-half hourly pay for overtime after 40 hours/week. The Order and regulation withdrew a prior exemption for guides, outfitters, and other seasonal outdoor recreational activities that might last several days, with overnight stays, and do not fit the "40-hours/week" model. The Colorado district court denied a preliminary injunction, and plaintiffs appealed to the Tenth Circuit. SCI filed an amicus brief in support of the plaintiffs' arguments, in collaboration with our outfitter and guide partners, to explain how the Order and regulation will harm the guided hunting industry. However, the Tenth Circuit affirmed the denial of the preliminary injunction, sending the case back to the district court for further litigation. The plaintiffs filed a petition for U.S. Supreme Court review. SCI filed a second amicus brief in support of that petition, addressing similar points about the Order and regulation's detrimental impact on the outdoor guiding industry. In early January, the Supreme Court denied the petition. However, President Trump then issued an Executive Order directing repeal of the wage and overtime regulations.

Combatting Restrictions on Firearms Marketing (Lowy v. Daniel Defense, LLC): SCI and SAF filed an amicus brief in the Fourth Circuit Court of Appeals in support of defendant firearms and ammunition manufactures in a case seeking to expand liability for firearms advertising. Plaintiffs were victims of a mass shooting. They sued the firearms and ammunition manufacturers based on social media posts of firearms being used by military and law enforcement, which they claimed encouraged the shooter to commit his heinous act. SCI argued that the plaintiffs' theory could potentially put all social media posts that show a firearm at risk, and that plaintiffs' theory would make advertising for hunting products illegal if the ads are run out-of-season. Plaintiffs' overbroad theory would unlawfully restrict the First Amendment rights of defendant manufacturers and others, like SCI. The case is stayed pending the outcome of a Supreme Court case involving similar issues.

Opposition to Federal Overreach in Alaska (United States v. Alaska): SCI filed an amicus brief in the Ninth Circuit Court of Appeals in a case where the United States sued Alaska over subsistence fisheries management on the Kuskokwim River. In its defense, the State challenged the Federal Subsistence Board's authority to close fishing and hunting in Alaska under the Appointments Clause of the U.S. Constitution. The district court ruled for the U.S. and the State appealed. SCI's amicus brief supplements the State's arguments by explaining how the asserted scope of the Board's authority violates the Alaska National Interest Lands Conservation Act and the traditional primacy of state wildlife management. SCI's brief also details examples of the Board's overreach. The case was set for oral argument, but the Ninth Circuit granted a stay for the new Administration to review the matter.

Challenge to Use of Lead Ammo on Canaan Valley NWR (NWRA v. Haaland): SCI, NRA, and SAF intervened to defend the FWS's decision not to prohibit the use of lead ammunition on Canaan Valley National Wildlife Refuge (NWR) in West Virginia. SCI's intervention in this litigation continues advocacy efforts in support of the use of traditional ammunition on federal lands, allowing hunters a choice in their preferred ammunition. The FWS and plaintiffs agreed to settle the case, obligating the FWS to reconsider the allowance of lead ammunition on the NWR in the next Hunt Fish rule. SCI did not object to the settlement, as it essentially reinforces existing obligations. In early May, the case was settled and $35,000 in attorneys' fees were awarded. SCI, NRA, and SAF opposed the fee award, but the court rubber-stamped the FWS's and plaintiffs' agreement.

Challenge to Allocation of Non-Resident Permits on Kodiak Island, Alaska (Cassell v. Alaska Board of Game): Plaintiff alleged that the non-resident allocation of Kodiak Island brown bear hunting permits violates the Alaska Constitution. The State Board of Game defended the allocation, as did the Alaska Professional Hunters Association through an amicus brief. SCI and partners also submitted an amicus brief in defense of the Board, arguing that non-resident hunting is consistent with the Alaska Constitution because of the conservation and financial benefits provided and that non-residents support Alaskans in many ways, including by keeping resident license fees low and defending state wildlife management interests. An Alaska state court granted judgment for the Board, based in part on arguments made by the amici. Plaintiff appealed. SCI and partners filed an amicus brief in the Alaska Supreme Court in early June 2023. In early May 2025, the Alaska Supreme Court affirmed the lower court's decision, holding that the allocation of tags for non-resident hunting is consistent with the Alaska Constitution. This represents a significant victory, because the plaintiff's theory would have greatly reduced non-resident hunting access in Alaska.

Defend Approval of Elephant Trophies (Art and Antique Dealers League of America Inc. v. Lefton): SCI and the Property and Environment Research Center (PERC) filed an amicus brief in support of Supreme Court review of a case in which the Second Circuit Court of Appeals limited the scope of ESA preemption. The Second Circuit held that New York's State Ivory Law is not preempted by the ESA because the antiques and de minimus exceptions are not "exemptions" included in the ESA's preemption clause. The Second Circuit's interpretation directly conflicts with decisions from the Ninth Circuit, as well as U.S. Fish and Wildlife Service's practices. SCI has a strong interest in protecting the ESA's preemption language to prevent state laws that seek to "prohibit" what the FWS allows.

For more information about SCI's litigation efforts, contact SCI's counsel at litigation@safariclub.org.