

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Lynn Rogers and Wildlife Research
Institute,

Case Type: Other Civil
File No.: 62-CV-13-5408
Judge: John H. Guthmann

Plaintiffs,

vs.

ORDER ON STIPULATION

Minnesota Department of Natural
Resources and Tom Landwehr,
Commissioner of the Minnesota
Department of Natural Resources,

Defendants.

The above-entitled matter came before the Honorable John H. Guthmann, Judge of District Court, on July 29, 2013, at the Ramsey County Courthouse, St. Paul, Minnesota. At issue was plaintiffs' motion for a temporary restraining order. David R. Marshall, Esq., Leah C. Janus, Esq., and Jessica L. Edwards, Esq., appeared on behalf of plaintiffs. David P. Iverson, Esq., and Kimberly Middendorf, Esq., appeared on behalf of defendants. Following their agreement to engage in court-supervised settlement negotiations, the parties reached an agreement that was placed on the record and is memorialized in the following:

ORDER

1. Plaintiff's motion for a Temporary Injunction is stayed.
2. The parties agree that plaintiff Dr. Lynn Rogers' application for an extension of DNR Special Permit, No. 16868 (Dec. 21, 2012) shall be submitted to a contested case

hearing before an administrative law judge pursuant to the Minnesota Administrative Procedure Act. Minn. Stat. §§ 14.48-.69 (2012).

3. Until this order expires or is modified, DNR Special Permit, No. 16868 (Dec. 21, 2012) shall remain in effect subject to the additional conditions and limitations set forth as follows:

- a. Dr. Rogers may continue collaring the same ten bears that are presently collared. No other bears may be collared and if one of the ten bears should die while this order is in place, no additional bear may be collared to replace the deceased bear. Within one week of the date this order is filed, Dr. Rogers shall submit to the Department of Natural Resources (“DNR”) a list containing the name, number, and radio frequency for each of the ten collared bears.
- b. Two den cams may still be installed, subject to the limitations set forth in Special Permit No. 16868 (Dec. 21, 2012). However, a live feed from the cameras over the internet or through any other medium is prohibited. Video from a den cam may be included as part of a peer reviewed article that is published by Dr. Rogers. In addition, recorded den cam video may be furnished to schools for educational purposes through a physical storage device (such as a DVD) as long as ownership of the video remains with Dr. Rogers and the schools are instructed that they may not broadcast, release, or distribute the video.
- c. As it did in 2012, the DNR agrees to issue a statewide press release and send a letter to all bear hunting permit holders discouraging the hunting of bears that are collared for research.
- d. Dr. Rogers may not engage in bear habituating or hand feeding activity except for the sole purpose of replacing, changing, or maintaining a bear’s research collar or the batteries associated with a collar. During the approved activity, and no more frequently than is necessary to replace, change, or maintain a bear’s research collar or batteries, Dr. Rogers may also obtain biological data from the subject bear. In addition to Dr. Rogers, Sue Mansfield and four other persons reporting to Dr. Rogers may conduct the same activities subject to the same limitations. Only the people permitted to replace, change or maintain a collar or batteries may be present at the time of bear contact. Dr. Rogers shall provide the DNR the names of the four persons who assist with the activities permitted by this paragraph.

- e. Within one week from the date of this order, Dr. Rogers shall supply the DNR with a blank copy of the data sheet that he currently uses to record bear biological data. In addition, commencing September 1, 2013, Dr. Rogers shall supply the DNR with a monthly summary of any bear biological data gathered during the previous month pursuant to paragraph 3(d). The summary shall be provided regardless of whether data is actually collected during a given month. The obligation to provide a summary of the data collected does not include a requirement that the original data itself be furnished.
 - f. A limited exception to paragraph 3(d) shall exist solely for the four Black Bear Field Study courses offered by Dr. Rogers in August 2013. Once during each of the four classes, Dr. Rogers may take course attendees into the field to observe Dr. Rogers feeding or having contact with a study bear. However, at no time shall a course participant be closer than 150 feet to Dr. Rogers while the bear contact is taking place. This exception expires on September 1, 2013.
4. The Department of Natural Resources' final decision upon review of the administrative law judge's report shall be made by a person not previously involved with the bear research permits granted to Dr. Rogers. Minn. Stat. § 14.61, subd. 1 (2012).
5. The court shall retain jurisdiction until this order expires.
6. This order shall expire on the date the Department of Natural Resources issues its final decision following review of the administrative law judge's contested case report. Minn. Stat. § 14.61, subd. 1 (2012).

Dated: July 30, 2013

BY THE COURT:

John H. Guthmann
Judge of District Court