

Appeal Nos. 23-35322, 23-35323, 23-35324, 23-35354

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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WILD FISH CONSERVANCY,

*Plaintiff-Appellee/Cross-Appellant,*

vs.

JENNIFER QUAN, in her official capacity as the Regional Administrator for the  
National Marine Fisheries Service, *et al.*,

*Defendants-Appellants/Cross-Appellees,*

and

STATE OF ALASKA and ALASKA TROLLERS ASSOCIATION,

*Intervenor-Defendants-Appellants/Cross-Appellees.*

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On Appeal from the United States District Court for the Western District of  
Washington Case No. 2:20-cv-00417-RAJ-MLP

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**PLAINTIFF-APPELLEE/CROSS-APPELLANT'S REPLY TO STATE OF  
ALASKA'S LIMITED OPPOSITION TO PLAINTIFF'S REQUEST TO  
FILE A RESPONSE TO THE AMICUS BRIEF**

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Plaintiff-Appellee/Cross Appellant Wild Fish Conservancy (“Conservancy”) respectfully submits this reply to the State of Alaska’s Limited Opposition to Plaintiff’s Request to File a Response to the Amicus Brief.

The Motion of the Alaska Congressional Delegation for Leave to File Amici Curiae Brief in Support of Intervenor-Defendants-Appellants’ Motion for Stay Pending Appeal (“Motion for Leave”) was filed on the evening of June 2, 2023, along with the proposed Amici Brief. The Conservancy responded to the Motion for Leave on Monday, June 5, 2023 requesting that the Conservancy be allowed to file a response to the Amici Brief on Monday, June 12, 2023.

The State of Alaska filed a response to the Conservancy’s response to the Motion for Leave arguing that the Conservancy’s brief in response to the Amici Brief should be due by 10:00 Pacific Time on June 9, 2023 so that Alaska may then incorporate arguments in response to the Conservancy’s brief in Alaska’s reply in support of Motion to Stay that is due on Monday, June 12.<sup>1</sup>

The Conservancy’s request is reasonable and warranted under the applicable rules. Amicus curiae briefs are generally filed within “7 days after the principal

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<sup>1</sup> Alaska also bizarrely suggests that the Conservancy engaged in nefarious “litigation tactics” by not moving to expedite the Alaska Delegation’s Motion for Leave. The Alaska Delegation, not the Conservancy, filed a Motion for Leave without seeking to expedite its request to ensure it is decided before Alaska has requested resolution of its motion to stay pending appeal. The Conservancy responded promptly to avoid any unnecessary delay.

brief of the party being supported.” Fed. R. App. P. 29(a)(6). That allows 23 days for an appellee to incorporate arguments into its response brief (where amicus curiae are supporting the appellant) or 14 days for the appellant to incorporate arguments into its reply brief (where amicus curiae are supporting the appellee). *See* Fed. R. App. P. 31(a)(1). The Conservancy’s request for 10 days to respond to the proposed Amici Brief is reasonable under these rules.

Further, the rules do not contemplate Alaska’s request to submit a reply in support of an amicus curiae brief. The rules contemplate only providing sufficient time for an opposing party to respond: “A court may grant leave for later filing [of the amicus brief], specifying the time within which an **opposing party** may answer.” Fed. R. App. P. 29(a)(6) (emphasis added). The rules explicitly prohibit a reply brief from amicus curiae. Circuit Rule 29-1. And, as discussed above, where the amicus curiae brief is submitted in support of the appellee, the appellant may address that amicus curiae brief in its reply, with no further briefing allowed. The Court should therefore reject Alaska’s contention that the Conservancy should further expedite its response to the Amici Brief so that Alaska may file a reply in support of the Amici Brief.

Respectfully submitted this 6th day of June 2023

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## CERTIFICATE OF COMPLIANCE

I hereby certify that this reply brief complies with the requirements of Federal Rules of Appellate Procedures 27(d)(1) and 32(a)(5) and (a)(6) because it has been prepared in 14-point Times New Roman font, a proportionally spaced font.

I further certify that this reply brief complies with Circuit Rule 27-1(1)(d) because the reply, excluding those documents identified at Federal Rules of Appellate Procedures 27(a)(2)(B) and 32(f), does not exceed 10 pages.

DATED this 6th day of June 2023.

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