

THE SUPREME COURT OF THE STATE OF ALASKA

Pebble Limited Partnership,)
)
 Appellant,)
)
 v.)
)
 Sean Parnell, Lt. Governor, et al.,)
)
 Appellees.)
)

Supreme Court No. S-13059

Order
Affirming Superior Court

Council of Alaska Producers,)
)
 Appellant,)
)
 v.)
)
 Sean Parnell, Lt. Governor, et al.,)
)
 Appellees.)
)

Supreme Court No. S-13060
(Consolidated)

Order No. 62 - July 3, 2008

Trial Court Case # 4FA-07-2696 CI

Before: Matthews, Eastaugh, Carpeneti, and Winfree,
Justices. [Fabe, Chief Justice, not participating.]

In October 2007 an application for an initiative with the title “An Act to protect Alaska’s clean water” was filed with the lieutenant governor (“07WTR3”). This was the third attempt to place an initiative on the ballot that would restrict or regulate the discharge of toxic materials from large scale metallic mineral mines in Alaska. The Department of Law reviewed 07WTR3 and advised the lieutenant governor to certify the initiative application. Relying on the Department of Law’s advice, the lieutenant governor certified initiative 07WTR3. The lieutenant governor then prepared a summary

and cost statement for the initiative that incorporated the Department of Law's interpretation. In January 2008 the sponsors of the initiative submitted to the lieutenant governor a petition with over 30,000 signatures in support of 07WTR3.

In November and December 2007 the Council of Alaska Producers, the Pebble Limited Partnership, and the Association of ANCSA Regional Corporation Presidents/CEO's, Inc. and the Alaska Federation of Natives, Inc., filed suit in the superior court seeking a declaration that 07WTR3 violated constitutional and statutory restrictions on legislation by initiative, and an injunction that would prevent placement of the initiative on the ballot. The sponsors of the initiative intervened in the action.

In February 2008 Superior Court Judge Douglas L. Blankenship issued a decision concluding that 07WTR3 was a permissible regulatory measure and not an appropriation and was therefore appropriate for the ballot. In concluding that 07WTR3 was not an appropriation, Judge Blankenship adopted the approach of the sponsors and the state and construed the references to "effects" in section two as meaning "adversely affects." Judge Blankenship found in his final judgment that (1) "07WTR3 is not an improper appropriation;" (2) "07WTR3 [is] not local or special legislation;" (3) "[t]he subject matter of 07WTR3 is proper for an initiative;" (4) "07WTR3 does not constitute an unlawful amendment of the Alaska Constitution; and" (5) "[t]he bill summary and cost statement appearing on the 07WTR3 initiative petitions are not defective."

The Council of Alaska Producers and the Pebble Limited Partnership appealed those portions of Judge Blankenship's decision construing 07WTR3 and concluding that 07WTR3 would not make a constitutionally impermissible appropriation, would not enact constitutionally impermissible special legislation, and that the summary and cost statement are impartial and accurate. The Association of ANCSA Regional Corporation Presidents/CEO's, Inc. and the Alaska Federation of Natives, Inc. did not

appeal any portion of Judge Blankenship's decision. We heard oral argument on June 16, 2008.

IT IS ORDERED:

1. Judge Blankenship did not err in construing the initiative broadly and reading the initiative's use of "effects" in section two to mean "adversely affects."

2. Judge Blankenship did not err in concluding that 07WTR3 would not make a constitutionally impermissible appropriation.

3. Judge Blankenship did not err in concluding that 07WTR3 would not enact constitutionally impermissible special legislation.

4. Judge Blankenship did not err in concluding that the summary and cost statements are not defective.

5. Accordingly, the decision of the superior court declining to enjoin the placement of initiative 07WTR3 on the ballot is **AFFIRMED**.

6. This court will issue a written opinion at a future date explaining the reasons for this result.

7. Preparation of the ballots including initiative 07WTR3 need not await publication of this court's opinion.

Entered by direction of the court.

Clerk of the Appellate Courts

Marilyn May

cc: Supreme Court Justices
Judge Douglas L. Blankenship
Fairbanks Appeals Division
Publishers

Distribution:

Howard S Trickey
Jermain Dunnagan & Owens
3000 A Street Suite 300
Anchorage AK 99503

Matthew Singer
Jermain Dunnagan & Owens
3000 A Street Suite 300
Anchorage AK 99503

Michael A Barnhill
Assistant Attorney General
P O Box 110300
Juneau AK 998110300

Susan Orlansky
Feldman Orlansky & Sanders
500 L Street Suite 400
Anchorage AK 99501

Jeffrey M Feldman
Feldman Orlansky & Sanders
500 L Street Suite 400
Anchorage AK 99501

Scott Kendall
Holmes, Weddle & Barcott, PC
701 West 8th Ave Suite 700
Anchorage AK 99501

Timothy A McKeever
Holmes Weddle & Barcott
701 West Eighth Avenue Suite 700
Anchorage AK 995013408

James D. Linxwiler
Guess & Rudd
510 L Street #700
Anchorage AK 99501

George R. Lyle
Guess & Rudd
510 L Street, Suite 700
Anchorage AK 99501

Michael Stephen McLaughlin
Guess & Rudd
510 L Street, Suite 700
Anchorage AK 99501

Thomas P Amodio
Amodio Stanley & Reeves LLC
500 L Street Suite 300
Anchorage AK 99501

James E Fosler
Fosler Law Group, Inc.
737 West Fifth Avenue Suite 205
Anchorage AK 995011954