

# In the Supreme Court of the State of Alaska

RICHARD HUGHES, the ALASKA )  
MINERS ASSOCIATION, and the )  
COUNCIL OF ALASKA PRODUCERS, )

Supreme Court No. **S-15468**

## Amended Order

Appellants, )  
v. )

Date of Order: **June 23, 2014**

MEAD TREADWELL, LIEUTENANT )  
GOVERNOR OF THE STATE OF )  
ALASKA, the STATE OF ALASKA, )  
DIVISION OF ELECTIONS, )  
CHRISTINA SALMON, MARK NIVER, )  
AND JOHN H. HOLMAN, )

Appellees. )

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Trial Court Case # **4FA-13-01296 CI**

Before: Winfree, Stowers, Maassen, and Bolger, Justices  
[Fabe, Chief Justice, not participating]

In October 2012 Lieutenant Governor Mead Treadwell received an application for an initiative entitled “Bristol Bay Forever”; the Division of Elections denominated the initiative “12BBAY.” 12BBAY would require final legislative authorization for any new large-scale metallic sulfide mining operations in the watershed of the Bristol Bay Fisheries Reserve. After review by the Department of Law, the Lieutenant Governor certified the initiative application and directed the Division of Elections to prepare petition booklets.

In January 2013 Richard Hughes filed suit in the superior court challenging the Lieutenant Governor’s certification of 12BBAY. The Alaska Miners Association

and the Council of Alaska Producers later joined as plaintiffs,<sup>1</sup> and initiative sponsors Christina Salmon, Mark Niver, and John H. Holman intervened as defendants. While litigation was pending in the superior court, the Division of Elections determined that the sponsors had gathered sufficient signatures, and the Lieutenant Governor issued a Notice of Proper Filing allowing the Division of Elections to place 12BBAY on the ballot.<sup>2</sup>

Hughes moved for summary judgment, arguing that 12BBAY would: (1) enact local or special legislation in violation of article XI, section 7 of the Alaska Constitution; (2) violate separation of powers under article XII, section 11 of the Alaska Constitution; and (3) appropriate state assets in violation of article XI, section 7 of the Alaska Constitution. Superior Court Judge Paul R. Lyle concluded that 12BBAY would not enact local or special legislation, would not clearly violate separation of powers, and would not appropriate public assets. Judge Lyle granted summary judgment in favor of the State and the initiative sponsors and declined to enjoin placement of 12BBAY on the ballot. Hughes appealed to this court, challenging Judge Lyle's conclusions that 12BBAY would not make an unconstitutional appropriation of public assets or enact local or special legislation.<sup>3</sup> We heard oral argument on June 11, 2014.

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<sup>1</sup> We refer to the plaintiffs/appellants collectively as "Hughes."

<sup>2</sup> Letter from Mead Treadwell, Lieutenant Governor, State of Alaska, to John Holman, Initiative Sponsor (December 23, 2013) (on file with State of Alaska, Division of Elections), *available at* <http://www.elections.alaska.gov/petitions/12BBAY/12BBAY-Notice-of-Proper-Filing.pdf>.

<sup>3</sup> Hughes does not appeal Judge Lyle's conclusion that 12BBAY would not clearly violate separation of powers principles.

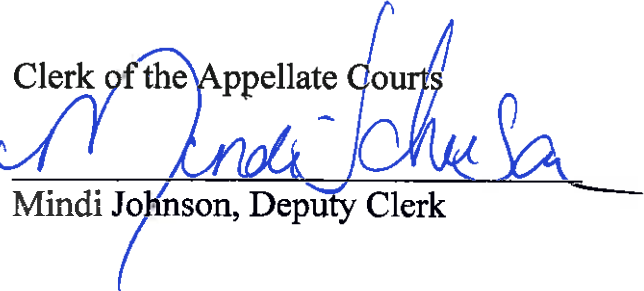
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Because an expedited decision is needed by September 3, 2014 so that the Division of Elections can know whether to include 12BBAY on the November ballot, we issue the following order.

**IT IS ORDERED:**

1. 12BBAY would not make an appropriation of state assets in violation of article XI, section 7 of the Alaska Constitution.
2. 12BBAY would not enact local or special legislation in violation of article XI, section 7 of the Alaska Constitution.
3. Accordingly, we **AFFIRM** the superior court's decision granting summary judgment to the State and the initiative sponsors and declining to enjoin placement of 12BBAY on the ballot.
4. We will issue a written opinion at a future date explaining the reasons for this result, but preparation of the ballots to include 12BBAY shall proceed without awaiting our opinion.

Entered at the direction of the court.

Clerk of the Appellate Courts  
  
Mindi Johnson, Deputy Clerk

cc: Supreme Court Justices  
Judge Lyle  
Regional Appeals Clerk - Fairbanks

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