

PREPARED BY THE COURT

THE LESNIAK INSTITUTE FOR
AMERICAN LEADERSHIP AND
RAYMOND J. LESNIAK,

Plaintiffs,

v.

NEW JERSEY FISH & GAME
COUNCIL, NEW JERSEY
DEPARTMENT OF ENVIRON-
MENTAL PROTECTION,
DIVISION OF FISH AND WILD-
LIFE, GOVERNOR PHILIP D.
MURPHY, GOVERNOR OF NEW
JERSEY, AND NEW JERSEY
STATE FEDERATION OF
SPORTSMEN'S CLUBS,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – MERCER COUNTY
DOCKET NO. L-1814-23

CIVIL ACTION

**ORDER DENYING PLAINTIFFS'
ORDER TO SHOW CAUSE**

THIS MATTER having come before the Court, the Hon. Robert Lougy, A.J.S.C., presiding, on the verified complaint and order to show cause filed by Plaintiffs The Lesniak Institute for American Leadership and Raymond J. Lesniak, represented by Raymond J. Lesniak, Esq.; and Defendants New Jersey Fish & Game

Council, New Jersey Department of Environmental Protection, Division of Fish And Wildlife, and Governor Philip D. Murphy, Governor of New Jersey (collectively, “the State Defendants”), represented by Deputy Attorney General Alexandra L. Horn, and Defendant New Jersey State Federation of Sportsmen’s Clubs (“the Federation”), represented by Stuart A. Platt, Esq., having filed opposition to the Order to Show Cause; and Plaintiffs having filed a reply in further support of their requested relief; and the Court having considered the parties’ pleadings and arguments; and for the reasons as stated below; and for good cause shown;

IT IS on this 4th day of October 2023 **ORDERED** that:

1. Plaintiffs’ application for an order preliminarily enjoining Defendants from (a) proceeding with the bear hunt scheduled to begin on October 9, 2023, and December 4, 2023 and (b) implementing the Comprehensive Black Bear Management Plan and the Code Amendments approved by the Council on September 6, 2023 is **DENIED**.
2. This Order shall be deemed filed and served upon uploading on eCourts.

/s/ Robert Lougy

ROBERT LOUGY, A.J.S.C.

THE COURT PROVIDES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW.

This matter comes before the Court on Plaintiffs’ verified complaint and order to show cause seeking temporary restraints seeking to enjoin Defendants from (a) commencing the bear hunt and (b) implementing the Comprehensive Black Bear Management Plan and the Code Amendments. Defendants opposed the motion. The matter was fully briefed. The Court granted the parties’ request for oral argument. Because Plaintiffs have not satisfied the standard for granting injunctive relief, the Court denies Plaintiffs’ order to show cause.

The Court combines the following factual and procedural histories for clarity and brevity. Plaintiffs are Rayment J. Lesniak, a former New Jersey State Senator, and the Lesniak Institute for American Leadership, a not-for-profit organization where Senator Lesniak serves as President. Compl. ¶ 2. Defendants are the New Jersey Fish & Game Council (“Council”), The New Jersey Department of Environmental Protection (“DEP”), the Division of Fish and Wildlife, Philip D. Murphy in his official capacity as of the Governor of the State of New Jersey, and the New Jersey State Federation of Sportsmen’s Clubs (“NJFSC”). *Id.* at ¶¶ 3-8.

The Council is a “quasi-legislative state regulatory agency,” within the DEP Division of Fish and Wildlife. Def.’s Br. in Opp. at 3; Compl. ¶ 9. The Council is authorized by statute to formulate the state Fish and Game Code for “game birds,

game animals, and fur-bearing animals...” in New Jersey. N.J.S.A 13:1B-30; Def. Br. in Opp. at 4. Specifically, the Council promulgates regulations as to the circumstances, locations, means, and amount such animals “may be pursued, taken, killed, or had in possession.” N.J.S.A 13:1B-30; Compl. ¶ 14. The goal of the regulations is to establish “an adequate and flexible system of protection, propagation, increase, control and conservation” of hunting game animals. Ibid. The Council must base its regulations on “scientific investigation and research.” Ibid.

The Council is an eleven-member body, appointed by the Governor with the advice and consent of the Senate. SDb 4. Members “[are] chosen with due regard to [their] knowledge of and interest in the conservation of fish and game.”

N.J.S.A. 13:1B-24. Specifically,

Three ... members shall be farmers ... six members ... shall be sportsmen, recommended to the Governor ... by the New Jersey State Federation of Sportsmen’s Clubs ... [one member] shall be the chairman of the committee [on Endangered and Nongame Species Conservation] ... one ... member shall be a person knowledgeable in land use management and soil conservation practices.

[Ibid.]

The Council is responsible for promulgating, among other things, the Comprehensive Black Bear Management Policy (“CBBMP”). SDb 4. The Governor may remove a member from the Council for cause. Ibid.; N.J.S.A.

13:1B-26. Part of the CBBMP concerns New Jersey’s black bear hunt, the focus of this matter. See id. at 4-5. The black bear hunt has been the subject of recurring controversy and litigation for almost two decades. See, e.g., Matter of Rules Permitting Black Bear Hunting, 253 N.J. 434 (2023) (denying request for review); U.S. Sportsmen’s All. Found. v. N.J. DEP, 182 N.J. 461 (2005); Save Our Res. Today v. N.J. DEP, 179 N.J. 263 (2003); Lin v. N.J. DEP, 179 N.J. 262 (2003); Animal Prot. League of N.J. v. N.J. DEP, 423 N.J. Super. 549 (App. Div. 2011); N.J. Animal Rights All. v. N.J. DEP, 396 N.J. Super. 358 (App. Div. 2007); Safari Club Int’l v. N.J. DEP, 373 N.J. Super. 515 (App. Div. 2004).

While the Council promulgates the CBBMP, no management policy becomes effective unless and until the Commissioner of DEP approves it. SDb at 4 (citing N.J.S.A 13:1B-28) (citation omitted). Black bear hunting happens twice a year, once in October and once in December. Id. at 5 (citing N.J.A.C. 7:25-5.6). Each segment spans twelve days, and “the December segment can be extended for 12 days if the harvest is not met.” Ibid. The Council cannot otherwise modify the dates or length of the black bear hunt without following the formal rulemaking process. Ibid.

In August 2018, Governor Murphy signed Executive Order (“EO”) No. 34. Compl. ¶ 17; see EO 34 (available at <https://nj.gov/infobank/eo/056murphy/pdf/EO-34.pdf>). EO 34 ultimately closed all DEP owned-, managed-, and

controlled-land to black bear hunting. Id. at ¶¶ 17-18. Because the CBBMP expired in 2021, no black bear hunting occurred in the state from 2020 to November 2022. Id. at ¶ 19. In November 2022, two years after bear hunts ceased, the Council recommended reinstating the bear hunt based on its finding of imminent peril due to an increase in the bear population and adverse human-bear interactions. Id. at ¶ 20.

On that same day, Governor Murphy issued EO 310. EO 310 effectively restarted the bear hunt by rescinding EO 34 and allowing the emergency rule making by the Council to take effect. Id. at ¶ 23; see EO 310 (available at <https://nj.gov/infobank/eo/056murphy/pdf/EO-310.pdf>).

In the following year and per the formal rulemaking process, the Council voted on September 6, 2023, to adopt a new CBBMP with amendments. Compl. ¶¶ 25, 28; SDb 5. The DEP Commissioner had already approved this CBBMP. Compl. ¶ 25. The new CBBMP authorizes black bear hunting through 2028. Ibid. Per the new regulations, the 2023 black bear hunting season begins on October 9, 2023. Ibid. The second segment would begin on December 4, 2023. Ibid.

Plaintiffs filed this Verified Complaint with the Court on September 21, 2023. Plaintiff alleges the Council violates (1) Art III, Par. 1 of the New Jersey State Constitution, (2) violates Art. IV, Sec. 1 Par. 1 New Jersey State Constitution, and (3) is an arbitrary and unreasonable delegation of authority. See

Id. at 35, 39, 41. Plaintiffs asks the Court to enter an order enjoining the State Defendants from implementing the new CBBMP and staying the 2023 black bear hunting season. See Id. at c, d.

Plaintiffs argues the following in support of their application. They ask the Court to enjoin Defendants and maintain the “status quo.” Pb 5. Despite being a case of first impression, they argue that an injunction is necessary so the Court can adjudicate Plaintiffs’ claims. Ibid. They maintain that the statutory authority granting regulatory powers to the Council is unconstitutional. Id. at 7. They argue that the statutory recommendations are also unconstitutional because one needs 25 members to form a Sportsmen’s Club. Prb 2-3. Furthermore, the NJSSFSC “acts to advance the interests of its own members by recommending only its own members for appointment to the council.” Id. at 5.

Expanding their argument, Plaintiffs argue that the codified appointment recommendations violate the State Constitution because the Legislature effectively cedes regulatory authority to a private entity. See Pb 7. Specifically, because the NJSFSC a, private entity, recommends most members to the Council, the Legislature unconstitutionally delegated power to the NJSFSC. Ibid. The council is not entirely subordinate to DEP: DEP has no authority over the day-to-day activity of the Council, and the Commissioner possesses no veto authority over the Council’s regulations. Id. at 9. Plaintiffs argue a governmental agency “having

only public appointees” who must be approved by the New Jersey State Senate is preferable. Id. at 9, 11. Furthermore, Plaintiffs argue that the interests of DEP and NJSFSC are antithetical. Id. at 11. Finally, they argue that harm to black bears and the issuance of black bear hunting permits constitutes irreparable harm. See Prb 6-7.

The State Defendants oppose the request for injunctive relief. They argue that Plaintiffs failed to demonstrate their alleged claims rest on settled law or a reasonable probability of ultimate success on the merits. SDb 6. The Council is not a private organization nor controlled by private interests. Id. at 8. The Governor appoints the Council members with the advice and consent with the Senate. Ibid. They emphasize that the Commissioner must approve any regulatory action relating to the CBBMP and the black bear hunt itself before it is effective. Ibid. The Council has sufficient safeguards to guard from “arbitrary concentration of powers.” Ibid.

They argue that courts have already established that the Council’s membership composition is constitutional. Ibid. Plaintiffs have not alleged any irreparable harm and do not provide evidence for such a finding. Id. at 9. Furthermore, Plaintiffs did not prove they suffer greater hardship than Defendants if the injunction is not granted. Id. at 10. Defendants would suffer greater harm if an injunction were granted because they would not be able to comply with their

statutorily proscribed mandate to manage New Jersey's black bear population.

Ibid.

Defendant NJSFSC argues the following in opposition to Plaintiff's application. It argues that Plaintiffs fail to demonstrate a reasonable probability of success because the Supreme Court has already rejected them in Humane Society of United States v. New Jersey State Fish & Game Council, 70 N.J. 565 (1976).

NJFSCb 3. Therefore, the Court must deny Plaintiffs' request for injunctive relief because they cannot demonstrate a likelihood of success on the merits. Ibid.

NJSFSC's organizational interest expand well beyond hunting rights, and Plaintiffs' assertions about NJFSC are not based in fact. Id. at 6.

The Court now turns to the relevant law. In order to obtain a preliminary injunction, Plaintiffs must demonstrate that (1) the injunctive relief is necessary to prevent irreparable harm; (2) the legal right underlying the Plaintiffs' claim is settled; (3) the material facts are uncontroverted and demonstrate a reasonable probability of ultimate success on the merits; and (4) the relative hardship to the parties favors granting the relief. Crowe v. De Gioia, 90 N.J. 126, 132-34 (1982).

"Each of these factors must be clearly and convincingly demonstrated," Waste Mgmt. of N.J., Inc. v. Union County Utils., 399 N.J. Super. 508, 520 (App. Div. 2008) (citations omitted). "Although it is generally understood that all the Crowe factors must weigh in favor of injunctive relief, a court may take a less rigid view

than it would after a final hearing when the interlocutory injunction is merely designed to preserve the status quo.” Ibid. (citing Gen. Elec. Co. v. Gem Vacuum Stores, Inc., 36 N.J. Super. 234, 236-37 (App. Div. 1955)). Further, a court must “exercise sound judicial discretion . . . which—when limited to preserving the status quo during the suit’s pendency—may permit the court to place less emphasis on a particular Crowe factor if another greatly requires the issuance of the remedy.” Ibid. (citations omitted).

1. Plaintiffs do not establish that they will suffer irreparable harm in the absence of an injunction.

A plaintiff must first prove by clear and convincing evidence that she will be irreparably harmed in the absence of an injunction, and that the harm is imminent, concrete, and non-speculative. Subcarrier Commc’ns., Inc. v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997). The likelihood that adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm. Delaware River & Bay Auth. v. York Hunter Constr., 344 N.J. Super. 361, 365 (Ch. Div. 2001) (citing Sampson v. Murray, 415 U.S. 61, 90 (1974)). “In other words, plaintiff must have no adequate remedy at law.” Subcarrier Commc’ns. Inc., 299 N.J. Super. at 638.

Here, the approach of the 2023 black bear hunt season does not weigh in favor of a finding of irreparable harm. While the regulations enabling the 2023

season were approved by the Council on September 6, 2023, the approved rule changes to the CBBMP were initially proposed almost a year ago. See N.J. DEP, Notice of Rule Proposal Comprehensive Black Bear Mgmt. Policy (2022).

Plaintiffs cannot sit idle until two and a half weeks before the bear hunt begins on legal arguments that have existed since the Legislature established the Council in 1948 and were substantially litigated in 1973, wait fifty years to raise variations of those claims, and then assert irreparable harm.

Plaintiff's claim that irreparable harm is "harm that cannot be remedied by money damages" misrepresents the standard required for injunctive relief. Pl.'s Br. in Reply at 7. The harm to individual black bears does not constitute irreparable harm. While there is no bright-line rule as to when the death of a member of a species will constitute irreparable harm, and within the constraints of Rule 1:36-3, this Court too finds instructive the standards noted in Animal Welfare Institute v. Martin, 668 F. Supp. 2d 254 (D. Me. 2009). There, the court noted that "the proper test for determining irreparable harm is effect on the species as a whole, not on individual members of the species, unless the take of an individual member has been demonstrated to affect the species as a whole." Id. at 264 (relying upon Strahan v. Coxe, 127 F.3d 155 (1st Cir. 1997)); see also Water Keeper Alliance v. U.S. Dep't of Defense, 271 F.3d 21, 34 (1st Cir. 2001)

(agreeing that party fails to establish irreparable harm where no proofs that individual wildlife deaths may impact species).

The objective of the black bear hunt is to control the State's black bear population and ultimately lower the risk of adverse human-bear interactions. As Plaintiffs acknowledge, hunters cannot kill bears weighing less than 75 pounds, nor can they kill an adult black bear that is in the presence of cubs. See Compl. ¶ 25. Plaintiffs do not establish that the hunt has an adverse impact on black bears as a species; as the State Defendants point out, the Council implemented several protections against overharvest, including bag limits and the ability to close the hunt based on yield. The impact on individual black bears in light of the paramount goal of public safety does not constitute irreparable harm. Nor does the issuance of black bear hunting permits for the same reasons. Thus, Plaintiffs fail to establish irreparable harm by clear and convincing evidence.

2. Plaintiff's do not establish a legally settled right.

Second, preliminary injunctive relief such as a temporary restraint should only be granted when the issues raised present a legally settled right. Crowe, 90 N.J. at 133 (citing Citizens Coach Co. v. Camden Horse R.R. Co., 29 N.J. Eq. 299, 304-05 (E. & A. 1878)). Despite this general rule, an exception exists "where the subject matter of the litigation would be destroyed or substantially impaired if a preliminary injunction did not issue." Gen. Elec. Co., 36 N.J. Super. at 236.

Here Plaintiffs admit this is a case of first impression, which is addressed below. Plaintiff raises constitutional issues but neither those claims nor their merits, on their own, entitle a party to the extraordinary relief of a preliminary injunction. A novel claim, by itself, cannot be said to satisfy this factor. Neither have Plaintiffs pointed to sufficient evidence to satisfy the clear and convincing standard. Thus, Plaintiffs fail to establish a well-settled right.

3. Plaintiff’s do not demonstrate a reasonable probability of success on the merits.

The third element of the Crowe test requires denial of a preliminary injunction if all the material facts are controverted. Crowe, 90 N.J. at 133 (citing Citizens Coach Co., 29 N.J. Eq. 299, 305-06 (E. & A. 1878)). To prevail on such an application, a plaintiff must demonstrate a reasonable probability of success on the merits of its claim. Ibid.; see also Waste Mgmt., 399 N.J. Super. at 528-29 (finding that “plaintiff failed to demonstrate by clear and convincing evidence a reasonable probability of success because the present state of the law” highly favored defendant’s position and material facts advocated by defendants were well-founded). Crowe cautions, however, that this “requirement is tempered by the principle that mere doubt as to the validity of the claim is not an adequate basis for refusing to maintain the status quo.” 90 N.J. at 134 (internal citations omitted).

Here, Plaintiffs advance claims that the Court addressed to a considerable extent in Humane Society. While their claims may sound on a different basis, these Plaintiffs advance arguments considered and rejected by the Supreme Court in that matter. In Humane Society, the plaintiffs argued that N.J.S.A. 13:1B-24 violated the due process clause and the equal protection clause of the 14th Amendment of the United States Constitution. 373 N.J. Super. at 568. Specifically, plaintiffs in that case argued the statute was unconstitutional because it “enumerates three classes of appointees” and excludes the remainder of the public from recommendation and appointment. Ibid. The Court rejected the argument, reviewing the qualifications of the appointed members and noting that “it is difficult to conceive of a group with a keener interest in maintaining a plentiful supply of game, in developing regulations to insure safety in hunting, and in overseeing the operations of the state's hatching and game farm and its stocking activities. Farmers, who are represented by three Council members, own the major part of the hunting lands in the State.” Id. at 573. Furthermore, the Supreme Court explained:

The Legislature may prescribe such qualifications as reasonably relate to the demands of a specialized office. Logic is not offended by the classes included in the challenged statute. We have already stressed the discrete character of the Fish and Game Council, charged as it is with certain responsibilities and powers pertinent to ensuring the statutory objective of an abundant supply of

game for recreational and commercial hunting and fishing. Sportsmen, farmers, and commercial fishermen feel directly the impact of decision-making in this area and are likely to have the necessary expertise to make the required decisions competently.

[Id. at 573 (internal citations omitted).]

Plaintiffs' claim may slightly differ insofar as Plaintiffs argue that the statute effectively vests a private interest group with power and thus violates the statute.¹

But the result is the same. The plaintiffs in Humane Society argued the statute violated equal protection and due process because it restricted their ability to participate on the Council.

The plaintiffs in that matter also argued that the statutory composition offended due process "because it produces a Council incompletely representative of the public interest." See Id. at 578. The Court dismissed that argument, stating a "delegation of legislative authority to private parties may withstand constitutional challenge if sufficient safeguards exist to prevent an arbitrary concentration of power in persons or groups motivated by self-interest. 'The test is whether the

¹ The Legislature has elsewhere specified qualifications based on membership in outside organizations. For example, the Legislature has required that "[a]mong the membership of the [State Board of Agriculture] there shall be at all times at least one member representing each of the four leading agricultural commodities produced within the State." N.J.S.A. 4:1-4. Additionally, "only those engaged in the production of farm crops or livestock products in New Jersey shall be eligible for appointment to membership on the board." Ibid. The Board, in turn, has authority to appoint the Secretary of Agriculture, "with the approval of the Governor." N.J.S.A. 4:1-15.

particular delegation is reasonable under the circumstances considering the purpose and aim of the statute.” Id. at 579 (quoting Male v. Renda Contracting, 64 N.J. 199, 201 (1974)).

Article III., par. 1 of the New Jersey State Constitution in its relevant part states:

The powers of the government shall be divided among three distinct branches, the legislative, executive, and judicial. No Person or persons belonging to or constituting one branch shall exercise any of the powers properly belonging to either of the others, except as expressly provided in this constitution.

[N.J. Const. Art. III., par. 1.]

When dealing with constitutional issues regarding public policy disputes, a cornerstone of this Court’s analysis is “[a] constitution does not resolve all policy problems. Rather it establishes the framework of government with such specific restraints as are thought to be of eternal value and hence worthy of immunity from passing differences of opinion.” Reilly v. Ozzard, 33 N.J. 529, 539 (1960). The separation of powers provision safeguards a guiding principle of our government, that one branch of power may not unjustly usurp the powers of another. See Gilbert v. Gladden, 87 N.J. 275 (1981). However, that principle “does not require absolute division of powers... [rather it] guarantee[s] a system of checks and balances.” State v. Leonardis, 73 N.J. 360, (1977).

The doctrine of separation of powers was not intended to bar the cooperation of the several branches of government. See Zicarelli v. New Jersey State Commission of Investigation, 55 N.J. 249 (1970). “A strict interpretation the doctrine of separation of powers readily classifying all government action is legislative, executive, or judicial was never intended.” David v. Vesta Co., 45 N.J. 301 (1965).

Article IV, Sec. 1, Par. 1., of the New Jersey State Constitution states that “the legislative power shall be vested in a Senate and General Assembly.” N.J. Const. Art. IV., Sec. 1, par. 1. While delegations of administrative authority by the legislature may not be “unbridled or arbitrary” there must be an “reasonably adequate standard to guide it.” Ward v. Scott, 11 N.J. 117, 123 (1952). That does not require detailed standards, however, and a general standard may be sufficient. Id. at 123-24.

The binding and persuasive authority before the Court weighs heavily against Plaintiffs’ chance of success on the merits of their claims. As to Plaintiffs’ Article III argument, they fail to establish a reasonable probability of success on the merits of the claim that the legislative vesting of authority in the Council violates the Constitution. Each member must be nominated by the Governor, approved by the Senate, and remains subject to removal by the Governor for cause. Furthermore, the Commissioner of the DEP, while not exercising day-to-day

authority, still maintains significant authority over the actions of the Council. He has veto power: he must approve any rule that the Council promulgates regarding the CBBMP before it is effective.

The Council does not issue “administrative or executive directives” to the DEP, rather they require DEP Commissioner approval. See Compl. ¶¶ 32-33. The enabling statute, N.J.S.A. 13:1B-28, vests the Council with authority to promulgate regulations on recreational and commercial hunting and fishing of game animals. Those regulations are not operative without the Commissioner’s approval. Any assertion to the contrary has no basis in fact nor law.

The Council is also subject to the restraints of the rulemaking process, which allows for notice, public comment, and appellate review, and protects against arbitrary decision making. The regulations must be based on scientific investigation and research. The Council cannot modify the dates or length of the bear hunt, with certain limited exceptions, without following formal rulemaking procedure. As the Supreme Court has recognized, the statute authorizes and directs the Council to promulgate regulations as to the recreational and commercial fishing and hunting of game animals. It indeed cannot offend logic to task sportsmen and farmers, who have the requisite expertise in these fields, to solve its policy making challenges. The Legislature was not arbitrary or unreasonable in delegating to the Council certain specific and circumscribed rulemaking authority.

Finally, Humane Society adopts a forgiving standard, id. at 579 (adopting reasonableness standard from Male), for the delegation question and additionally endorses the Legislature's apparent rationale for the membership and the appointment process. Those findings weigh heavily against Plaintiffs' "novel" argument here.

Given these reasons Plaintiffs' Article IV, Sec. 1, par. 1 challenge holds no muster.

Plaintiffs' argument regarding the membership requirements to form a Sportsmen's Club also do not further their chances of ultimate success on the merits. Plaintiffs cites no binding or persuasive authority that such a requirement by a private entity violates the New Jersey State Constitution. Furthermore, one does not have to be a member of a Sportsmen's Club to be recommended for appointment to the Council.

Plaintiffs' policy disagreements with the NJSFSC cannot sustain a constitutional challenge. The delegation is reasonable under the circumstances. As Justice Clifford observed in Humane Society, "plaintiffs have not alleged malefaction on the part of the Council members, past or present." 70 N.J. 571. Plaintiffs may argue that NJSFSC members on the Council will advocate for its own interests but provides absolutely no evidence the members would act as such. Conclusory allegations also cannot fuel a constitutional challenge to the Council's

well-established authority. Therefore, the Court finds Plaintiffs have not established a reasonable likelihood of success on the merits.

4. The Balancing of the Hardships Weighs Against Injunctive Relief.

Finally, the Crowe test for preliminary injunctive relief requires a balancing of the relative hardships to the parties in granting or denying relief. Crowe, 90 N.J. at 134. The party moving for a temporary restraint or preliminary injunction must demonstrate that “the public interest will not be harmed.” See Waste Mgmt., 399 N.J. Super. at 520. In some cases, such as when the public interest is greatly affected, a court may withhold relief despite a substantial showing of irreparable injury to the applicant. Ibid.

Here, Plaintiffs suggest that the public interest compels maintaining the status quo. But their requested relief upends, not preserves, the status quo *ante litem*: it invalidates the policy determinations and actions of the Council, the Commissioner, and, as established by EO 310, the Governor. Nor would it serve the public interest to enjoin the Council from being able to fulfill its statutorily mandated obligation to provide a system of regulation of game animals and their supply. While Plaintiffs’ views on the bear hunt may reflect the views of other members of society, as well, such disagreements with the Commissioner’s approval of the Council’s policy do not amount to constitutional infirmity and do not merit injunctive relief.

The Court finds the balancing of the hardships weighs in favor of the public interest and Defendants. For the reasons mentioned above, the Court denies Plaintiffs' request for temporary injunctive relief.