

HCR

95

To: The House Resources Committee

From: Jim Keeline, Registered Guide

RE: HCR 95

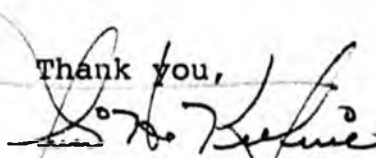
Since I have had the opportunity to do some research on HCR 95, there have been a few things brought to my attention.

1) The guides that have an area already expect some type of monetary exchange, for another guide to use that area, even though they are not using it at that time. I have run across this situation several times.

2) It appears to me that the guides that have one area will not be willing to let a new guide use it and those that do have areas are the lucky ones. It will be difficult for those who want to get into the business as they will not be able to do so without a great deal of expense.

Due to the above reasons, I urge you to reconsider either HCR 95 or some other form of relief for this inequitable situation.

Thank you,

A handwritten signature in cursive script, appearing to read "Jim Keeline", written over a horizontal line.

Jim Keeline

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

March 31, 1978

JAY S. HAMMOND, Governor

POUCH D
JUNEAU, ALASKA 99811

C

Honorable Alvin Osterback
Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Chairman Osterback:

I am taking the liberty of replying to your letter of this date to Commissioner H. Phillip Hubbard concerning the minutes of the meeting of the Guide Licensing and Control Board, because Commissioner Hubbard is in Anchorage.

The information which you received from Pam Knode concerning the availability of these minutes was relayed from me.

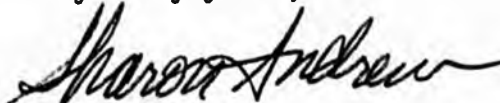
The board convened in Fairbanks on Monday, March 27 at 1:30 p.m. and adjourned in the evening on March 30. The days of March 28-30, were convened at 8:00 a.m. each day and board business was considered and recorded on tape.

Due to airline scheduling, the board's recording secretary will return to Juneau on an evening flight today, carrying with her the tape recordings and notes of the meeting. She will begin preparing the pencil draft of the minutes on Monday, however, with some thirty hours of tape recordings to review, it is my opinion that a draft of the minutes will not be available by Tuesday afternoon.

We will, of course, provide you with the tapes and do our best to extract relevant parts by Tuesday, if possible. Since I have not had an opportunity to discuss the proceedings with anyone attending the meeting, however, I have no way of knowing how much of the meeting was devoted to the subject of exclusive guiding areas.

I hope this more fully explains our situation. We do our best to comply with legislative requests for information, but in this instance, I don't believe we can do so within the time constraints imposed.

Very truly yours,



Sharon Andrew
Director

SA/va116

cc: Honorable Hugh Malone
Honorable Mike Miller

TELEGRAM

FROM ALASKA COMMUNICATIONS, INC.

PHONE: 586-6440

JUNEAU, ALASKA 99801

fill

20076 TDA JUNEAU ALASKA 9A 8A-33 515P AST

RKS REP AL OSTERRACK 455-3781

JUN

IT HAS COME TO OUR ATTENTION THAT THE ALASKA BOARD OF GAMES IS CONTEMPLATING THE OPENING OF THE PIPELINE CORRIDOR TO THE TAKING OF BIG GAME. WE FEEL THAT THIS ACTION WOULD PUT THE OIL PIPELINE IN GRAVE DANGER OF BEING UNINTENTIONALLY DAMAGED BY WEAPONRY USED BY SUCH TAKING. YOUR IMMEDIATE ATTENTION TO THIS MATTER THROUGH A TELETYPE TO THE ALASKA BOARD OF GAME FAIRBANKS INN, FAIRBANKS, ALASKA, APPRAISING THEM OF YOUR CONCERN TO NOT ALLOW THIS TO HAPPEN WOULD BE GREATLY APPRECIATED.

WILLIAM S (GEN) WILLIAMS, PRESIDENT TANANA CHIEFS CONFERENCE,

GORDON JACKSON, PRESIDENT OF RURAL COP,

REP. NELS ANDERSON, JR.



RP

2/22/78

21-23 =
Strike =
CS

Introduced: 2/1/78
Referred: Resources

1 IN THE HOUSE

BY SCHAEFFER AND ANDERSON

2 HOUSE CONCURRENT RESOLUTION NO. 95

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 Annuling an administrative regulation
6 adopted by the Guide Licensing and Control
7 Board providing for the registration of
8 camps.

9 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 WHEREAS under AS 44.62.320 the legislature by concurrent resolution
11 adopted by a vote of both houses may annul a regulation of an agency or
12 department; and

13 WHEREAS using AS 08.54.040(a)(6) and AS 08.54.050 as authority, the
14 Guide Licensing and Control Board established a camp registration regulation
15 for the purpose of effectuating exclusive big game guiding areas surrounding
16 registered camps; and

17 WHEREAS clear legislative direction and authority exists for estab-
18 lishing quotas of guides within designated geographical games units or sub-
19 units of the state, but no apparent authority exists for creating exclusive
20 areas for particular individuals within those units or subunits; and

21 WHEREAS the creation of such exclusive areas tends to reduce healthy
22 competition and works to insulate and perpetuate abuses by unscrupulous and
23 unsportsmanlike guides;

24 BE IT RESOLVED by the Alaska State Legislature that administrative
25 regulation 12 AAC 38.050 is annulled.

Strike

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1 MARK JENSEN:

2 We have^{an} extra on our agenda, just kind of an open discussion for public
3 input on the question of whether or not these areas that become ah
4 nonusable areas because of a guide passing away or deceased guide,
5 whether the guide board should look at those areas as being closed
6 until they are reassigned or should be used as just a open area for
7 anybody, and ah--ah, I think, ah the question was asked of the
8 board to make a decision as to how we wanted to handle it, but ah
9 for a short period of time here, why, ah the board would receive
10 public input on that one question. Bill?

11 BILL WAUGAMAN:

12 Yeah I have something to say on that, ah

13 CHARLES KEIM:

14 Mr. Chairman, could we have their names to appear on the minutes?

15 MARK JENSEN:

16 Yes, Mr. Waugaman?

17 BILL WAUGAMAN:

18 My name's Waugaman, Bill Waugaman, Fairbanks. I have been trying
19 to get this sort of thing going in Alaska for many many years, I'm
20 talking about now assigned guide areas. It's finally come to pass
21 and basically the reason that I wanted to get these assigned guide
22 areas is because ah in prior years, there were no incentive for a
23 outfitter or a guide to build up his area with camps, strips,
24 trails, corrals, whatever. With assigned guide areas, you've got
25 this incentive, and a lot of people have done a lot work and a lot
26 of money, have facilities out there and many instances, this is
27 during the asset, or one of their main assets, and if anything
28 should happen to them, that should--that asset isn't worth a heck
29 of a lot without that guide area, going along with it. So, in you
30 deliberations, I think that ah it would be a good idea if you bear
31 this in mind, because it might be that heirs, son, nephew, or it
32 may be that the heirs may want to sell the area to somebody that

1 is qualified, that, first and foremost, you got to think of the man
2 that is spent his money and his time out there developing his areas.

3 MARK JENSEN:

4 Any questions to the board?

5 MARK JENSEN:

6 Thanks Bill. Next, just make your statement with your name.

7 JOE WANT:

8 My name is Joe Want, Fairbanks. I would like to see these areas
9 left closed when a guide vacates them or dies, it unfortunately happens,
10 until it--until the board has a chance to assign that area to someone
11 else. They either--whatever criteria you decide to establish as far
12 as how you are going to select what applicant can go in there. If you
13 don't, in some areas like Kodiak or even the Brooks Range now your--
14 your creating a situation where there are some guides who are not
15 assigned areas and some guides that were assigned areas could still
16 go in there--you're going to end up as a good possibility ending up
17 with a congestion in that area of guides. And one area that I'm thinking
18 in particular, the game may well not stand it. This one area I'm
19 thinking about probably has a population of roughly 150 sheep, one guide
20 moved in there and apparently took seven or eight and the residents were
21 in there taking seven and eight, like that. If you had two operating
22 in there, its--its disaster, just think what would happen to that
23 population.

24 CHARLES KEIM:

25 Who's the s, Mr. Want?

26 JOE WANT:

27 This happens to be on the East Fork of Chandler. But this very same
28 situation could arise in other areas where a guide goes in the areas,
29 is not necessarily is not familiar with the amount of game in the area
30 and over harvests. And if--if you have a vacant guide area there, it
31 obviously was lucrative or theoretically lucrative to run an operation
32 in there at one time. If you have an influx of of guides, plus the

1 resident pressure, those resident species in that area are going to
2 suffer. I think that those areas should be closed, and those people
3 interested in hunting in those areas should petition the board, then
4 the board, by whatever criteria you decide, would say, okay, Mr. Jones,
5 you can go in there and hunt for two years or three years or whatever
6 until we see what type of operation you are going to run.

7 BUD WIESE:

8 In other words, you say the board should just allow a guide on a
9 temporary deal to use that until which time the board ah does set up
10 some regulations.

11 JOE WANT:

12 Well, whatever criteria you finally decide. The thing that I'm con-
13 cerned about is three different guiding operations going into that
14 area in one year.

15 MARK JENSEN:

16 When we leave it open.

17 JOE WANT:

18 When it's left open. That's why I would suggest that they be closed
19 and at the next guide board meeting, petitions could be received for
20 allowing someone else to go in to that area, but not to leave the
21 thing open. Let the board make that decision at the next meeting.

22 BUD WIESE:

23 We have been working two years now trying to get some regulations
24 through the bureaucrats above us to transfer areas, and so far we
25 have been shot down.

26 FRANK CHAPADOS:

27 We have been making progress though.

28 BUD WIESE:

29 Yeah, we are making progress, we getting ah

30 CLARK ENGLE:

31 ...getting closer.

32

1 BUD WIESE:

2 We only got three pages of corrections to go through now.

3 FRANK CHAPADOS:

4 What's your reactions to ah the heirs, for example ah

5 JOE WANT:

6 Pardon?

7 FRANK CHAPADOS:

8 Take that action in the place of the deceased and--and ah, you know,
9 allowing another guide to in and hunt in the area.

10 JOE WANT:

11 I think that you have to look at each individual situation. If you
12 have a situation of, we'll say, that I'm 60 years old now, and by
13 that time, my boys will be, I don't know, ah, you know, they will be
14 30, and they have been guiding in that area for 12 or 13 years, that
15 certainly should--there should be, you know, that should be taken into
16 consideration.

17 FRANK CHAPADOS:

18 Well...

19 JOE WANT:

20 Because he--if you--excuse me, but whatever criteria you set up if--if
21 one of my boys happens to become a guide, he's going to have 12 years
22 or 14 years in it, assuming that I live that long.

23 FRANK CHAPADOS:

24 Well, I think our regulations are going to deal with that--that situation.
25 My--my question is, during the time that the area is closed, and before
26 it is reassinged, what ah what rights do the heirs have? I mean ah,
27 you know, for example, if they are...after a family ah retains ah
28 whatever property you have, and your assets, and that sort of thing
29 ah you think that they could ah--ah allow hunting in there just as
30 if you were--were alive and ah and granted permission to another
31 guide to come and hunt in the area?

32

1 JOE WANT:

2 Since the guide board meets every ah, roughly, twice a year, I believe...

3 MARK JENSEN:

4 Up to four times a year times a year.

5 JOE WANT:

6 Well, I'm just saying as a minimum, I can't see where more than one
7 hunting season would go by where the guides and that--where the guide
8 board would not be in a position to react to one of these situations,
9 they may very well be this--some sort of sti--stipulation can be put
10 in there that if his heirs or, you know, providing his heir is a guide,
11 I--I mean, I don't think that if--if my--if I die, my boys are soon
12 be (indisc.)...What this means is if those heirs have been active
13 in that guiding business, well then, yes, they (indisc.) and then the
14 guide board could review it and make their decision from that
15 point.

16 FRANK CHAPADOS:

17 Well, in other words, ah...

18 JOE WANT:

19 Because...excuse

20 JOE WANT:

21 One situation is going to come up as if the--if the father, whatever,
22 is happens to be dying, and he is going to have some hunts booked,
23 already, and theoretically his son is going to go--he should be
24 able to go ahead and take those hunts out into the forest.
25 If they had the guides licensed...

26 FRANK CHAPADOS:

27 I think the questions in my mind are then are these heirs retain
28 the right to ah--ah--in your mind, do you think the heirs retain the
29 right to ah allow other guides to come in and hunt in the area?

30 JOE WANT:

31 I don't think so. I think the only right that you pass on is the
32 right of the heir to guide in there if he is a qualified guide for

1 that season or whatever until the guide board acts on it. Now, it can
2 be theory if--if he had no heirs other than his wife, I would not
3 like to see the situation arise where the wife could ah say, okay,
4 Johnny Jones, you can go in there. I think that should be--that
5 right should be left to the board.

6 CLARK ENGLE:

7 Joe, let me ask this, ah, say that ah--ah a professional had 10 hunts
8 booked for a fall season, he died just before the fall season, ah, what
9 would your ideas be and what should happen to those particular hunters?
10 Should the widow be allowed to go get Joe Blow the guide to come in
11 and run the hunts for her until there--those hunts are taken care of?
12 I think it is consideration that the board should look at it.

13 JOE WANT:

14 I don't know.

15 MARK JENSEN:

16 I would like to interrupt here a little bit because of time, more than
17 anything else, but, to bring you up to date on what's happening, for
18 a couples of years now, we held public hearings on regulations and had
19 public input and ah brought them back to you for changes, one thing or
20 another, ah, the position that the regulations are in now are in the
21 Attorney General's office, and they have been looked at, the ones that
22 we passed at our last meeting, and some suggestions for word changes
23 for clarification have been made. They have asked us now ah to
24 pass on these ah verbally at this meeting and as quick as we can to
25 get them back down ah so that they can keep being certified and start
26 on their route. Our--I think ask our attorney Liza Fussner here, to
27 ah just kind of go over them and we have..

28 CLARK ENGLE:

29 I have a question, Mr. Chairman, while we are talking about this ah
30 we--are we jumping from this one to...

31 MARK JENSEN:

32 Yes

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CLARK ENGLE:

to these?

MARK JENSEN:

We're going to take this up as an emergency for the simple reason that I have--I have really forgotten to tell the board that the Commerce Department asked me to do this immediately ah on our agenda...

MEMORANDUM

TO: Ms. Susan Hunter
House Resource Committee
Pouch V
Juneau, Alaska 99801

DATE: March 3, 1978

FILE NO:

TELEPHONE NO:

FROM: *[Signature]* Investigator William N. Bellingar
BY: Katherine Goodell, Admin. Assistant
Guide Investigations
Fish and Wildlife Protection
Anchorage

SUBJECT: REQUEST-EXCLUSIVE/JOINT USAGE GUIDE
AREAS

Per your request we are enclosing all available copies of exclusive/joint usage guiding area maps throughout the State; a listing of these areas by the guide's name; and a listing by unit with the criteria used.

We have not yet completed Unit 13 and 14 maps but anticipate finishing them Monday morning and forwarding them to you at that time.

If you require further assistance please do not hesitate to contact this office.

WNB:KEG:LJ

cc: Col. Fred M. Woldstad

Units 1-5: At the February 18-19, 1977 Guide Licensing and Control Board meeting Units 4 and 5 applicants that met the criteria of three years within the last five years of Statements of Financial Remuneration on file with this office as of November 1, 1976 were granted permanent areas. Temporary areas in Units 4 and 5 were granted to those applicants that had at least one year of Statements on file as of that date. Unit 4 was designated for "joint usage" by those guides who had applied and qualified, and Unit 5 was divided into individual areas with joint usage for areas of boundary overlap.

In a poled telephone vote taken by Marcus Jensen, Guide Board Chairman, on February 25, 1977 it was decided that those guides that were granted exclusive guiding privileges in Unit 4 would also be granted exclusive guiding privileges in Units 1-3 on a joint usage basis with those guides who had applied and qualified for Units 1-3.

At the February meeting the Board decided, for purposes of assigning exclusive guiding areas in Southeastern Alaska, Unit 1 would be considered one guiding area, Unit 2 and/or 3 would be one guiding area, and Unit 4 would be one guiding area.

Units 1-4 were advertised in early March as open for any late filings, adjustments of areas, etc. for a period of ninety (90) days from the date of the notice. The Board granted to the additional qualifying guides joint usage privileges in those units at the July 14-18, 1977 Board meeting.

Those applying for areas in Units 1-4 are as follows:

William Bernhardt
Layton A. Bennett (Unit 1 only)
~~Roy Biffle~~ (withdrew)
Charles Boyd (Unit 4 only)
Les Elkins
John Erickson
Ben Forbes
Duncan Gilchrist (Units 1 & 4 only)
F. W. Ingledue
Marcus Jensen
Tom D. Katzeek
Karl Lane
Vic Lane
Jack O'Donnell
Jimmie Rosenbruch
Kenneth Schoonover
Frank See
Eugene Smith
Tarleton Smith
William W. Peterson

All those that applied were granted joint usage privileges in Units 1-4. Those guides with notations after their names applied for and received those units only as joint usage (they were offered joint usage of the entirety of Units 1-4, but this was their preference).

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Those applying for areas in Unit 5 are as follows:

Mike Branham
Charles R. (Dick) Cox
Robert Eckman
Ken Fanning
A. J. Israelson
John Latham
Jerry H. Nelson

Those receiving areas in Unit 5 are as follows:

Dick Cox	permanent
Mike Branham	temporary
Robert Eckman	permanent
Ken Fanning	temporary
A.J. Israelson	permanent

Unit 6: At the July 14-18, 1977 Guide Licensing and Control Board meeting Unit 6 applicants that met the criteria of three years within the last five years of Statements of Financial Remuneration on file with this office as of November 1, 1976 were granted permanent areas. Temporary areas were granted to those applicants that had two years within the last five years of Statements on file.

For purposes of assignment Unit 6 was divided into three areas: A. East of the Copper River to Icy Bay (boundary between Units 5 & 6). B. West of the Copper River to Mt. Dennison, Hadak Point, Brown Basin, Goose Isl., and Hinchbrook Isl. C. The rest of Unit 6.

These three areas were designated for "joint usage" by those guides who had applied and qualified.

Unit 6 Applicants:

Roy L. Biffle	Clarence LaBounty
Karl Braendel	John Latham
Eberhard Brunner	Jack Lee
Gene Cecil	Dennis O. Lary
Don DeHart	Ray McNutt
Robert V. Dettinger	Austin Meekins
Bill Ellis	James R. Metheny
Ralph Ertz	Wm. G. Morrow
Herbert F. Fassler	Gene Needles
Allen W. Faust	George Palmer
Raymond J. Foldager	Donald G. Sisson
Jeff Graham	Edward Stevenson
Dick Gunlogson	Roland Stickney
Richard W. Halford	Tom Walker
Bill Holliday	Mark J. Warren
John Kinda	Jess M. Wassom
Howard Knutsen	Gordon Windell
	Edward Zimmerman

Those that qualified and received joint usership of Unit 6, Subunit A:

Gene Needles	Bill Ellis
James Metheny	Gordon Windell
Roland Stickney	Ray McNutt
Dick Gunlogson	John Kinda
	Ray Foldager

Those that qualified and received joint usership of Unit 6, Subunit B:

Dennis O. Lary
 George Palmer
 Edward Stevenson
 Tom Walker
 Bob Dettlinger

Those that qualified and received joint usership of Unit 6, Subunit C:

Herbert F. Fassler
 Ralph Ertz (considered by petition & granted special exception)
 Jack Lee
 Clarence LaBounty (qualified because of grandfather rights)

Unit 7: Areas in this unit were also granted at the July 14-18, 1977 Guide Board meeting to those guides who had at least three years within the past five years of Statements of Financial Remuneration on file with this office for a permanent assignment and two years within the past five years for a temporary assignment.

UNIT 7 APPLICANTS:

Roy L. Biffle	Charles S. Martin
Lee Browning	William L. Miller
Gene Cecil	Wyman Owens
Walter E. Cox	A.W. Smith
Don Fell	Sherman "Red" Smith
John Kinda	Earl Stevens
Clarence LaBounty	Dale R. Wood
	Leonard F. Yuknis
	Edward Zimmerman

Those that qualified and received areas requested in Unit 7 with joint usage for areas of overlap:

Walter Cox	Lee Browning
William Miller	Ed Zimmerman
Mike McBride	
Wyman Owens	

NOTE: As Units 6, 7, 13, 14, & 15 were recently assigned at the July 1977 Board meeting and the minutes have not been received by this office yet the above information may not be totally accurate. Also, those that could not meet the minimum criteria were given the opportunity to have their petitions heard before the Board - these petitions were handled the same way as those for Unit 13 (see Unit 13 information for further details).

UNIT 8: Exclusive guiding areas were granted in this unit at the July 22-25, 1975 Guide Board meeting using the following criteria set by the Board at that meeting: To obtain a permanent guiding area, a registered or master guide must have used the area for 4 consecutive years (except for justified cause(s) approved by the Board) such as a guide with Statements of Financial Remuneration.

UNIT 8 APPLICANTS:

William Bivins	John J. (Jack) Lee
Karl Braendel	Larry Matfay
Danny L. Brose	Eli Metrokin
Alfred Burnett	Park Munsey
Lynn Castle	Robert L. Myers
R.O. Coleman	Gene Needles
Don DeHart	Walter Panamroff
Darrel Farmen	Bill Pinnell
Allen Faust	George Pollard
Leon Francisco	Eldon Reese
Ward Gay	A.W. Smith
Rick Halford	Earl Stevens
Lee Hancock	Morris Talifson
Wayne Hans	Joe Want
Willis Hardy	Charles Wilson
Dennis Harms	Earl Payne
Ron Hayes	Andy Runyan
Kristjan Helgason	
Ed Hendricks	
Joe Hendricks	
John Hepler	
Keith Johnson	
Frenchy Lamoureux	
Gary LeRose	
David Lazer	

Those that qualified and received areas requested in Unit 8 with joint usage for areas of overlap:

Karl Braendel	Gary LaRose
Don DeHart	Jack Lee
Leon Francisco	Larry Matfay
Darrell Farmen	Park Munsey
Lee Hancock	Earl Payne
Wayne Hans	Bill Pinnell
Dennis Harms	George Pollard
Kristjan Helgason	Eldon Reese
Ed Hendricks	Andy Runyan
Joe Hendricks	Earl Stevens
Frenchy Lamoureux	Morris Talifson
	Joe Want

UNIT 9: At the March 25-27, 1977 Guide Board meeting the Board granted permanent exclusive guiding areas in Unit 9 to those guides who had at least three years within the last five years of Statements of Financial Remuneration on file with this office as of November 1, 1976 and/or three years within the last five years of Bear Camp Registrations. Temporary areas were granted to those applicants who had at least two years of Statements of Financial Remuneration on file as of that date, and/or a signed statement from three registered guides testifying that they have known the applicant to have been guiding in Unit 9 for at least 2 years within the last five years.

UNIT 9 APPLICANTS:

Roy L. Biffle
Stephen Black
Eldon Brandt
Bud Branham
Dennis Branham
James R. Branham
Alfred Burnett
James N. Cann
Paul Carlson
Mario Cerami
Macarlo Christensen
R. O. Coleman
Grenold Collins
C. M. (Bud) Conkle
Robert E. Curtis
Don DeHart (withdrew)
Clifford H. Driskell
Charles Edmonds
Clark Engle
Wm. Erickson
Donald E. Flynn
Howard Flynn
Raymond J. Foldager
Stan Frost
Ward Gay
Jeff Graham
Marlin Grasser
Mel Gillis
Dick Gunlogson
Richard W. Halford
Jay S. Hammond
Lee Hancock
Dennis Harms
Ron Hayes
Ed Hendricks
Joe Hendricks
David Henley
John E. Hepler
Lee Holen
R. H. Jensen
Don Johnson
Martin Kasser
John Kinda

Ed King
George Kitchen
Frenchy Lamoureux
Brad L. Langvardt
Gary LaRose
David L. Lazer
Jack Lewis
Raymond C. Loesche (license revoked)
Charles McLaughlin
Burd McLay
J. H. McLay
Ray McNutt
Joe Mankins (not a resident? - F&WP to determine)
Charles S. Martin
Jerry Meredith
William S. Miller (no map)
Richard Moll
M. W. "Slim" Moore (withdrew)
Wm. G. Morrow
Jay C. Mueller
Park Munsey
Jack Myers
Robert Myers
Gene Needles
Ken Oldham
Pete Owen
John Pangborn
Earl Payne
Alec Pederson
Harry Pederson
George Pollard
Larry Rivers
Lawrence Roberts
Lloyd Ronning
Andy Runyan
Henry B. Rust
Lloyd E. Samsal
Richard A. Sjoden
A. W. Smith
John S. Swiss
Carl Thiele
Reinhold Thiele
Denny Thompson

Michael R. Uttecht
Jess M. Wassom
Ben C. White
Dale R. Wood

Sumner S. Woodman
Mike McBride
Mort Mason
Carol Northcutt
Kirk Gay

Those that qualified and received areas request in Unit 9 with joint usage for areas of overlap:

Bud Branham
Dennis Branham
James R. Branham
Alfred Burnett
James N. Cann
Paul Carlson
Mario Cerami
Macarlo Christensen
C. M. (Bud) Conkle
Robert E. Curtis
Clifford H. Driskell
Clark Engle
Wm. Erickson
Donald E. Flynn
Howard Flynn
Raymond J. Foldager
Stan Frost
Ward Gay
Kirk Gay
Jeff Graham
Marlin Grasser
Mel Gillis
Dick Gunlogson
Richard W. Halford
Jay S. Hammond
Lee Hancock
Dennis Harms
Ron Hayes
Ed Hendricks
Joe Hendricks
Lee Holen
R. H. Jensen
Don Johnson
Keith Johnson
Ed King
George M. Kitchen
Frenchy Lamoureux
Brad L. Langvardt
Gary LaRose
David L. Lazer
Jack Lewis
Burt McLay
J. H. McLay

Ray McNutt
Jerry Meredith
Jay C. Mueller
Park Munsey
Jack Myers
Robert Myers
Gene Needles
Ken Oldham
John Pangborn
Earl Payne
Harry Pederson
George Pollard
Andy Runyan
Henry B. Rust
Richard A. Sjoden
A. W. Smith
John S. Swiss
Carl Thiele
Reinhold Thiele
Denny Thompson
Michael R. Uttecht
Ben C. White
Dale R. Wood
Mike McBride

Charles McLaughlin
George Thiele

UNIT 10: There was no criteria set for Unit 10 as all three guides who had applied agreed to share this area as joint usage. They were as follows:

James Branham
Don Johnson
Jack Myers

UNIT 11: At the March 25-27, 1977 Guide Board meeting the Board granted permanent exclusive guiding areas in Unit 11 to those guides who had at least three years within the last five years of Statements of Financial Remuneration on file with this office as of November 1, 1976. Temporary areas were granted to those applicants who had at least two years of Statements of Financial Remuneration on file as of that date or if there were other guides who would verify that that guide had hunted at least 2 years within the last five years in that area. .

UNIT 11 APPLICANTS:

Roy L. Biffle (has 3 areas)	Charles Moe
Charles A. Boyd	Gene Needles
Glenn O. Brewster	Toney Oney
Kenneth H. Bunch	Harvey M. Packer
Gene Cecil	Frank Pease
John Claus	Harry Pederson
Walter E. Cox	Maynard G. Perkins
Don DeHart	Loren St. Amand
Robert V. Dettinger	Donald G. Sisson
Charles Edmonds	Thomas Sperstad
Ralph Ertz	Roland Stickney
Dennis Harms	Doug Vaden
Jim Harrower	Thomas Vaden
Ron Hayes	Gordon Windell
Ed Hendricks	Leonard F. Yuknis
Lee Holen	June Moore
Don Johnson	Marlin Grasser (withdrew)
Keith Johnson	Mel Gillis
Garley "Rocky" Keen	
Harley King	
Howard J. Knutson	
Clarence LaBourty	
Brad L. Langvardt	
Gary LaRose	
Al Lee	
Charles McLaughlin	
Cleo B. McMahan	

Those guides qualifying and receiving areas in Unit 11 are:

Charles A. Boyd	Dennis Harms
Glenn O. Brewster	Jim Harrower
Kenneth H. Bunch	Ron Hayes
John Claus	Lee Holen
Walter E. Cox	Don Johnson
Don DeHart	Keith Johnson
Robert V. Dettinger	Harley King
Charles Edmonds	Howard J. Knutson
Ralph Ertz	Clarence LaBounty

Gary LaRose
Al Lee
Cleo B. McMahan
Gene Needles
Tony Oney
Frank Pease
Harry Pederson
Maynard G. Perkins
Don Sisson
Thomas Sperstad
Roland Stickney
Doug Vaden
Thomas Vaden
Gordon Windell
Mel Gillis

UNIT 12: At the March Board meeting the Board granted permanent exclusive guiding areas in Unit 12 to those guides who had at least three years within the last five years of Statements of Financial Remuneration on file with this office as of November 1, 1976. Temporary areas were granted to those applicants who had at least two years of Statements of Financial Remuneration on file as of that date or those who could have at least three registered guides verify that they had guided at least 2 years within the last 5 years in that area.

UNIT 12 APPLICANTS:

Roy L. Biffle	Terry Overly
C. M. (Bud) Conkle	Urban E. Raho
Don DeHart	Andy Runyan
Bill Ellis	Kenny Sailors
Marlin Crasser	Jonathan Summar
Dick Gunlogson	Donald W. Taylor
Lee Hancock	Ivan Thorall
Ed Hendricks	Doug Vaden
John E. Hepler	Thomas Vaden
Elizabeth Hickethier	Lavell Wilson
Bill Holliday	Gordon Windell
Cleo B. McMahan	Charles Wirschem
Ray McNutt	Fred W. Young
Charles Moe	June Moore
Gene Needles	John E. Frickson
Ken Oldham	

Those that qualified and received areas in Unit 12 with joint usage for areas of boundary overlap:

Bud Conkle	Charles Moe
Don DeHart	Ken Oldham
Bill Ellis	Terry Overly
Dick Gunlogson	Urban E. Raho
Lee Hancock	Andy Runyan
Elizabeth Hickethier	Kenny Sailors
Cleo B. McMahan	Jonathan Summar
Ray McNutt	Donald Taylor

Ivan Thorall
Doug Vaden
Thomas H. Vaden

Lavell Wilson
Fred Young
June Moore
John Erickson

UNIT 13: At the July 14-18, 1977 Guide Board meeting the Board granted permanent areas to those guides who had at least three years within the past five years of Statements of Financial Remuneration on file with this office before November 1, 1976. Temporary areas were granted to those guides with at least two years of Statements on file as of that deadline. Those that could not meet the criteria were given the opportunity to file petitions with the Board and were heard before the Board after assignments were made to those guides who met the minimum criteria. Many of the petitions were accepted on the basis that the guide provide within 6 months proof of utilization by any of the following methods. These areas were granted on a temporary basis until such time as they could show at least three years of past usage. If they could not come up with the requisite proof of utilization within the next 6 months the temporary usage permits would be revoked.

Methods of Proving Utilization. Submit the following:

1. Copies of Statements of Financial Remuneration
2. Copies of personal contracts
3. Letters from other guides attesting to the fact that the guide in question was guiding in the area that year or those years.
4. Letters from his clients attesting to the fact that they were on guided hunts in the area at that time.
5. Correspondence between guide and client concerning their guided hunt in the area at that time.

UNIT 13 APPLICANTS:

Ray Atkins
Roy L. Biffle
Nick Botner (not licensed)
Eldon Brandt
Glenn O. Brewster
Lee Browning
Kenneth H. Bunch
Gene Cecil
Mario Cerami
R. O. Coleman
C.M. "Bud" Conkle
Don Deering
Robert V. Dettinger
Don DeHart
Charles Edmonds
George Eichholz
Herbert F. Fassler
Allan W. Faust
Ward Gay
Ray Genet
Chris F. Goll
Marlin Grasser

Vern R. Gratas
Dick Gunlogson
Richard W. Halford
Wayne B. Hanson
Ed Hendricks
John V. Ireland
Ross R. Jerome (not a registered guide)
Keith Johnson
Martin Kasser
Garley "Rocky" Keen
Geroge M. Kitchen
Wm. J. Konesky, Sr.
Frenchy Lamoureux
Joseph D. Lanni
Al Lee
John Lester
John Luster
Thomas McElroy
Cleo McMahan
Pat McMahan
Charles Martin
James R. Metheny

June E. Moore
M. W. "Slim" Moore (withdrew)
Austin Meekins
Gene Needles
Carol Northcutt
Mary Oldham
Earl Payne
Maynard G. Perkins
George G. Pollard
Vernon Porter
Eldon Reese
Lloyd Ronning
Andy Runyan
Claude St. Amand

Loren St. Amand
Lloyd E. Samsal
Donald G. Sisson
Richard A. Sjoden
Kent B. Smith, Jr.
Keith Specking
Donald Taylor
Charles B. Wells
Ben C. White
Gordon Windell
Harry F. Witman
Dale R. Wood
Lewis B. Wyman
Roy O. Young
Mort Mason

UNIT 13 - Guides who qualified and received areas:

Ray Atkins
Glenn O. Brewster
Kenneth H. Bunch
R. O. Coleman
Bud Conkle
Don Deering
Don DeHart
Charles Edmonds
Herbert F. Fassler
~~Allan W. Faust~~
Ward Gay
Ray Genet
Marlin Grasser
Vern R. Gratias
Richard W. Halford
Wayne B. Hanson
John V. Ireland
Keith Johnson
Garley "Rocky" Keen
~~George M. Kitchen~~
Frenchy Lamoureux
Joseph D. Lanni

Jack Lee
Al Lee
John Luster
Cleo B. McMahan
Pat C. McMahan
James R. Metheny
June E. Moore
Austin Meekin
Gene Needles
Carol Northcutt
Mary Oldham
Earl Payne
Maynard G. Perkins
Eldon Reese
Lloyd Ronning
Lloyd E. Samsal
Kent B. Smith, Jr.
Keith Specking
Gordon Windell
~~Dale R. Wood~~
Mario Cerami

UNIT 14 - At the July 14-18, 1977 Guide Board meeting the Board granted areas in this unit following the same criteria as that used for Unit 13 (see Unit 13 for details).

UNIT 14 APPLICANTS:

Roy L. Biffle (has 3 areas)
Karl Braendel
Walter E. Cox
Marlin Grasser
Frenchy Lamoureux (?)
Gary LaRose
David L. Lazer

John Lester
Wm. G. Morrow
Claude St. Amand
A.W. Smith
Edward Stevenson
Ray Genet

UNIT 14 - Guides who qualified and received areas:

Walter E. Cox
Marlin Grasser
David L. Lazer

Ray Genet
A.W. Smith (withhold temporarily until we get more info.)
Edward Stevenson
John Luster

UNIT 15: At the July 14-18, 1977 Guide Board meeting the Board granted areas in this unit following the same criteria as that used for Units 6, 7, 13 & 14 (see Unit 13 for details).

UNIT 15 APPLICANTS:

Roy L. Biffle (has 3 areas)	Sherman "Red" Smith
Lee Browning	Earl Stevens
Don Fell	Geo. Jess Willard
Paul E. Jones	Dale R. Wood
Richard Moll (not licensed)	Sumner S. Woodman
Dennis Owens	Leonard F. Yuknis
George Pollard	Edward Zimmerman
	Mike McBride

UNIT 15 - Guides who qualified and received areas:

Lee Browning	Leonard F. Yuknis
Paul E. Jones (<i>see letters to Jones</i>)	Mike McBride
Dennis Owens	
George Pollard	
Geo. Jess Willard	

UNIT 16: Exclusive guiding areas were granted in this unit at the July 22-25, 1975 Guide Board meeting using the criteria of 4 consecutive years for a permanent area and the Board also accepted "justified cause(s) approved by the Board".

UNIT 16 APPLICANTS:

Richard Betz	Richard Lounsbury
Nick Botner	Pat McMahan
Karl Braendel	Graham Mower
Bud Branham	Harvey Packer
Dennis Branham	Geo. Palmer
James Branham	Gary Pogany
Mike Branham	John Swiss
John Claus	Harry Witman
Joe Delia	Dale Wood
Clark Engle	Leonard Yuknis
George Faerber	William Zaegel
Herbert Fassler	
Ray Ferguson	
Ward Gay	
Ray Genet	
Chris Coll	
Frank Harvey	
Keith Johnson	
Martin Kasser	
George Kitchen	

UNIT 16 - Guides who qualified and received areas:

Richard Betz	Frank Harvey
Karl Braendel	Martin Kasser
Bud Branham	George Kitchen
Dennis Branham	Richard Lounsbury
James Branham	Pat McMahan
Mike Branham	Graham Mower
John Claus	Harvey Packer
Joe Delia	Geo. Palmer
Clark Engle	Gary Pogany
George Faerber	John Swiss
Herbert Fassler	Harry Witman
Ray Ferguson	Dale Wood
Ward Gay	Leonard Yuknis
Ray Genet	William Zaegel
Chris Goll	

UNIT 20: Exclusive guiding areas were granted in this unit at the July 22-25, 1975 Guide Board meeting using the criteria of 4 consecutive years for a permanent area and the Board also accepted "justified cause(s) approved by the Board".

UNIT 20 APPLICANTS:

Lloyd Anderson	Keith Johnson
Ray Atkins	Willard Lambert
Dallas Benedict	Berl Mercer
Charles Boyd	Seward Olson
Terry Brady	John Pangborn
Bill Buzby	Lawrence Roberts
Dennis Buzby	Frank Scott
Lynn Castle	Leroy Shebal
Robert Elliott	John Thomas
Ken Fanning	Norman Thomas
Edwin Gelvin	William Wargaman
Charles Gray	A. F. Wright
William Hardy	

UNIT 20 - Guides who qualified and received areas:

Lloyd Anderson	Charles Gray
Ray Atkins	Berl Mercer
Dallas Benedick	Seward Olson
Charles Boyd	John Pangborn
Terry Brady	Lawrence Roberts
Bill Buzby	Frank Scott
Dennis Buzby	Leroy Shebal
Lynn Castle	John Thomas
Robert Elliott	William Waugaman
Ken Fanning	A. F. Wright

UNIT 23: Exclusive guiding areas were granted in this unit at the December 9-13, 1976 Guide Board meeting. No Criteria was set before handling this unit. Each application was reviewed on its own merits.

UNIT 23 APPLICANTS:

- Anthony Bernhardt (not licensed since 1974)
- Phillip E. Driver
- John Elmore
- Arthur R. Fields
- Berndt Gaedeke
- Howard D. Headley
- Harmon R. "Bud" Helmericks
- Lee Holen
- C. Vernon Humble
- James Jacobson
- Charles Keim
- Sherman "Red" Smith
- Nelson Walker
- Tom Zimmerman

* UNIT 23 - Guides who received areas:

- Anthony Bernhardt
- Phillip E. Driver
- John Elmore
- Arthur R. Fields
- Berndt Gaedeke
- Howard Headley
- Bud Helmericks
- Vernon Humble
- James Jacobson
- Charles Keim
- Sherman "Red" Smith
- Nelson Walker

UNIT 24: Exclusive guiding areas were granted in this unit at the December 9-13, 1976 Guide Board meeting on a permanent basis to those guides who had at least 3 years of Statements of Financial Remuneration within the past 5 years on file with this office as of November 1, 1976. Temporary areas were granted to those guides who had 2 years within the past 5 years of Statements on file.

UNIT 24 APPLICANTS:

- | | |
|--------------------|------------------|
| Charles P. Allen | John Hankee |
| Gene Cecil | James Helmericks |
| Paul A. Desrochers | David Jamieson |
| Lester J. Fickes | Charles J. Keim |
| William P. Fickus | Fred Meader |
| Berndt Gaedeke | Mike Molchan |
| Charles L. Gray | Rick Reakoff |
| | Dan Rodey |

Leroy Shebal
Robert J. Tarnowski
Tom Walker

14
Mark A. Wartes
Dan L. Wetzel

* UNIT 24 - Guides who qualified and received areas:

Les Fickes
William Fickus
Berndt Gaedeke
Charles Gray
John Hankee
James Helmericks
Charles Keim

Rick Reakoff
Dan Rodey
Leroy Shebal
Tom Walker
Dan Wetzel

UNIT 25: The Board assigned exclusive guiding areas in this unit at the December 9-13, 1976 Guide Board meeting following the same criteria as that for Unit 24.

UNIT 25 APPLICANTS:

Ray Atkins
Paul A. Desrochers
Bill Ellis
Charles L. Gray
John E. Hepler
Howard J. Knutson
Keith Koontz
Mike Molchan

Martin S. Ondra
Rick Reakoff
Larry Rivers
Robert J. Tarnowski
Rudy Voigt
Joseph W. Want
Lavell Wilson
Charles Wirschem
Eugene M. Witt

* UNIT 25 - Guides who qualified and received areas:

Charles Gray
Keith Koontz
Rick Reakoff

Joe Want
Charles Wirschem
Eugene M. Witt

UNIT 26: The Board assigned exclusive guiding areas in this unit at the December 9-13, 1976 Guide Board meeting following the same criteria as that for Unit 24.

UNIT 26 APPLICANTS:

Charles P. Allen
Les Fickes
Berndt Gaedeke
Duncan Cilchrist
Marlin Grasser
Ron Hayes
Howard D. Headley
Bud Helmericks
James Helmericks

Joe Hendricks
Charles J. Keim
M. Edward King
Howard J. Knutson
Pete Owen
Rick Reakoff
Dan Rodey
Lloyd Samsal
Robert Tarnowski

Joseph Want
Mark A. Wartes

Jess M. Wassom
Tom Zimmerman

* UNIT 26 - Guides who met the criteria and received areas:

Les Fickes
Berndt Gaedeke
Marlin Grasser
Bud Helmericks
James Helmericks

Howard Knutson
Rick Reakoff
Dan Rodey
Jess Wassom
Joe Want

UNIT 17: Exclusive guiding areas were granted in this unit at the December 3-9, 1977 Guide Board meeting on a permanent basis to those guides who had at least 3 years of Statements of Financial Remuneration within the past 5 years on file with this office as of November 1, 1976. Temporary areas were granted to those guides who had 2 years within the past 5 years of Statements on file. Those that could not meet the criteria were given the opportunity to file petitions with the Board and were heard before the Board after assignments were made to those guides who met the minimum criteria. Many of the petitions were accepted on the basis that the guide provide within 6 months proof of past utilization. These areas were granted on a temporary basis until such time as they could show at least three years of past usage. If they could not come up with the requisite proof of utilization within the next 6 months the temporary usage permits would be revoked. In some instances the permit will not be issued until they submit the proof.

Those applying for areas in Unit 17 are as follows:

Lee Browning
Eberhard Brunner
Paul Carlson
John E. Claus
Grenold Collins
Robert E. Curtis
Clifford H. Driskell
Ralph Ertz
George Faerber
Raymond J. Foldager
Ward Gay
Jeff Graham
Kirk Gay
John E. Hepler
Bill Holiday
C. Vernon Humble

Mark Miller
Richard Moll
Jack Myers
Ken Owsicheck
Gary Pogany
Henry B. Rust
Bill Sims
Richard A. Sjoden
Roland A. Stickney
Carl Thiele
Jerre Willis
Leonard F. Yuknis

Those receiving areas in Unit 17 are as follows:

Eberhard Brunner
Paul Carlson
John Claus
Bob Curtis
Ward Gay
Jack Foldager
Vernon Humble
Gary Pogany

Henry Rust
Bill Sims
Dick Sjoden
Roland Stickney
Leonard Yuknis

UNIT 18: The Board reviewed applications for this unit at their December 3-9, 1977 meeting, however, no one met the minimum criteria which was the same as that for Unit 17. No areas were granted.

Those applying for areas in Unit 18 are as follows:

Paul A. Desrochers

David "Sandy" Jamieson

UNIT 19: The Board assigned exclusive guiding areas in this unit at the December 3-9, 1977 Guide Board meeting following the same criteria as that for Units 17 & 18.

Those applying for areas in Unit 19 are as follows:

Theodore J. Almasy
Edward "Red" Beeman
Bud Branham
Chris R. Branham
James Branham
Eberhard Brunner
George Eichholz
Clark Engle
Phillip Esai
George Faerber
Don Fell
Stan Frost
Ward Gay
Kirk Gay
Richard Halford
Jim Harrower
John Latham
Pat C. McMahan

Robert L. Magnuson
Jerry Meredith
Mark Miller
Tony Oney
Pete Owen
Ken Owsicheck
George Palmer
Wm. W. Peterson
Gary Pogany
John F. Porter
Harold Schetzle
Pete Shepard
Bill Sims
Richard Sjoden
Jack R. Smith
Earl Stevens
John S. Swiss
Denny Thompson
Carl Thiele
Doug Vaden
Buckey Winkley

Those receiving areas in Unit 19 were:

Red Beeman
Bud Branham
Chris Branham
Eberhard Brunner
George Eichholz
Clark Engle
George Faerber
Stan Frost
Ward Gay
Rick Halford
Phillip Esai
Jim Harrower
John Latham

Pat McMahan
Bob Magnuson
Tony Oney
Pete Owen
George Palmer
Gary Pogany
Bill Sims
Dick Sjoden
Jack Smith
Earl Stevens
Denny Thompson
John Swiss

UNIT 21: The Board assigned exclusive guiding areas in this unit at the December 3-9, 1977 Guide Board meeting following the same criteria as that for Units 17, 18, & 19.

Those applying for areas in Unit 21 are as follows:

William Carlo
David "Sandy" Jamieson
Warren Magnuson
Ken Oldham

Reinhold Thiele
John J. Thomas
Rudy Voigt
Frank Walter

Those receiving areas in Unit 21 were:

Bob Magnuson
Ken Oldham

Reinhold Thiele

UNIT 22: The Board assigned exclusive guiding areas in this unit at the December 3-9, 1977 Guide Board meeting following the same criteria as that for Units 17, 18, 19, & 21.

Those applying for areas in Unit 22 are as follows:

John Elmore
Gary Fait

Reinhold Thiele
Ken Oldham (contiguous w/Unit 21)

Those receiving areas in Unit 22 were:

John Elmore
Ken Oldham

Reinhold Thiele



Official Business

Alaska State Legislature

House of Representatives

Committee on Resources
Alvin Osterback, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811

31 March 1978

Commissioner Phillip Hubbard
Department of Commerce and
Economic Development
Pouch D
Juneau, Alaska 99811

RE: HCR 95

Dear Commissioner:

I was surprised to learn that your legislative liaison Pam Knode informed my staff that the minutes from the recent meeting of the Guide Licensing and Control Board might not be available for the Committee to review on Tuesday, April 4 when we will be taking up HCR 95.

Both the Speaker of the House and the Majority Leader have requested to review those minutes where they apply to the Board's action on the exclusive guiding areas.

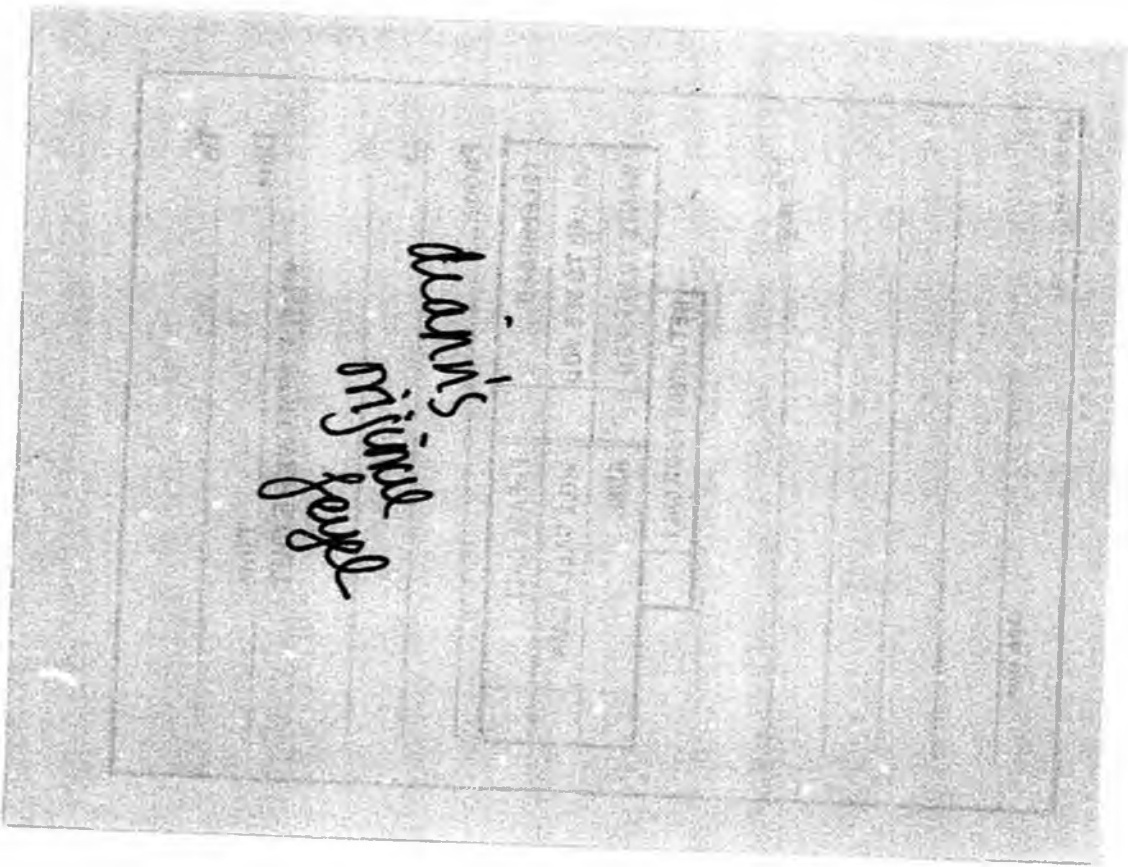
I hereby request that those portions of the minutes that reflect the Board's intentions on the exclusive guiding areas be submitted to the Committee, Room 118, Capitol Building by 1:30 p.m., Tuesday, April 4.

Sincerely,

Alvin Osterback, Chairman
House Resources Committee
House Bush Caucus

AO/sh

cc: The Honorable Hugh Malone
Speaker of the House
The Honorable Mike Miller
Majority Leader



DAN'S
ORIGINAL
PAGE

Mark Miller

House Resource Committee
Chairman Al Osterback
Juneau, Alaska

Feb 29, 1978

Dear Mr. Osterback,

I have been guiding in the state for over 8 years. For the last two years I have guided on my own in unit 19 and have been very successful in my young business some of which is over 1/3 of my total income. I am now out of business from the guide boards area decision. What they (guide board) has done cannot be constitutional and by all means not fair. Please support the house resolution No 95. My livelihood as well as many new guides depend on it.

Sincerely
Mark Miller
Mark Miller

March 10, 1978

Senator George Hohman
Alaska State Senate
Juneau, Alaska

Dear Senator Hohman;

As discussed at your office in Juneau recently, the entire village of Mekoryuk is backing something you can push through the senate for "exclusive" guiding right on Nunivak (Game Unit 18 A.)

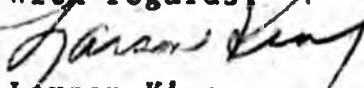
With this self-determination act (B.I.A.) in effect, I think this would be a great step in course of this nature.

There are several of us who will be taking tests for our registered license shortly. It does not hamper or question whether we will be legal or not in the future.

There simply is no reason for someone else to be coming in from the "outside" and collect capital and leaving very little to our humble community after utilizing what is on the Island which is by virtue, ours.

Since you are aware of our problem I think that you may be able to help.

With regards,



Larson King
Mayor, City of Mekoryuk

cc: Governor Jay Hammond, Representative Nels Anderson, Rep.
Phillip Guy, Alven asterback, Guide Board Mark Jenson.

Signed: Nunivak Guides: *Fred Don, Alan A. Asst. Guide*

[Handwritten signatures and names of guides, including names like 'Alan A. Asst. Guide', 'Phillip Guy', 'Alven asterback', 'Mark Jenson', etc.]

MAR 10 1978.

To H Mal

Motor Inn Safety Lanes
2550 Cushman
Fairbanks, Alaska 99701
March 6, 1978

Rep. Hugh Malone

I am writing in regards to a game guide regulation which I object to. THE EXCLUSIVE TERRITORY LAW.

I think it is unconstitutional. Some guides have as much as three areas with no limit to size. While others have none.

I am in favor of deleting EXCLUSIVE GUIDE TERRITORY from the guide regulations.

A Guide For 30 Years



Rudy Voigt

cc/ I&S

Robert E. Curtis
P.O. Box 1631
Anchorage, Alaska 99510

House Resource Committee
Chairman Al Osterback
Juneau, Alaska

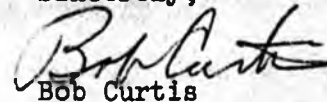
Dear Al:

It has been a long time since we have talked and even longer since we spent some time together on a bear hunt at Volcano Bay. That was in 1963 I believe.

I have been making my living totally from big game hunting and fishing since 1954. I am opposed to the recent action of the Guide Licensing and Control Board in assigning exclusive guide areas. I believe this action is unfair, unconstitutional and was handled very poorly. I urge you to support House Concurrent Resolution No. 95.

Thank you.

Sincerely,



Bob Curtis

Registered Guide

cc: Kay Poland

3/24/78

To Mr. Al. Osterbeck
House Resources Comm.
Juneau Alaska.

I am a registered guide and have been in the guiding profession for 15 years. I support the House Res[#] 95 to annul the exclusive guide areas as currently assigned by the Guide board. I feel that the Guide board's actions were unethical and unfair and that the Guide laws were not carried out for the best interests for all the guides. It is my wish that this matter could be resolved by the legislature because the Guide board has shown me no more than negligence, incompetence and insensitivity.

Sincerely

William P. Morrow
William P. Morrow
700 W. 71st. Anch.

TELEGRAM

ALASKA COMMUNICATIONS, INC.
PHONE: 596-6440
JUNEAU, ALASKA 99801

1978 MAR 25 PM 5 10

28002 DLCO L COLD BAY AK 81 03-03-78 200P AST

PMS REPRESENTATIVE ALVIN OSTERBACK
HOUSE OF REPRESENTATIVES
JUNEAU AK

EXCLUSIVE GUIDE AREAS SHOULD REMAIN IN EFFECT. NOT FAIR TO GUIDED HUNTERS TO HAVE SEVERAL PARTIES HUNTING SAME AREA AT SAME TIME, ALSO NOT GOOD GAME MANAGEMENT TO OVERHUNT ANY AREA. BEAR IN MIND THAT FISHING GROUNDS ARE DIVIDED INTO AREAS TO PREVENT OVERHARVEST OF CHOICE GROUNDS. POSSIBLY LIMIT EXCLUSIVE GUIDE AREAS TO NOT OVER TWO OR THREE HUNDRED SQUARE MILES. SOME GUIDES HAVE MUCH MORE THAN I THINK THEY ARE ABLE TO HUNT.

MIKE UTTECHT
BOX 55
COLD BAY



STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D - JUNEAU 00011

February 23, 1978

Mr. Alvin Osterback, Chairman
House Resources Committee
Alaska State Legislature
Juneau, Alaska

Dear Mr. Osterback:

Copy all files

I would like to thank you and your Committee for the long hours of testimony you listened to on H.C. R. 95 concerning guide areas. Little does the public realize the long hours many legislators put in. I would also like to add that our Guide Licensing and Control Board has been in somewhat the same position, putting in long hours and working hard to accomplish a good program.

As the meeting concluded I understood you or one of the members to say that unless some inequities were remedied you planned to take the bill up again, after our next meeting. I am sure you are aware that any regulation change first must be identified and then advertised for public hearing. After the public hearing it is formalized by the Board and then goes through the lengthy process of the Attorney General's Office and the Review Board. Some of our regulations have taken over a year, after public hearings, to be formalized.

It might be informative for your Committee to know some of the processes that our Board is now using. Speaking for myself I think the Committee should be cognizant of the fact that our Board has handled over 450 guide area cases and with only four guides objecting at the hearing yesterday, to area assignments, should certainly add some weight to the fact that our regulations have been workable.

If I am going to take a message to my next Board meeting it would be helpful if your Resources Committee could be specific in your recommendations. I am listing below a brief outline of the process our Board is now using:

1. The Board has legal guidance from the Attorney General's Office on all rules and regulations;
2. All regulations are advertised for public hearings;
3. Any guide can petition the Board if he feels he has a special case, and the Board will grant him a hearing;
4. All guides who are involved in the case, or in a boundary dispute, are notified by registered mail before the hearing;

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D - JUNEAU 00011

Mr. Alvin Osterback
Page 2

5. Board meetings are held in Anchorage, Fairbanks and Juneau, with public participation;
6. No guide areas have been transferred;
(This will not occur until regulations are finalized)
7. The Board has worked closely with the Dept. of Game and Dept. of Public Safety in formulating policy;
8. A personal file for every guide has been established in our Anchorage office where his guide-client contracts are kept, and show his activity in the field;
9. No guide can hold an area if he does not show contracts over the current two year period;
10. A professional investigator is assigned immediately to check any violation;
11. At nearly every Board meeting we sit as a jury and hear violation cases that are presented by the Attorney General's Office; disciplinary action is then taken.

As added information I would like to note that the size of the guide area does not relate to the number of animals in that area. Most of the time a small area, with good feed habitat, produces more game.

Our Board would appreciate it very much if you would send us the names of the 21 guides that Mr. Sparks from Bethel spoke of as operating in his area.

Our Board feels that from reports across the nation the State of Alaska has a much better image in the guide field than ever before, and we would still like to improve this, and know that we can, with your help. If I can be of any more assistance please let me know. Hoping to hear from you, I am,

Sincerely yours,



Marcus F. Jensen, Chairman
Guide Licensing and Control Board

cc: Minority Leader Rick Union
Board members

TELEGRAM

ALASKA COMMUNICATIONS, INC.

PHONE: 586-6440

JUNEAU, ALASKA 99801

28002 DLCOL COLD BAY AK 81 03-03-78 200P AST

PMS REPRESENTATIVE ALVIN OSTERBACK

HOUSE OF REPRESENTATIVES

JUNEAU AK"

EXCLUSIVE GUIDE AREAS SHOULD REMAIN IN EFFECT. NOT FAIR TO GUIDED HUNTERS TO HAVE SEVERAL PARTIES HUNTING SAME AREA AT SAME TIME, ALSO NOT GOOD GAME MANAGEMENT TO OVERHUNT ANY AREA. BEAR IN MIND THAT FISHING GROUNDS ARE DIVIDED INTO AREAS TO PREVENT OVERHARVEST OF CHOICE GROUNDS. POSSIBLY LIMIT EXCLUSIVE GUIDE AREAS TO NOT OVER TWO OR THREE HUNDRED SQUARE MILES. SOME GUIDES HAVE MUCH MORE THAN I THINK THEY ARE ABLE TO HUNT.

MIKE UTTECHT

BOX 55

COLD BAY

BILL ANALYSIS

ASSIGNMENT DATE 1/23/78

UNASSIGNED

DEPARTMENT Public Safety SPONSOR (PRINCIPAL) *Ferguson* BILL NO. SR 70

LEGISLATIVE POSITION Opposed CO-SPONSORS OR COMMITTEE SPONSORS DATE LAST AMENDED

LEGISLATIVE DIRECTOR Col. Fred Woldstad DATE 1/27/78 COMMISSIONER DATE
by Chief Inv. J. Nutgrass

GVERNOR'S OFFICE USE

POSITION NOTED POSITION APPROVED POSITION DISAPPROVED
DATE:

SUMMARY

1) Related bills (similar or conflicting)

Unknown

2) a. Organizations sponsoring and supporting bill

Unknown

(2) b. Organizations opposing bill

Unknown

3) Program effects of bill

Department of Fish and Game would have to reinstate their Bear Camp Registration Program in Unit 9. They discontinued this program with the advent of exclusive guiding area assignments in that unit.

4) Fiscal impact: none X Fiscal analysis attached _____

5) Amendments proposed:

None

6) Comments:

(See attached)

1. First of all, I think that to "annul" the regulation 12AAC 38.050 is a bit premature since the Guide Licensing and Control Board just now concluded the exclusive/joint usage guiding area assignments statewide and are in the process of developing new regulations to replace 12AAC 38.050. A copy of the proposed regulations is attached.
2. This Resolution claims that "no apparent authority exists for creating exclusive areas for particular individuals within those units or subunits;" According to the proposed 12AAC 38.051 GUIDING AREA PERMITS (a) the purpose is "...in order to limit the number of guides allowed to guide for big game animals in that area."

This, in effect, establishes a "quota" of guides within designated geographical game units or subunits of the state in accordance with Section 08.54.040(8) and Section 08.54.050 of the Alaska Statutes.

3. The Resolution also claims that "creation of such exclusive areas tends to reduce healthy competition and works to insulate and perpetuate abuses by unscrupulous and unsportsmanlike guides;"
 - a. First, I'll address myself to "...reduce healthy competition..." There is much competition for these areas since to qualify for one in the first place you must be currently licensed and meet the requirements of 12AAC 38.053.

Also, in order to retain an area once granted, a guide must comply with 12AAC 38.057 MINIMUM USAGE OF GUIDING AREA.

- b. "...works to insulate and perpetuate abuses by unscrupulous and unsportsmanlike guides;" Although I do not have a revised copy of the proposed regulations (being prepared by Department of Commerce now) the Board, in all likelihood, will adopt 12AAC 38.058 GROUNDS FOR REVOCATION OF GUIDING AREA PERMIT. (See draft copy attached.)

This proposed regulation is self-explanatory and only serves to point out that "abuses" will not be tolerated and are grounds for revocation of an exclusive/joint usage guiding area permit.

This also tends to promote "healthy competition".

4. I don't know if it is necessary to point out that exclusive guiding area assignments are beneficial in many ways, however, I will bring out a few points the Senate should be aware of:
 - a. This regulation is beneficial to the general public. [A specific area assignment promotes sound game conservation practices because, when a guide is assigned an area, this is the only place he can go and, if he wipes out his game, he is out of business.] In the past there was nothing to prevent a guide from hunting out an area and then moving on to someplace else.)

With the number of guides currently licensed, the number of additional guides being licensed each year, and growing public concern over game conservation some action must be taken to save the guiding profession while taking into account the need for conservation.

The only alternative to exclusive guiding area assignments as a means of establishing a "quota" of licensed operating guides in a given geographical game unit or subunit is to limit the number of guides who may hold licenses at any one time. This method does not even begin to compare with exclusive guiding areas as a means of promoting sound game conservation.

- b. This regulation is beneficial to guides and their clients. ~~Some~~ assignments are also designed to reduce conflicts and friction between guides over hunting areas. A guide cannot use another's area without his written permission according to proposed regulation 12AAC 38.052.

When a guide takes a client into the field it is very disturbing to both the guide and the client to discover that another guide with clients has also chosen that location in which to conduct their hunt. If they choose to stay in the same area, the other hunting party may interfere with the quality of their hunt and, if they have to go elsewhere, it may reduce the actual hunting time available to that client.

By establishing exclusive guiding areas this problem is reduced, if not eliminated, and a client has more of a chance for a pleasant and successful hunt.

- c. Exclusive guiding area assignments are also beneficial to State agencies in the performance of their duties. Knowing where a registered or master guide is operating makes it easier for Fish and Wildlife Protection Officers to enforce the law. Also, being assigned an area would tend to make a guide more inclined to report violations in his area.

The Department of Fish and Game is apparently using exclusive guiding area information in lieu of Bear Camp Registrations in Unit 9. I believe this information is used for bear population studies to determine necessary opening and closure dates of hunting seasons.

April 4, 1977

The Honorable Joseph H. McKinnon
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Amended Guide Board
Regulations

Dear Representative McKinnon:

This memorandum is in response to your request dated March 25, 1977. You have requested advice on whether the February 25, 1977 amendment to the Guide Board regulations [12 AAC 38.020, 12 AAC 38.040, and 12 AAC 38.050] were actions taken in excess of the statutory authority of the Guide Licensing and Control Board. Specifically, you asked four questions:

"(1) Did the Board exceed the scope of its authority in granting the exclusive guiding areas outside of Units 8, 16, and 20?;

(2) Are any of the exclusive guiding areas that the Board granted valid outside of Units 8, 16, and 20?;

(3) Do any or all of the amended regulation exceed the scope of their statutory authority?;

(4) Did the Board, itself, exceed the scope of its authority by its substantive amendments of the regulations?"

In light of the present provisions of AS 08.54.-040, particularly the recent addition implemented by sec. 1, ch. 133 SLA 1976, the general answer to your inquiry is that the amended regulations of February 25, 1977 are proper with

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 22, 1978

SUBJECT: Changes to Legislation in Final Form
TO: Committee Assistants and Secretaries
FROM: Sally McIntire, Legal Editor

The Legislative Employees' Handbook, page 9, paragraph 8, notes that all bills and resolutions prepared by the Legislative Affairs Agency are recorded on mag cards and that to facilitate revisions it is important to use an LAA copy of these measures, when possible, to indicate changes.

In conjunction with this, it is also very important that any changes, no matter how minor, on measures in final form (in blue or orange jackets) be made by the agency to ensure that the mag cards are kept completely accurate. The mag cards are used by the engrossing clerks in the offices of the Chief Clerk and the Senate Secretary and by our editing and enrolling staffs. Any changes (whiteouts, additions, or deletions) made outside those offices will not appear on the mag cards. The result -- confusion and delay for the piece of legislation involved.

Bills and resolutions that require changes before being submitted to the Chief Clerk or Senate Secretary should be brought to the Legal Services office, Room 502, Capitol, and every effort will be made to expedite these changes.

It would also be very helpful if the original and all copies (three carbons which are attached to the original) are returned at the time changes are requested in case it is possible to re-use some of the pages.

Your assistance and cooperation will be appreciated.

cc: Executive Director
Director, Legal Services

Bellevue - Public Safety
Netgrass - Public Safety

April 4, 1977

The Honorable Joseph H. McKinnon
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Amended Guide Board
Regulations

Dear Representative McKinnon:

This memorandum is in response to your request dated March 25, 1977. You have requested advice on whether the February 25, 1977 amendment to the Guide Board regulations [12 AAC 33.020, 12 AAC 38.040, and 12 AAC 38.050] were actions taken in excess of the statutory authority of the Guide Licensing and Control Board. Specifically, you asked four questions:

"(1) Did the Board exceed the scope of its authority in granting the exclusive guiding areas outside of Units 8, 16, and 20?;

(2) Are any of the exclusive guiding areas that the Board granted valid outside of Units 8, 16, and 20?;

(3) Do any or all of the amended regulation exceed the scope of their statutory authority?;

(4) Did the Board, itself, exceed the scope of its authority by its substantive amendments of the regulations?"

In light of the present provisions of AS 08.54.-040, particularly the recent addition implemented by sec. 1, ch. 133 SLA 1976, the general answer to your inquiry is that the amended regulations of February 25, 1977 are proper with

regard to the questions you have raised. Section 1, ch. 133 SLA 1976, effective January 1, 1977, added paragraph (8) to subsection (a) of AS 08.54.040, so that the relevant provisions of that section now read:

[T]he board shall . . . (8) establish of licensed operating guides who may operate designated geographical game units or subunits in the state and provide for an equitable and reasonable procedure for limiting the number of guides to that quota; preference shall be given to qualified, available and willing licensed guides who reside within the designated game unit or subunit.

AS 08.54.050 provides that:

The board shall adopt procedural and substantive regulations, under the Administrative Procedure Act (AS 44.62), required by this chapter as reasonably necessary for its administration.

Therefore, in order to implement AS 08.54.040(a)(8) [& 1, ch. 133 SLA 1976], the board was mandated by statute to:

(1) designate geographical game units or subunits in the state;

(2) establish a quota of licensed operating guides who may operate within those designated geographical game units;

(3) provide for an equitable and reasonable procedure for limiting the number of guides to that quota; and

(4) establish a means of preferring guides who reside within the designated game unit or subunit.

Section 1 of the amended regulations establishes a method by which the board may ascertain who resides within certain game units so that the board could implement the preference mandated by statute. Section 2 of the amended regulations designates geographical game units or subunits. Sections 3 and 4 of the amended regulations is intended to establish a reasonable and equitable procedure for limiting the number of guides in a particular game unit.

Therefore, not only are the board's activities and regulations within the boundaries of AS 08.54, but also the board's actions and regulations were mandated by the addition of AS 08.54.040(a)(8) through § 1, ch. 133 SLA 1976.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By:
Robert M. Maynard
Assistant Attorney General

RMM:md

BILL ANALYSIS

ASSIGNMENT DATE _____

UNASSIGNED _____

DEPARTMENT Fish and Game	SPONSOR (PRINCIPAL) Schaeffer & Anderson	BILL NO. HCR 95
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DEPARTMENT POSITION

The Department opposes this legislation.

DIVISION DIRECTOR R.A. Rausch	DATE 2/22/78	COMMISSIONER Ronald O. Skoog	DATE 2/22/78
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GOVERNOR'S OFFICE USE

POSITION NOTED POSITION APPROVED POSITION DISAPPROVED

BY: _____ DATE: _____

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)
SCR 70

(2) a. ORGANIZATIONAL SUPPORT FOR BILL		(2) b. ORGANIZATIONAL OPPOSITION TO BILL Alaska Professional Hunters Assoc. Guide Board
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(3) PROGRAM EFFECTS OF BILL

The enactment of this bill would seriously complicate management of some species of big game. For example, the present management program for brown bear on Kodiak Island would collapse, necessitating promulgation of new regulations to protect the resource.

(4) FISCAL IMPACT: NONE FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

See attached.

6. COMMENTS:

Although the Department of Fish and Game, and the Board of Game, no longer have responsibility for guiding matters, the actions of the Guide Board and activities of guides still directly impact game resources and game management programs. Therefore, the Department of Fish and Game has an interest in the subject matter of House Concurrent Resolution No. 95.

Mr. Chairman, the Department has experienced many regulatory cycles with the Game Board and its precursor, the Board of Fish and Game. Year after year we received proposals for regulatory changes and listened to public complaints on the subject of guides. Complaints on guiding rather frequently have their basis in the mobility of guides--their ability to operate in the Arctic one week, Alaska Peninsula the next, and so on. To try to control abuses by some guides, various regulations were adopted (which then impacted all hunters). Care had to be taken to insure that seasons opened simultaneously in widely separated units (regardless of different optimum times in those areas) to preclude shifting of guiding pressure.

The assignment of specific guides to geographic areas is another example of the Guide Board's efforts to regulate the industry. When fully implemented, the system will restrict the mobility of guides and facilitate the management of most species of big game. The system already has produced direct benefits to the brown bear management program on Kodiak Island. If the regulation is annulled, less desirable alternative systems will have to be devised.

MEMORANDUM

State of Alaska

*For Chairman
Atuloch*

TO: John Buras
Acting Regional Supervisor
Game Division
Fairbanks

DATE February 26, 1977 *Keim*

FILE NO.

TELEPHONE NO.

Oliver Burris
Regional Management Coordinator
Game Division
Fairbanks

SUBJECT Proposed regulations related
to walrus hunting.

FROM: Carl Grauvogel
Game Biologist III
Nome

John Matthews
Game Biologist II
Nome

COMMUNITY INVOLVEMENT

Since mid-December we have been holding meetings to obtain input from the public in order to develop regulations for the forthcoming spring walrus season. Our purpose was to find a course of action that would be the least objectionable to all concerned. Since time was a limiting factor we concentrated our efforts at those villages which have traditionally taken a large number of walrus, and are the places where we can expect the most problems if and when restrictive regulations are imposed. We held two meetings in Nome-King Island and Savoonga, and one meeting at each of the villages of Gambell and Diomed.

Because comments ranged over a broad spectrum, we are summarizing the material we presented to the public which should help you to understand the synthesis of our ultimate recommendations. At all meetings we covered three basic topics, guiding, ivory permits, and status of walrus in Alaska. The latter subject was further subdivided into two general categories, past and present hunting trends in Alaska, and proposed solution to "our" problems. The following are the major points we discussed under each topic:

Ivory Permits

1. We gave a history of why the permits were established, and how they were being used.
 - A. Theoretically the permits help maintain the carver industry by retaining the bulk of the ivory in the hands of the established carvers.
 - B. Most permit holders were not complying with the conditions of the permit: they were not recording transactions in ivory, nor were they returning the permit as specified.

2. We pointed out there was significant black market traffic in raw ivory and these acts were illegal by regulation since one or more of the recipients did not possess an ivory permit.

3. In order for the ivory permit to be effective, that is maintain the ivory in the hands of the carvers, it would be necessary to actively enforce the present regulations.

4. If the regulations were not enforced, then it would be possible for anyone to deal in raw ivory. If that's the case, why have the permit in the first place?

We concluded by asking what were the desires of the community. Did they feel it was necessary to regulate raw ivory through a permit, or did they prefer to dispense with the permit and let the market regulate itself?

Guiding

1. Criteria for becoming a registered guide.

2. An explanation of the Guide Board's action to establish registered guides now living in this area. (At St. Lawrence Island we discussed the establishment of Winnie James, Gambell; and Alex Akeya, Savoonga; as registered guides; and how they could assist boat captains in taking out sport hunters).

3. Basic guide regulations and what is expected of a registered guide.

4. Advantages to the community from guiding.

A. A guide would obtain a significant amount of revenue for a relatively short hunt.

B. Since no more than one or two walrus would be taken on any one trip, all meat could be easily salvaged, and this would reduce the problems of wastage.

C. With money coming in from guiding, less walrus would be needed for ivory; and this should result in a decrease of the annual harvest or at least stabilize it.

D. One could expect other monetary spin offs from guiding such as an expanded tourist industry during the summer.

We concluded the subject of guiding by saying we strongly supported the concept, and would like to see an expansion of this industry principally by local residents. We offered our assistance to meet this goal.

Walrus

Due to the controversial nature of the subject, we frequently went off on diverse tangents discussing a variety of issues. Therefore, it was often difficult to stick to a presentation with some semblance of order. The following are the salient points usually brought-up sometime during the course of a meeting.

1. A discussion of the Marine Mammal Protection Act passed in 1972, and the subsequent return of walrus management to the State in April, 1976.
2. One stipulation of return of management to the State of Alaska was the annual harvest should not exceed 3000 animals.
3. For the past 15 years the Department of Fish & Game has compiled annual harvest data statewide. During the spring biologists are usually stationed at the communities who traditionally have taken 70% or more of the annual kill.
4. Department records indicate the annual harvest averaged about 1700 animals from 1962 through 1971.
5. The kill in 1976 was nearly 3000, of which a good portion were taken principally for the ivory.
6. The department recognizes the fact that the country is experiencing an inflationary period, and it costs more to purchase food, fuel and the variety of items needed to maintain our present standard of living. Therefore some increase in the annual harvest is expected. However, there is a point where the population cannot withstand an ever increasing harvest. Based on the Federal Guidelines, and the present utilization of walrus, we feel that point is close at hand, if not already here.
7. The large harvest of walrus last year focused attention from all over the world. The Soviet Union sent letters complaining about heedless walrus on their beaches. Many concerned citizens throughout Alaska and the lower 48 are asking questions about the method of walrus hunting in Northwest Alaska. Their inquiries are embarrassing.
8. Since it is entirely possible that a few villages could take a harvest of 3000 animals which would then require an emergency closure, we are looking at ways to distribute the kill fairly among all villages.

9. We think one solution is to allocate the harvest based on traditional use. For example if for the last 5 years a village has been killing an average of 200 walrus, perhaps this is an equitable fair share.

10. What we would like to know is how many walrus the community feels it needs; based not necessarily on what happened in 1976, but what is legitimately required in terms of meat and ivory.

11. When the community decides on a figure, we would like it to be kept in perspective with what other villages are doing statewide. In other words if you say you need 400 walrus can you justify that take to another village of equal population who has only been killing 50 animals a year.

12. Finally if a realistic figure is derived, give us some ideas how we can insure each village takes no more than their fair share.

In summary we asked all participants to view the problem on a statewide level and arrive at a recommendation that could be applied not only to their area but to all villages taking walrus.

COMMUNITY OPINION

Reaction from the participants at these meetings ranged from calm acceptance of the problem to outright militancy to any restrictive change whatsoever. There seemed to be a pattern to this attitude. The larger the community and their resultant involvement in "governmental organization" the more outspoken and anti-control were the individuals. Conversely, a small isolated community showed a real willingness to work out a solution that was actually acceptable. In our opinion many of the comments were not relevant to the subject or to our responsibilities. For instance we were frequently accused of failing to bring in other governmental agencies to assist with the problem. Some went so far as to say that our presentation was an attempt to publicly ridicule the native community, and use it as an excuse to extinguish subsistence hunting rights. Further, the regulation proposals were another example of anglo-saxon government exerting their will over the Alaskan native. It was also stated that the Department of Fish & Game was not morally correct in proposing any restrictions on subsistence hunting until all facets of the subject have been thoroughly studied. This included but was not limited to biological considerations, cultural attrition, economic impact, and alternatives through governmental assistance.

Wading through the rhetoric, several common concerns surfaced at the meetings.

1. Each community was concerned it was they who would suffer the most through restrictive regulation. They felt it would be better if some other area was regulated first. For example King Island representatives complained that the Diomedes killed many more walrus than they could possibly use. Some of these animals should go to areas such as Nome, where more people would benefit. On the other hand the Diomedes said the cost of living was going up, and they required more money to maintain their present standard of living. It seemed fair to the Diomedes that they should be allowed to increase their harvest and larger communities should cut back because there were greater employment opportunities for their residents.
2. All communities expressed fear that a quota system of any sort would prevent them from securing a living from the land and would result in greater dependency on welfare and/or substantial suffering in the family.
3. Most recognized that waste was a problem, but they felt the present situation left no alternatives. Ivory is needed for economic support, concurrently however, meat is acquired far in excess of immediate needs. With inadequate storage facilities to preserve meat through the summer, they see no reason why meat should be returned to the community. Most said they would make a more concerted effort to retrieve meat if and when storage was available.
4. A majority readily admitted that since three or four walrus had been taken their prime concern was no longer for meat but obtaining ivory for their livelihood. Since the spring walrus season is short they say there is relatively little time to stockpile ivory. With this premise some expressed concern that they may not have time to retrieve meat, even if there were storage facilities.
5. Almost to the man, every hunter and/or carver felt that any restriction in the walrus harvest would limit their economic opportunity; and would result in greater dependence on governmental assistance programs. When questioned about the large quantities of ivory both new and old leaving the outlying communities for Nome and other cities both in Alaska and the lower states, no adequate reasons were given other than the fact that they need ready cash. The village of Diomedes thought an ivory "bank" in the village would alleviate the problem of raw ivory being lost to the area. Their inquiry into the feasibility of the project was rejected by the regional corporation as not being economically sound.

5. All communities with schools have programs to instruct ivory carving. The Northwest Community College is even offering such a course. In all cases those individuals that take such courses feel they should be allowed their fair share of ivory. Translating their wishes does not mean dividing up the allotted harvest, but increasing the harvest so that everyone can have a share equal to quantities obtained in the past.

The comments listed above represent views common to one or more communities, but do not necessarily represent the views of every village. The response at Diomedé was of significance in that there was no hostility displayed at the meeting. Several of the village elders commented on the recent trends in walrus hunting, and the mayor expressed concern that other villages may look with disfavor at Diomedé if current actions continue. A general awareness of the problem is present within this village.

Several individuals commented in private that assistance from the state and federal agencies has alleviated the need for large amounts of marine mammal meat. Declining interest in seal hunting throughout the region has indicated that this trend may be wide spread. A shift in emphasis has also taken place in several of the native stores. In past years ivory, both raw and carved, was accepted "currency" for all commodities. Carvers have found that they can sell their ivory at retail prices even in the village, and consequently ask these prices when trading for food at the stores.

The stores are finding it difficult to resell ivory purchased at retail prices, and are developing a considerable backlog on their shelves. Recently some native stores have cut back or eliminated the amount of ivory acceptable as cash payment. Therefore, the trend is toward an all cash economy. To meet their immediate needs, hunters are selling raw ivory for cash rather than searching for more lucrative markets to peddle their carved products. This problem in itself is not significant, but it is a contributing factor to a complex situation.

Due to the variety of comments, it is difficult to formulate a clear expression of the public's desire on each issue. The following is our best assessment of the majority opinion.

Ivory Permits

All communities were in favor of the idea of retaining as much raw ivory as possible in the hands of local carvers. With that goal in mind, they favored the retention of the ivory permits. However, we detected a reluctance to abide by the paperwork requirements. When we pointed out that failure to comply with the regulations (such as selling ivory to the bar owners without a permit) would result in citation and possible fine to both parties, ivory permits were less appealing. Citing similar examples further dampened their enthusiasm for the permit system. Hunters who did not carve but had raw ivory for sale, opposed ivory permit regulations. Overall the majority

of constituents wanted to prevent raw ivory from leaving the "area". What method used was subject to debate, but retaining the ivory permit in some form seem to be the least objectionable.

Guiding

Although not entirely unanimous an overwhelming majority favored the guiding concept if they could be involved in some of the financial rewards. Their biggest objection was the lengthy requirements for a registered guides license. The following argument was common: "We have been hunting walrus all our lives. Why must we have an outside guide help us when he doesn't know anything about walrus hunting?" There is some justification to their stand. Villages like Diomedes and Wales are relatively isolated, and to date have not attracted the interest of a registered guide. Some hunters in these villages have the expertise to guide walrus hunters, yet they cannot legally do so without a registered guide at their location. To alleviate this catch-22, villages wanted to see a system invoked similar to the permits in lieu of guide licenses issued by the Department of Fish & Game a few years back. Interpreting their wishes in light of our present system, they wanted a special test to obtain a Class A license. This might include but would not be limited to an oral test of the applicant and an examination of his equipment. If he met the minimum qualifications of a registered guide, then he would spend the next few years meeting all the qualifications of a registered guide without the direct assistance of a registered guide. Obtaining this plateau, he would be examined by the Guide Board like everyone else.

If such a "Class A" system was implemented, it would be approved on a species by species basis such as walrus or polar bear; a concept they supported.

We talked about guiding in terms of a quota, and it was agreed that any walrus taken by sport hunters would come out of their allotted village quota. Most wanted to see a close working relationship between the village, and the Department of Fish & Game (and other agencies) to enhance guiding in their area.

Walrus

In most cases it took awhile for the participants at the meetings to admit that a problem existed with the present annual harvest and utilization of walrus. Initially they reacted by saying the walrus population consisted of thousands of animals, and they saw no reason why they should not continue to harvest at a level commensurate with their demands. In essence if their action was biologically sound, it was morally right.

Hunters tended to view their situation from an isolated perspective. Their philosophy seemed to be if the community needs it, take it and all this was done with little thought of the consequences of their action outside their own sphere of influence. Eventually after discussing many ramifications of the issue, particularly from a statewide standpoint, most agreed that they could improve present hunting methods, and could "survive" with an annual harvest something less than 1976. However, they made it perfectly clear that they could not cut-back very far, especially in the immediate future. Their economy and culture are geared to taking a specific number of animals. The following example was cited: If a village has traditionally depended on walrus, and during the last five years has taken an average of say, 400 animals a year, then this figure represents their level of dependency. Any regulation which curtails this dependency would impose a severe hardship on the community. This was perhaps the strongest point argued throughout all the discussions.

When asked how many walrus were required to meet their needs, most villages were able to arrive at a figure which represented the will of the majority. Savoonga and Gambell agree on 450 at each village. Diomedes requested 530; the King Island-Rome community had a tough time wrestling with this problem, but settled on a figure of 300.

MANAGEMENT RECOMMENDATIONS

Ivory Permits

During the spring of 1976 meetings were held in most of the important communities (utilizing marine mammals) in Game Management Unit 22 to outline walrus and ivory permit regulations. As a result a total of 336 raw ivory permits were issued from the Nome office, but in spite of our emphasis to comply with the regulations only 96 have been returned as of 25 February 1977. Three radio announcements as well as a discussion of the subject at recent village meetings has not been effective in gaining compliance. There is an apparent lack of interest in using the permit. After a meeting in Nome last spring 44 people signed a list indicating a desire to buy or sell ivory, but less than half the permits were claimed at our office. Several individuals who have tried to conscientiously abide by the regulations have told us they have seen people openly sell ivory without a permit. They know because they asked to see the seller's permit at the time of the transaction.

Currently the issuance of 1977 permits is contingent upon the return of the 1976 permit; however, to circumvent this situation many individuals report the permit as "lost". Even of the 96 permits returned to our office, 30% were blank other than the signature of the permit holder. Compliance in reporting transactions in ivory was greater from residents living outside GMU's 22-26, than areas where walrus are normally taken. Conclusions should not be drawn from this sample size, but it suggests a trend. In areas where raw ivory is scarce, the permit holder is more likely to comply with the regulations; possibly, because he has more to lose if the permit is revoked.

A cursory inspection of the permits returned indicated confusion about how the permit was to be completed. Some individuals addressed and signed their own permit when they purchased ivory, but failed to do likewise on the permit of the person from which the ivory was purchased. Other confusion was evident making it nearly impossible to follow the flow of ivory through the various transactions.

It is obvious to us that the permit has done little to stem the flow of raw ivory from those villages that claim they need this commodity to make a living. Because the permit is not accomplishing the job it was designed to do, we recommend that the permit system be dropped entirely. The many hours expended issuing permits and explaining the reason for the regulations can hardly be justified by the results obtained. We believe non-compliance will continue to plague the present system, and it will tax our budget with precious little results from our efforts.

If we are required to continue issuing raw ivory permits, we suggest an overhaul as outlined in the rewrite of the ivory permit guideline policy which we sent you a couple of weeks ago. The "new" permit system, if adopted, needs to be clearcut, self explanatory, and enforceable!

Guiding

We realize that the guiding profession is a "union-shop" organization, whose membership is limited solely to individuals who meet the specified qualifications. A closed shop may meet the needs of the urban Alaskan who is readily familiar with bureaucratic protocol; however, we do not feel this system can be fairly imposed on a rural community such as Diomedé. Several members of this village (and others) have the education and the expertise to conduct a guided walrus hunt; yet, they do not easily fit into the regulatory framework that allows them to do so. Based on their comments at our meetings, we think there are justifiable complaints with the present guiding regulations.

We suggest that the Department of Fish & Game again bring this problem to the attention of the Guide Board, asking them to consider a fair solution.

to sell the quota concept; and gain some appreciable level of understanding, we believe it is necessary to hold meetings at all the villages. If we do not, there is a good likelihood we would have a regulation which would command a low level of compliance, and which we would be unable to "effectively" enforce due to manpower constraints.

In those 4 communities where we have presented the problem and discussed it in great depth, we received a commitment as to the number of walrus required for their annual needs. These figures were reasonably close to our proposed quota. These villages take nearly 50% of the annual harvest, and if we can reach an effective compromise with them, seemingly we have made a gigantic step towards solving confrontation on the rural level.

Our past field experience indicates the annual harvest at other villages will be limited more by weather and availability of animals, than by actual desire from hunters. From a practical standpoint it is unlikely the harvest at any of these villages will exceed 300 animals, and in most cases it will be less than 50. If "natural" conditions restrict their ability to harvest, then it may not be desirable to impose regulations that seem unnecessarily restrictive. It is desirable to formulate regulations that will cause the least number of problems with the using public, yet will meet our immediate management requirements to the resource.

With this objective in mind we make the following recommendations for the 1977 walrus hunting season.

Unit 13: No closed season and no limits.

Justification: The harvest in this area has averaged about 40 animals a year and has never exceeded 100. We need not impose harvest restrictions until this situation changes.

Unit 22: No closed season, a bag limit of 5 females and 10 males per man
Maximum annual quota of 1900 animals distributed as follows:

Savoonga	Maximum annual quota	450	
Gambell	Maximum annual quota	450	
Home-King Island	Maximum annual quota	300	
Diomedes	Maximum annual quota	500	
All other areas	Maximum annual quota	200	of which no more than 150 can be taken by any one community.

All hunters would be required to report their kill under some sort of mandatory system, such as a harvest ticket, permit or punch card.

Justification: The quotas assigned to Savoonga, Gambell, Bionebe, and Nome were based largely on recommendations from the community as to actual needs. These are a maximum quotas, and would not necessarily be attained every year. Other villages are less dependent on walrus, and could probably meet their subsistence requirements with 200 animals.

Mandatory reporting is necessary to insure that villages take no more than their authorized quota, and that the Unit Quota is not exceeded. It will also provide definitive information as to what classes of people are taking the walrus.

Unit 23 & 25: No closed season. Maximum quota of 600 animals of which no more than 150 can be taken at any one community.
Bag limit: maximum of 5 females and 5 bulls per hunter.

Justification: Alaska Department of Fish & Game harvest data for the last ten years indicates the average annual harvest for this area has been less than 300 walrus. The 1976 harvest which was abnormally high was less than 450 walrus. To meet inflationary costs, the using public indicates they require a number of walrus above recent harvest; 600 animals should more than meet this need.

Final Summary

Under the foregoing regulations the statewide harvest of walrus should not exceed 2600 animals. The combined Unit quota for 22, 23 and 26 is 2500 walrus, and Unit 12 is not likely to take over 100 animals. It is felt GMU 22 should receive a larger quota because communities from this unit have traditionally depended on walrus for a substantial portion of their existence. Communities located in other GMU's do not have the same level of dependency, because walrus are not available and/or there are other wildlife resources which are favored. A mandatory reporting procedure was not proposed for Unit 23 and 26

because the harvest at most locations has been below 150 animals annually. Until these communities are advised of the varied harvest problems, it would be difficult to enforce such a system on a statewide basis.

It is anticipated that the proposals presented here will be adopted only as interim regulations. They are designed to solve the immediate problem of excessive harvest. As hunters become aware of the national and international implications of their actions, we can work to implement regulations that will meet other objectives; objectives that are perhaps equally important now, but that will take time to solve because of the problems of community castration.

As a final recommendation we suggest the Director or Commissioner of Fish & Game contact other state agencies such as the Department of Community and Regional Affairs, and inform them of problems where they might be able to provide assistance. Aid in the construction of freezer facilities to help alleviate the reoccurring problem of waste might be one example.

cc. Dave Johnson, Kotzebue
Harry Reynolds, Barrow
Pete Shepherd, McGrath



Alaska State Legislature

House of Representatives

Committee on Resources

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

22 February 1978

AGENDA

HCR 95 Annulling an administrative regulation adopted by the Guide Licensing and Control Board on the registration of camps.

The House Resources Committee here in Juneau will take testimony using the teleconferencing network from the remote areas first in the following order:

- Ketchikan
- Anchorage
- Bethel
- Fairbanks
- Nome

Bob Maynard
Asst. Atty.
General

*Testimony will then be taken from Juneau in the following order:

- Rick HalfordGuide
- Marcus Jensen . . .Chairman, Guide Licensing & Control Board
- William Bellingar . .Investigator, Division of Fish & Wildlife Protection, Dept. of Public Safety
- James Nutgrass . . .Investigator, Division of Fish & Wildlife Protection, Dept. of Public Safety
- Sharon Andrews . . .Director of Licensing, Dep. of Commerce
- Urban "Pete" Nelson .Member, Alaska Board of Game
- Robert A. Rausch . .Director, Division of Game
- Ray McNuttPresident, Alaska Professional Hunters Association
- Phil Driver.Guide, outfitter from the Arctic
- Dr. Charles Keim . .Guide, member of Guide Licensing & Control Bd.
- Clark Engle.Master Guide, member of Guide Licensing Bd.
- H. "Glen" Glenzer. .Member, Guide Licensing & Control Board

*Due the high level of participation in the remote areas, as well as in Juneau, it is requested that witnesses keep their comments brief and to the point. This will allow everyone an opportunity to air his opinion.

If necessary, this hearing will re-convene at 7:00 p.m. this evening to finish any work necessary on the bill.

February 15, 1977

Senator Frank Ferguson
Pouch V.
Alaska State Legislature
Juneau, Alaska

Dear Senator Ferguson:

With regard to our conversation yesterday I have notified our Anchorage office in respect to having them bring the necessary records to Juneau, dealing with game units 23 through 26.

I have also asked them to bring a suitable map where guide areas could be pinpointed, showing at least what area the guides were in. The minutes for our December meeting are just being completed and we expect to have them ready for our meeting here in Juneau by the end of this week.

I have set aside a time of 10 AM, Saturday, February 19, 1977, in the Conference Room, Subport, Fish and Game Department, and would be happy to have you and any other interested legislators meet with us and discuss questions of mutual interest concerning the Board's activities.

Sincerely yours,

Marcus F. Jensen, Chairman
Guide Licensing & Control Board

cc: Wm. Bellingar

July 29, 1977

Senator Frank Ferguson
Box 131
Kotzebue, Alaska 99752

Dear Frank:

I was talking to the Director of Game, Bob Rausch a few days ago and he mentioned that it was practically certain that the state would be given management of the polar bear and hair seal in the very near future. The habitat of both of these animals is along the Arctic where many of the Eskimo villages are.

In talking to Mr. Rausch I am sure that there will be no more airplane hunting for polar bear. It will probably develop into dog teams and snow-mobiles. No doubt there will be a permit schedule set up where a certain number of animals will be identified for subsistence and a certain number for recreation purposes.

Our Guide Licensing and Control Board has encouraged the Natives on Nunivak and St. Lawrence Island to become interested in the guiding profession. It seems to me that some of the Eskimos at Point Hope and Wainwright and Barrow and also Kotzebue might be interested in the guiding profession for polar bear non-resident hunters. The revenue that they would receive for one hunt would far exceed anything they could get from shooting a polar bear for their own use.

The reason for this letter is to ask you if you have any suggestions on the best way to coordinate interested people in the villages, the guide board members, and the state Game personnel, where all interested parties could get together and have the Department of Game explain what they have in mind on the new program; and also have members of the guide board explain what is needed to qualify as a registered guide and how this could be implemented.

One thought - and that is that I just found out the Alaska Professional Hunters Association have a convention scheduled in Anchorage for the 3rd and 4th of December. It might be possible to get the interested parties to get together for a meeting at that time.

I would appreciate hearing from you, and any suggestions you might have. I will be away until the latter part of September, and will look forward to your reply then.

Sincerely yours,

cc: Guide Board members
Dept. of Game
Wm. Bellinger

Maros F. Jensen, Chairman
Guide Licensing & Control Board

February 15, 1977

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Pouch V.
Alaska State Legislature
Juneau, Alaska

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Guide Licensing & Control Board

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Alaska State Legislature

House of Representatives

Committee on Resources

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

22 February 1978

AGENDA

HCR 95 Annuling an administrative regulation adopted by the Guide Licensing and Control Board on the registration of camps.

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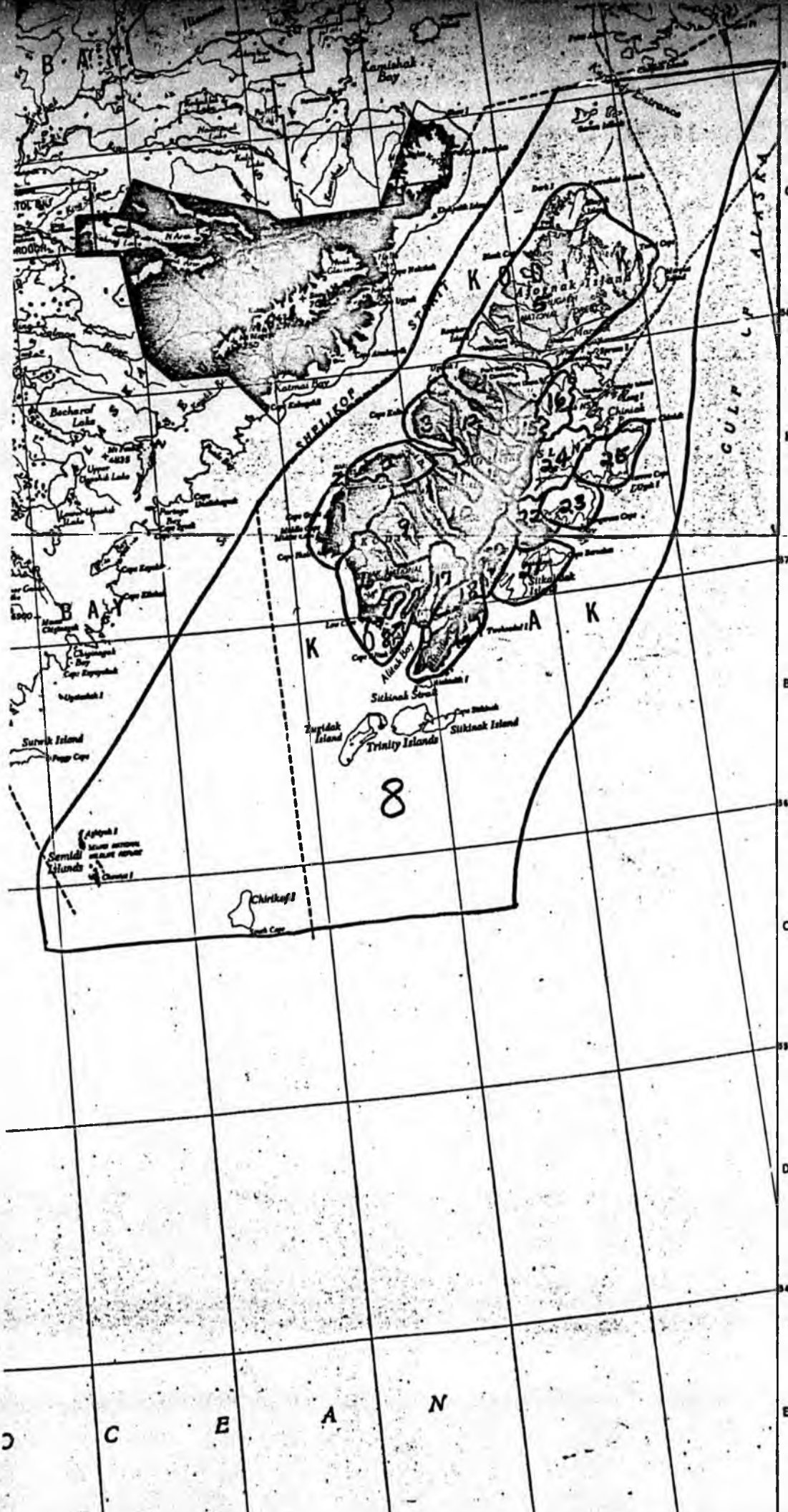
Ketchikan	Sandy	Wendte	
1. Anchorage	Charity	Kadow	at least 3
4. Bethel	Janet	Schantz	0
2. Fairbanks	April	Moore	4
3. Nome	Irene	Haan	possibly 1

*Testimony will then be taken from Juneau in the following order:

- Rick HalfordGuide
- Marcus JensenChairman, Guide Licensing & Control Board
- William BellingerInvestigator, Division of Fish & Wildlife Protection, Dept. of Public Safety
- James NutgrassInvestigator, Division of Fish & Wildlife Protection, Dept. of Public Safety
- Sharon AndrewsDirector of Licensing, Dep. of Commerce
- Urban "Pete" NelsonMember, Alaska Board of Game
- Robert A. RauschDirector, Division of Game
- Ray McNuttPresident, Alaska Professional Hunters Association
- Phil DriverGuide, outfitter from the Arctic
- Dr. Charles KeimGuide, member of Guide Licensing & Control Bd.
- Clark EngleMaster Guide, member of Guide Licensing Bd.
- H. "Glen" GlenzerMember, Guide Licensing & Control Board

*Due the high level of participation in the remote areas, as well as in Juneau, it is requested that witnesses keep their comments brief and to the point. This will allow everyone an opportunity to air his opinion.

If necessary, this hearing will re-convene at 7:00 p.m. this evening to finish any work necessary on the bill.



UNIT 8

1. J. Want
2. L. Francisco
3. I. Hendricks
4. L. Helgeson
5. E. Hendricks
6. J. Lee & Geo. Allard
7. M. Talifson
8. L. Matfay
9. B. Pinnell
10. P. Munsey
11. D. Harms
12. L. Francisco
13. W. Hans
14. E. Payne
15. K. Braender
16. D. Harms
17. Lopen
18. L. Francisco
19. D. Farmer
20. F. Lanourey
21. A. Runyan
22. L. Hancock
23. L. Matfay
24. D. DeHart
25. E. Stevens
26. E. Reese
27. G. LaRose
28. D. DeHart

C E A N

SOUTHWESTERN ALASKA

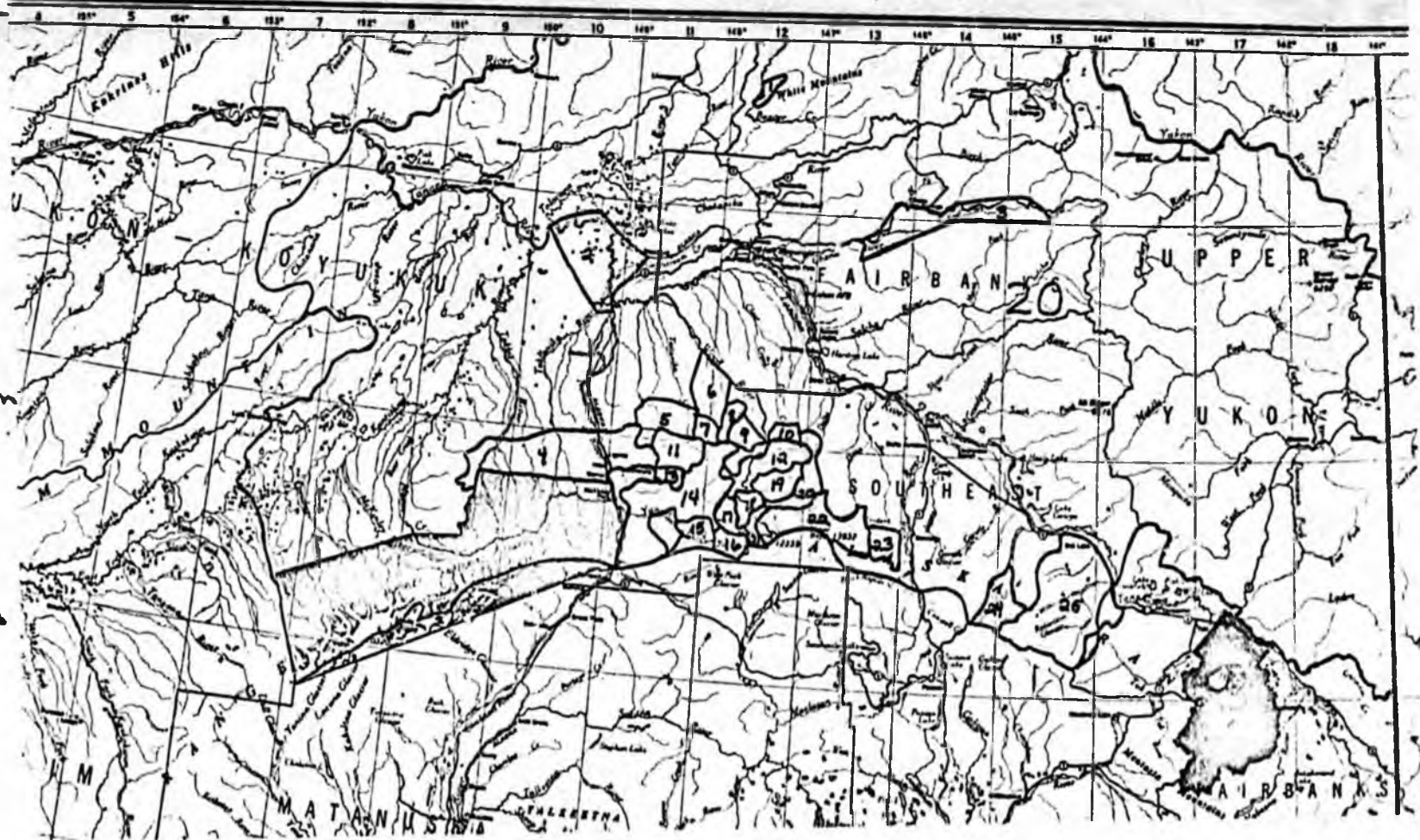
UNIT-16



1. G. Palmer
2. C. Engle
3. S. Branham
4. C. Engle & C. Goll
5. J. Branham
6. C. Goll & H. Fassler
7. L. Yukris
8. G. Mower
9. W. Zaegel
10. H. Packer
11. R. Genet
12. (open)
13. R. Betz
14. F. Harvey & H. Fassler
15. K. Braendel
16. G. M. Braithton
17. D. Braithton & R. Lounsbury
18. Lounsbury
19. Delia
20. P. N. Mahan
21. Wood & Delia
22. D. Braithton
23. Delia & M. Braithton
24. Delia
25. M. Kasser
26. R. Betz
27. D. Wood
28. G. Piggay & S. Claus
29. H. Witman
30. R. Ferguson
31. C. Braithton
32. G. Farber
33. G. Kitchen
34. J. Swiss
35. W. Gray

UNIT 20

1. L. Shebal
2. R. Atkins
3. S. Olson
4. B. Mercer
5. J. Pangborn
6. F. Scott
7. Scott & Pangborn
8. A. Wright
9. W. Waugaman
10. D. Buzby
12. B. Buzby
11. Mercer & Pangborn
13. Pangborn
14. L. Castle
15. J. Thomas
16. Castle & Thomas
17. W. Lambert
18. C. Gray
19. Brady & Roberts
20. L. Roberts
21. K. Fanning
22. R. Elliott
23. L. Anderson
24. C. Boyd
25. D. Benedict





UNITS 1-4 JOINT USAGE *

1. Frank Ingledue
2. Wm. Bernhardt
3. Roy Biffle
4. Jimmie Rosenbrun
5. Jack O'Donnell
6. Karl Lane (1,3,4)
7. Victor Lane (1,3,4)
8. Frank See, Sr. ✓
9. Ken Schoonover ✓
10. Wm. Peterson
11. Marcus Jensen
12. John Erickson
13. Tom Katzeek
14. Duncan Gilchrist (1,4)
15. Ben Forbes
- **16.

UNIT 5

1. C. Cox
2. M. Branham
3. C. Cox
4. K. Fanning
5. C. Cox
6. K. Fanning
7. R. Pekman
8. A. Israelson
9. A. Israelson

* For Exclusive Guiding Area assignment purposes, Unit 1 is considered one area, Unit 2 and/or 3-one area, and Unit 4 one area.
 ** Additional applications ARE still being accepted as of this date (4/1/77) for Units 1-4.

- UNIT 23
1. Driver
 2. Fields
 3. Fields
 4. Jacobson
 5. Headley
 6. Bernhardt
 7. Humble
 8. Elmore
 9. N. Walker
 10. Gaedeke
 11. S. Smith
 12. N. Walker
 13. Keim
 14. N. Walker
 15. Bernhardt
 16. H. Helmericks
 17. J. Helmericks

- UNIT 24
1. Gaedeke
 2. Keim
 3. Gaedeke
 4. Hanke
 5. Fickes
 6. J. Helmericks
 7. Hanke
 8. Gaedeke
 9. Fickes
 10. Fickus
 11. Rodey
 12. Rodey
 13. Wetzel
 14. Reakoff
 15. T. Walker
 16. Gray
 17. Shebal
 18. Reakoff
 19. Wetzel

- UNIT 25
1. Reakoff
 2. Koonts
 3. Witt
 4. Gray
 5. Want
 6. Wirschem

- UNIT 26
1. Gaedeke
 2. Fickes
 3. H. Helmericks
 4. J. Helmericks
 5. Fickes
 6. Reakoff
 7. Rodey
 8. H. Helmericks
 9. J. Helmericks
 10. Wasson
 11. Crasser
 12. Want
 13. Knutson



STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 16, 1978

SUBJECT: HCR 95 (Work Order No. 4539)

TO: House Resources Committee

FROM: Joel F. Bennett *JFB*
Legislative Counsel

You have asked for my position on whether AS 08.54.040(a)(8) authorizes the Guide Licensing and Control Board to adopt 12 AAC 38.050 which in effect gives individual guides an exclusive big game guiding area, closed to other guides.

Briefly, I would state that AS 08.54.040(a)(8) is at the very least ambiguous on whether the exclusive area referred to is an established game management unit or subunit (of which there are 26, clearly delineated by map), or a smaller area within a game management unit or subunit, to be designated as necessary by board action. On its face, it is subject to both interpretations. In Senate Resources Committee discussions, this scheme was clearly intended to be a "limited entry system for guides" based on a quota, and providing for reasonable and equitable procedures for limiting the number of guides to that quota. Whether limiting a small area to a quota of one, based on use, occupancy, financial value, and "other considerations" is reasonable, is subject to differing opinion. It very possibly may not be.

Additionally, assuming the sort of system that is presently implementing AS 08.54.040(a)(8) was the sort contemplated by the legislature, it still may be subject to challenge on constitutional grounds as violative of equal protection and due process of the law. In effect, it sets up two classes of guides, and discriminates in favor of one class, presumably on the basis of conservation of the resource. A court would examine the basis for this to determine if it was reasonable and whether a less discriminatory method to effectuate the purpose is possible. Is there a better way to manage game than this, i.e., by adjusting seasons, or bag limits, etc.

House Resources Committee

Page 2

February 16, 1978

A court may very well find that the granting of such a monopoly in an area obstructs competition impermissibly, fails to be a reasonable exercise of resource management, and denies persons similarly situated equal protection of the law.

The issues referred to in this letter will be more extensively treated in a further analysis by Ken Vassar of our office, who has most recently been researching the same problem. Our recent discussions would indicate that we share the opinion that further clarification of AS 08.54.040(a)(8) may be necessary.

JFB:jpd

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 4, 1977

SUBJECT: Guide Board Questions
TO: Representative Joseph McKinnon
FROM: Joel Bennett, Legislative Counsel *JB*

This is in answer to your questions concerning the validity of the Guide Licensing and Control Board's actions to establish "exclusive guiding areas". As background, I should state that the validity of an administrative regulation depends upon a board or agency's authority to adopt it. Regulations "implement, interpret, or make specific" statutes.

The legislature passed ch. 133 in 1976, which took effect January 1, 1977. It reads as follows:

"...The board shall

...(8) establish a quota of licensed operating guides who may operate within designated geographical game units or subunits of the state and provide for an equitable and reasonable procedure for limiting the number of guides to that quota; preference shall be given to qualified, available and willing licensed guides who reside within the designated game unit or subunit." (AS 08.54.040(8))

Prior to this statute, under a regulation adopted in June of 1974, the board began to restrict guides to a total of three guide districts, out of the 26 districts established. I find no authority for that regulation until January 1, 1977, when the legislature authorized the above quota to be established. The quota law clearly was the first statute that contemplated a so-called "limited entry" system for guides.

I do not see that AS 08.54.040(8), authorizes exclusive areas within districts, as the guide board apparently does. In my opinion, 12 AAC 38.050, insofar as it awards exclusive areas to guides (prohibiting use by others) has no statutory

authority. The board cites AS 08.54.050 as its authority, but this is a general statutory authority and I think does not contemplate the scheme adopted in 12 AAC 38.050. As evidence of this, the legislature felt it necessary to pass ch. 133 SLA 1976, giving the board authority to adopt a quota restriction, apparently concluding then, that no authority existed under the board's general statutory authority.

You refer to the latest regulatory amendments (Register 50; am 2/25/77) and question their authority as authorizing exclusive areas outside of Units 8, 16, and 20. I question the validity of 12 AAC 38.050 in the first place --- and can find no statutory authority for it creating the initial exclusive areas --- such action goes far beyond the board's general authority to "regulate guiding activity". Even assuming that 12 AAC 38.050 is valid, granting exclusive areas outside of Units 8, 16 and 20 before the date of the recent amendment (2/25/77) would not have been valid. I understand that this is what you feel has happened.

I would summarize by saying that the implementation of "exclusive guiding areas" has no defensible statutory authority, and that an exclusionary application of 12 AAC-38.050 could be successfully challenged.

Incidentally, my initial memorandum of March 18, 1977, dealt with the relationship between AS 08.54.040(8) and 12 AAC 38.040, not with the question of exclusive areas within districts.

I hope this will be of some assistance to you.

JB:lmk

A PERFORMANCE REVIEW OF
GUIDE LICENSING AND CONTROL BOARD
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

October 14, 1977

Commissioner, Department of Commerce
and Economic Development
Chairman, Guide Licensing and Control
Board

H. Phillip Hubbard

Marcus F. Jensen

A PERFORMANCE REVIEW OF
GUIDE LICENSING AND CONTROL BOARD
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

October 14, 1977

Commissioner, Department of Commerce
and Economic Development
Chairman, Guide Licensing and Control
Board

H. Phillip Hubbard
Marcus F. Jensen

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU 99801


October 14, 1977

Members of the
Legislative Budget and Audit Committee:

In accordance with your request and provisions of Title 24
of the Alaska Statutes, the attached report is submitted for
your review:

A PERFORMANCE REVIEW OF
GUIDE LICENSING AND CONTROL BOARD
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

October 14, 1977



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE OF THE REVIEW

In accordance with a Budget and Audit Committee request and the provisions of Title 24 of the Alaska Statutes, a performance review of the Guide Licensing and Control Board was conducted to determine if:

1. The Board's organization and operation are in compliance with applicable statutes.
2. Statutory obligations are being met.
3. The Board is effectively aiding the Alaska citizenry.

ORGANIZATION AND FUNCTION

The Guide Licensing and Control Board (GLCB) was established by the 1973 Session Laws of Alaska and succeeds the Board of Fish and Game, Department of Fish and Game, which previously regulated the guiding industry. The seven member GLCB is appointed by the Governor with confirmation by the Legislature and is restricted to having no more than three members as licensed guides.

The GLCB is organized under the Department of Commerce, Division of Occupational Licensing. Two budgeted positions, a Guide Investigator and Administrative Assistant, in the Department of Public Safety, Division of Wildlife Protection, have been provided to assist in the licensure and investigations of guides.

The function of the Board is primarily regulatory, mandated by AS 08.54.040. Accordingly, the Board has the capacity to administer examinations; determine qualifications of guides; establish performance standards and regulate activities; maintain guide registers; prohibit harmful guiding activities; conduct hearings regarding licensure; and establish quotas of guides for specified geographical areas.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

In the assignment of Exclusive Guiding Areas (EGA's), the Guide Licensing and Control Board (the Board) should uniformly apply the criteria established for the Game Management Unit under consideration.

AS 08.54.040(8) requires that an equitable and reasonable procedure be followed in assigning Exclusive Guiding Areas. In the March 25-27, 1977 Board meeting, the following criteria was established for the assignment of EGA's in Unit 9:

1. Permanent Area. At least three years of Statements of Financial Remuneration (contracts) and/or three Bear Camp Registrations on file within five (5) years as of November 1, 1976.
2. Temporary Area. Same as above except only two years of contracts and/or Bear Camp Registrations are required.

We found three applicants who were denied temporary EGA's in Unit 9 on the basis of an insufficient number of contracts on file. From the records on file at the Guide Investigator's Office we determined that these individuals had the required number of Bear Camp Registrations to qualify for a temporary EGA. There are several similar cases where other applicants did not have contracts on file, but did receive a temporary EGA solely on the basis of having the required number of Bear Camp Registrations.

The lack of uniform applications of the established criteria creates the following problems:

1. Affected individuals may initiate legal action against the State of Alaska.
2. The Board's credibility and fairness in the exercise of its authority may be questioned.

Recommendation No. 2

The Guide Licensing and Control Board (the Board) should obtain adequate documentation of previous experience to insure that only qualified applicants are being issued Class-A Assistant Guide Licenses.

We found no record to document that several individuals licensed by the Board in 1976 were qualified to serve as Class-A Assistant Guides.

AS 08.54.120 states in part that to qualify for a Class-A Assistant Guide License, the applicant must have served at least one season as a Licensed Assistant Guide. An applicant may also qualify if previously issued a permit in lieu of a Registered Guide License by the Department of Fish and Game.

A Class-A Assistant Guide may essentially perform the same service that a Registered Guide performs, except he is unable to contract for hunts. Therefore, it is essential for the protection of the public that a Class-A Assistant Guide possess the required experience to conduct a hunt in a competent and safe manner. The Board did not obtain the adequate documentation necessary to determine that the aforementioned applicants meet the experience requirement.

Recommendation No. 3

The Department of Law should take prompt action against Guides who violate Guide Board Statutes and Regulations.

The Department of Law has not timely processed accusations against Guides who have been accused of violating Guide Board Statutes or Regulations; or taken action against Guides who have not filed Statements of Financial Remuneration (contracts), as required by Regulation 12 AAC 38.060. This has resulted in the following problems:

1. Several of these accusations are quite old and recently a Hearing Officer recommended dismissal of an accusation because of its age.
2. A large number of Guides are not filing their contracts.

The enforcement of Guide Board Statutes and Regulations are necessary to ensure that:

1. Guide Board Statutes and Regulations are consistently applied.
2. The Guiding Industry is adequately regulated.
3. The public is adequately protected.

Recommendation No. 4

The Guide Licensing and Control Board (the Board) should develop program objectives that state specifically what is to be accomplished in quantitative terms.

Program objectives describe what a Board is seeking to accomplish during a specific fiscal year. Well formulated

objectives are capable of measurement and should include numeric targets so that actual accomplishments can be compared with stated targets.

The State Statutes identify what the goals of the Board are, but the Board has not formulated the objectives necessary to meet these goals or stated them in quantitative terms.

Effective program management and control is best achieved when comparisons can be made between predetermined objectives and actual performance. Variations that result can be analyzed and the necessary corrective action can be taken so that desired program objectives can be obtained.

CURRENT ISSUES

Legality of Exclusive Guiding Areas

The question has been asked, does the Guide Licensing and Control Board (the Board) have the authority to establish exclusive guiding areas?

The Attorney General issued an opinion in April, 1977 stating that the Board has the authority to establish exclusive guiding areas.

In order to clarify this matter, we requested a legal opinion from Legislative Affairs. Legislative Affairs issued an opinion which stated that section one of 133 SLA 1976 - AS 08.54.040(a)(8) - gives the Board the authority to establish exclusive guiding areas.

Game Violations by Guides

We were informed by Investigators for the Department of Public Safety (DPS) and Guides that game violations by certain Guides is a significant problem. They allege that a common practice among certain Guides is the hunting of brown bears the same day airborne, which is prohibited by Regulation 5 AAC 81.070.(a)(6).

We recommend the Guide Licensing and Control Board study the problem of game violations by Guides and take appropriate action to solve the problem.

Equal Opportunity for Alaskan Natives

We found that the Guide Licensing and Control Board has made an effort to increase participation of Alaskan Natives in the Guiding Industry. For example, the Board has:

1. Created two sub-districts in the Arctic (Nunvikak Island and St. Lawrence, King and Little Diomedé Island). Before this action, Guides had to qualify for all the Arctic.
2. Visited Native Villages and explained what the Guiding Industry was about.
3. Gave special oral examinations to Alaskan Natives.

However, the Board should increase its effort to ensure that qualified Alaskan Natives are given an opportunity to participate in the Guiding Industry.

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D - JUNEAU 99811

November 29, 1977

RECEIVED
DEC 1 1977
LEGISLATIVE
AUDIT

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W, Alaska Office Building
Juneau, Alaska 99811

Dear Mr. Wilkerson:

I have received your preliminary report on the Guide Licensing & Control Board. I appreciate this opportunity to make a few comments on the review. My comments will refer to the recommendations that you have made, and I will start by commenting on Recommendation No. 1:

Your concern in this recommendation is that three individuals who had the required number of bear camp registrations did not receive a temporary permit. The reason they did not receive their temporary permit at our first hearing on Unit 9 was because they had over-filed on areas being used by older guides. In examining some of these individual cases the Board's concern was a possible building up of too much hunting impact in a small given area. We told these applicants to continue to examine the map on Unit 9 and see if they could find some areas that would be open and usable in that Unit. At a later meeting, areas for these individuals were being developed. The problem was not a lack of uniform application. I think the problem was the Board's concern of being realistic in trying to protect the resource from over-harvest. In most cases the guides themselves recognize this, although it seems that each man does everything possible to try and improve his own situation, which is probably to his credit.

Recommendation No. 2: In the matter of issuing several Class A guide licenses in 1976 I wish to report that this is certainly a special case that needs clarifying. The normal procedure for an applicant to receive a Class A license is to have it handled by our investigator, William Bellinger, who checks out the necessary requirements for the license. Normally, this takes anywhere from three to six months.

The case you are referring to relates to St. Lawrence Island. Back two years ago the Guide Licensing and Control Board was studying the impact of establishing individual guide areas. It was decided at that time not to include the Arctic Coast under individual cases but leave it open. The Board had a three-point approach:

1. leave Arctic Coast open;
2. meet with the Natives on the village level and explain the guide program;
3. give oral tests to some Native guides to the extent they could come under the class of registered guide.

All three of these points have been accomplished. We now have Native registered guides, Ed Shavings, Sr., at Nunivak, Winfred James at Gambell and Hakie at Savoonga.

I authorized one of our Board members, Charles Keim, to travel to St. Lawrence Island, with a Fish and Game Protection Officer, to meet with the Natives in regard to giving them a license for guiding walrus hunts, which had just been approved by the State Department of Fish and Game. Our Act permits our Board to give oral exams for licenses under certain circumstances. We felt that the situation at St. Lawrence Island was unique, in that all those given a Class A license were Native residents, had lived and hunted there all their lives. Mr. Keim is very much of a perfectionist in giving exams and he personally checked each one of these men out before issuing him a license. Because this was the first year of guiding activity for walrus the Board felt it did not want to be put in the position of making it difficult for resident Natives to share in this vocation. We, therefore, extended ourselves in expediting this type of license. It should in NO way reflect in an adverse way against the thoroughness that is normally practiced by our Fish and Game Protection Division in issuing these licenses. I think this is another example of the Board extending its right hand to help the Native population under emergency timing.

Recommendation No. 3: With reference to the Department of Law and the time it takes to process accusations, I think that in this area the Office of the Attorney General and the Board should have some open dialog. I believe that in many cases the Board itself could help expedite some of the minor violations and help relieve the load that continually builds up in the Attorney General's Office. I think it would be helpful if we could write up some procedural steps that can be followed both by our Board and by the Attorney, in processing the violations.

Recommendation No. 4: The recommendation is that our Board should develop program objectives. I would agree with this recommendation as I personally, and I know the other Board members do too, like to have our future programs well established. We have tried to do this in the past, and I think very successfully. If you were to examine the minutes for the past two years you would find that our program has been aimed toward strengthening our guide standards. This has been accomplished by passing our 16-point Code of Ethics, in addition to our main program of giving exclusive guide areas in the 26 game units. We have proceeded with this program as expeditiously as possible, holding long hearings and working many hours each day. At our upcoming December meeting in Anchorage, we have listed for allocation the last five game units and when these are completed, we will have finished allocating all the game units in Alaska.

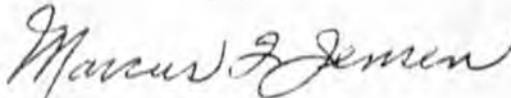
November 29, 1977

Our Board, at this next meeting, will set up a new program for the coming year. There is much yet to be done in smoothing out the rough spots and we will attempt to do this. We have had excellent cooperation from the Department of Commerce and Economic Development's Occupational Licensing Division under Mrs. Sharon Andrew. Also, I am proud to say that our staff in Anchorage has turned in an excellent record of dedication and efficiency. When one considers that a filing system had to be set up for 450 registered guides and 500 assistant guides, plus keeping track of all the mail and questions that come in, one can see that the staff certainly has been very busy.

In closing, there are a few observations that I can make that might be interesting. In assigning individual guide areas, it has brought to a minimum violations by aircraft. For example, no more is it necessary for a guide to cover the lower peninsula looking for brown bear when he knows the only area he can hunt in is his own assigned area. I have been surprised at how protective and jealous the individual guides have become, after assigning them their own area. The guides themselves have shown great cooperation in making this new program work. The one area that is still somewhat "tender", and we are working at it constantly, is the action of the few new guides who over-file in trying to establish areas for themselves. We will be working constantly with these people to satisfy their needs to the best of our ability.

I think it has been very helpful to have had a review by the Audit Department and I certainly appreciate the high caliber of men in the Department and the open manner in which they go about their business.

Respectfully yours,



Marcus F. Jensen, Chairman
Guide Licensing & Control Board

MFJ:cw2/10

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D - JUNEAU 99811

December 2, 1977

RECEIVED

DEC 7 1977

LEGISLATIVE
AUDIT

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

In accordance with provisions of Alaska Statutes and procedures established for the implementation of Legislative Budget and Audit Committee Review of executive agencies, the attached is submitted:

CONSOLIDATED AGENCY RESPONSE TO:
A PERFORMANCE REVIEW OF
GUIDE LICENSING AND CONTROL BOARD
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

Unless otherwise stated, the sections have been prepared separately by the agencies named and the positions stated in each do not necessarily represent those of the other contributors.

Sincerely,

H. Phillip Hubbard
H. Phillip Hubbard
Commissioner
W. J. Cook

CONSOLIDATED AGENCY RESPONSE TO
A PERFORMANCE REVIEW OF
GUIDE LICENSING AND CONTROL BOARD
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

DECEMBER 1, 1977

Commissioner, Department of Commerce
and Economic Development
Chairman, Guide Licensing and Control
Board
Attorney General, Department of Law

H. Phillip Hubbard

Marcus F. Jensen
Avrum Gross

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SECTION I

COMMENTS OF DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

A. ORGANIZATION AND FUNCTION

Presented on page 4 of A Performance Review of Guide Licensing and Control Board Department of Commerce and Economic Development (Report), is a brief analysis of the organization and function of the Guide Licensing and Control Board (Board). The analysis is accurate, however, no reference is made to the overall purpose of regulation of this industry.

While no stated Legislative objective is found in AS 08.54, it is the department's understanding that regulation of the game guide industry is primarily for the enhancement of the State's game management, as well as the protection of the consumer. The continued utilization of this important renewable resource is contingent upon controlled harvesting, in order to avoid depletion of the resource.

B. FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

In making this recommendation, it appears, the auditors relied solely upon the minimum usage requirements established by the Board in order for an applicant to be eligible for either a temporary or permanent Exclusive Guiding Area (EGA), to determine that the criteria established were not being applied uniformly.

It is the Department's understanding that the Board has always considered additional factors such as the number of minimally qualified applicants for a specific EGA in relation to the harvestable resource available. This is consistent with the overall purpose of the regulatory effort in this industry. Since the review of the Board's records did not reveal this information, the Department will recommend that the Board take action to more clearly delineate its criteria.

Recommendation No. 2

The circumstances surrounding the issuance of certain Class A Assistant Guide Licenses in 1976 were unusual. The management of some marine mammals was returned to the State after a number of years under federal jurisdiction. As a result, a limited number of walrus were to be harvested within a short time frame, the Board determined it to be in the public interest to assure that Alaska Natives, familiar with the local terrain and hunting of walrus be licensed.

The Department concurs with Recommendation No. 2, but recognizes the legitimacy of the Board's concerns in this instance and will work with the Board to develop an appropriate procedure for fulfilling this recommendation when unique circumstances are present.

Recommendation No. 3

The Board's relationship with this Department is different from that of the other occupational boards which are organized under it. The Legislature has funded two positions in the Department of Public Safety, Division of Wildlife Protection to assist the Board in its investigative enforcement capacity. Therefore, the Division of Occupational Licensing has only been involved in this aspect to a very limited degree and the Department has insufficient information upon which to base a response.

It should be noted, however, that in recent months, the Department of Law has developed written procedures for uniform management of administrative proceedings by its staff and written guidelines for agency use which will result in more efficient handling of these proceedings.

Recommendation No. 4

The Department concurs with this recommendation and will within existing constraints work with the Board in an effort to identify quantifiable objectives.

CURRENT ISSUES

This section of the Report (see page 8) identifies correctly some major current concerns for effective regulation of the Guiding Industry.

SECTION II
COMMENTS OF GUIDE LICENSING
AND CONTROL BOARD

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D - JUNEAU 89811

December 2, 1977

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W, Alaska Office Building
Juneau, Alaska 99811

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Respectfully yours,

Marcus F. Jensen, Chairman
Guide Licensing & Control Board

MFJ:cw2/10

SECTION III
COMMENTS OF DEPARTMENT OF LAW

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99811

December 2, 1977

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W - Alaska Office Building
Juneau, Alaska 99811

Dear Mr. Wilkerson:

This letter is in response to your preliminary audit entitled "A Performance Review of Guide Licensing and Control Board, Department of Commerce and Economic Development, October 14, 1977.

This audit finds shortcomings with the Department of Law in two respects: (1) failure to timely process accusations against guides for violation of the licensing statutes; (2) failure to take action against guides who have not filed Statements of Financial Remuneration required by 12 AAC 38.060. Let me briefly respond to each in turn.

Failure to Timely Process Accusations Against Guides for Violation of the Licensing Statute

The audit is correct in stating that several accusations are quite old and that, in one case, a hearing officer recommended dismissal because of the remoteness of the events which were the subject of the accusation. The audit, I believe, errs in attributing these facts to deficiencies in the Department of Law.

A review of the guide board docket and our own files discloses that, with respect to the oldest case, there is no record that the department received investigatory reports for which accusations might have been filed. Had they been received, it is fair to presume that action would have been taken immediately, since particularly in the occupational licensing field our department has acted swiftly to initiate disciplinary proceedings. Other cases have been active for varying lengths of time. Any delays have been the result of attempting to serve papers on the respondents, scheduling by the hearing officers, and final action on proposed decisions.

10(1)

Gerald L. Wilkerson, CPA

December 2, 1977

Page 2

With respect to the specific allegation regarding dismissal of one case by a hearing officer for staleness, I would simply refer you to my response of October 10, 1977, a copy of which is attached. I believe the explanation contained in it adequately characterizes the events.

Contrary to the implications of the audit, I believe the department has been expeditious in its handling of these licensing matters. When the evidence is there, we move with all deliberate speed.

Failure to Take Action Against Guides
Who Have Not Filed Statements of Financial Remuneration

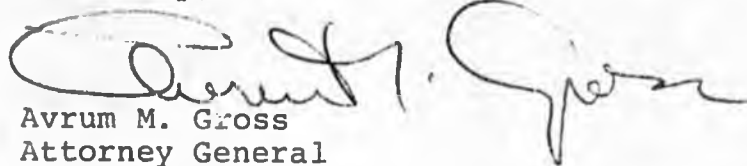
The Department of Law has never refused to initiate administrative proceedings against licensed guides for violation of 12 AAC 38.060. In fact, department personnel have encouraged the Guide Board Investigator to prepare cases based on violations of this regulation.

The department has declined to criminally prosecute guides for violation of 12 AAC 38.060. There are several reasons why prosecutions are not initiated, but they boil down to this: it is nearly impossible to convict a guide under that regulation. Let me elaborate. When a district attorney evaluates a case, he or she views it against the standard of proof required in criminal cases: proof beyond a reasonable doubt. To be successful in prosecuting a guide will require that either the client (hunter) or an employee of the guide testify, against the guide, that a hunt was conducted. Since over 80 percent of guided hunters are nonresidents, it is extremely expensive to procure their testimony. Their appearance cannot be required in our courts. The testimony of a guide's employees is difficult to procure. But even if the State can overcome those hurdles and can prove the hunt occurred, the guide can always say that he mailed the Statement of Financial Remuneration to the appropriate office, but that it was "lost in the mail". The jury returns a verdict of not-guilty; the prosecutor has wasted valuable and limited resources; and a smug and no less unscrupulous guide goes about his business-as-usual.

Gerald L. Wilkerson, CPA
December 2, 1977
Page 3

In this light I believe that the department's decision to deal with these violations through disciplinary proceedings is a wise one. The department has dealt with these cases diligently. Accordingly, I urge you to review and revise your audit in that regard.

Sincerely,



Avrum M. Gross
Attorney General

AMG:BB:cb

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99811

Recording File
JAY S. HAMMOND, GOVERNOR

October 10, 1977

Mr. Roger LaVine
Audit Manager
Division of Legislative Audit
Pouch W - Alaska Office Bldg.
Juneau, Alaska 99811

Re: Interim Letter No. 2
Guide Licensing & Control
Board Audit

Dear Mr. LaVine:

I am in receipt of your letter dated October 6, 1977, regarding your audit of the Guide Licensing and Control Board, and expressing your concern with the Department of Law's processing of accusations for that board. Before reviewing this matter on a case by case basis, I feel that some initial observations are in order.

The history of some of the cases does reflect the fact we were extremely short staffed in 1976 with regard to Guide Board matters, because the attorney position assigned to these matters was not filled for most of the year. In addition, there have been a few cases which have not moved as quickly as they might have. But, in many instances, this has not been the fault of this office. Moreover, review of those cases filed with our office in 1977 will reveal, I believe, that in recent months any problems which existed with respect to the processing of accusations has been resolved.

It has been alleged that the Department of Law has not taken action against guides who have not filed Statements of Financial Remuneration (contracts), as required by 12 AAC 38.060. First of all, criminal prosecution of a guide for failure to file a Statement of Financial Remuneration should be differentiated from administrative action, initiated by accusation, against the guide's guiding privileges, i.e.

proceedings to suspend or revoke the guide's license, taken for this type of violation.

With regard to criminal prosecution of a guide for violation of 12 AAC 38.060, it appears that certain attorneys in various district attorneys' offices have declined to prosecute guides under this regulation. For the reasons outlined below, their decision seems to be reasonable. The evidentiary problems associated with criminal prosecution of a guide under this regulation are substantial, especially when considered in light of the standard of proof applied in criminal proceedings, i.e. proof beyond a reasonable doubt. In most cases, successful prosecution of a guide under this regulation will require that either the client (hunter) or an employee of the guide testify, against the guide, that a hunt was conducted. Since 80 percent of guided hunters are nonresidents, it is extremely expensive to procure their testimony. Furthermore, we have no way of requiring their appearance in our courts. The testimony of a guide's employees is difficult to procure for obvious reasons. In addition, even if we can prove the hunt occurred, the guide can always say that he mailed the Statement of Financial Remuneration to the appropriate office, but that it was "lost in the mail", thereby defending himself. While 12 AAC 38.060 is a valuable enforcement tool, of the many guiding regulations, it is one of the least significant in terms of furthering the Guide Board's statutory purpose to "prohibit guiding activities which are unsportsmanlike, unethical, unsafe, against principles of conservation, degrading to the guiding profession, or which adversely effect the natural resources," as set forth in AS 08.54.040(6). In light of the evidentiary problems, the expense, and the relative significance of 12 AAC 38.060, it would seem that violations of this nature would be more properly pursued in administrative proceedings.

This was discussed with the Guide Board Investigator early this year. It was agreed at that time that the Department of Law would deal with violations of 12 AAC 38.060 administratively through license revocation or suspension proceedings. The Department of Law has never refused to prosecute guides under this regulation by the latter means. To the contrary, the Guide Investigator has been encouraged to prepare cases based on violations of this regulation for administrative treatment via accusation. The Department of Law has just recently prepared an accusation based on the charge of failure to file a Statement of Financial Remuneration.

It has also been alleged that the Department of Law has not processed accusations in a timely fashion against guides who have been accused of violating guiding statutes

October 10, 1977

or regulations. By telephone conversation of October 7, 1977, you have specifically requested information on the status of the following cases. They are referred to by case number to protect the identity of the accused guides. The dates following the case number indicate the date on which the Guide Board Investigator believes an accusation request was filed with the Department of Law:

1. C 77-5084 (04-29-76) A hearing was held on this case four or five months ago. It was to be held earlier, but the guide, who resides in the State of Washington in the winter, requested that it be held later, so that it would be convenient for him to attend. The Hearing Officer requested supplemental briefing, following the hearing. The Hearing Officer has issued his proposed decision, however the Department of Law intends to request reconsideration of it. Therefore, the matter is still "open". In any event, the Board will not meet until December of this year, and their final approval is necessary for proposed disciplinary action to become effective.

2. C 75-1424/C 75-01107 (1975) The hearing in this case is set for October 18, 1977. We have encountered a number of problems attempting to locate the respondent in this matter, and once we were able to do so the hearing was set on immediately for the first time available at which both the Hearing Officer and the respondent could be present. The Department of Law has gone to great lengths in many of these cases to allow the respondent to be present. This is often difficult because the guides spend a great deal of time in the field or are otherwise unavailable. (In this case, the respondent is a commercial fisherman.)

3. C 77-5089 (04-20-74) The Guide Investigator indicates that this matter was filed with the Attorney General's Office in April of 1974. When the Attorney General's Office was requested to take action on this case in the spring of this year, a complete search was made of the office, and no record of such a case was found. The office informed the Guide Investigator that there was no record of any file having been opened on this matter or of any documents pertaining to it in the office. Subsequently, the Investigator supplied the office with a new accusation request and supporting documents. These have been reviewed, and it has been determined that the case is too old for prosecution. It involves incidents which occurred approximately five years ago. Moreover, the Investigator requested that accusations be filed against two guides. One of them is simply not liable under the laws of our state for the activities complained of. Proceedings against the other guide

would entail out-of-state depositions which would be difficult and expensive to obtain. Budget limitations simply do not permit us to proceed in this manner except in the "best" of cases.

4. E 2054 (03-20-75) This office has no record of having received an accusation request against this individual. Informal discussions were held with regard to the possibility of proceeding against him, however supporting documentation was never supplied.

5. C 77-11423 (10-15-76) This is the case referred to in your letter, at the bottom of page one, in which a Hearing Officer recommended dismissal of an accusation because of its age. It should be noted that he also recommended dismissal because he did not believe the guide was guilty of the violations as charged. The incidents giving rise to the accusation occurred in November, 1975. The Department of Law received an accusation request in October, 1976. An accusation was filed shortly thereafter, and a Hearing Officer was assigned to hear the case early in 1977. He was unavailable for a hearing date until May, 1977, when he heard the case. At the hearing, he acknowledged the intervening five-month delay as being his fault. In addition, criminal proceedings were brought against this guide based on the same incidents. It is the practice of the Department of Law, to wait until the criminal proceedings are resolved before proceeding administratively, to avoid duplicative effort on the part of our attorneys, since licenses are often revoked in the course of criminal proceedings.

6. C 77-5092 (04-14-76) This case number references two cases, based on the same incident. Under the Guide Statutes, a registered guide is vicariously liable for the acts of his assistant guide. A hearing was held last March with respect to the assistant guide, and the Hearing Officer recommended a three-year suspension of his license. At the Guide Board meeting in July, the Board affirmed this decision, and the guide's license was officially suspended. At that time, the Board instructed the Assistant Attorney General present to proceed against the registered guide's license also. An accusation is currently being prepared against the registered guide.

7. C 76-18396 (12-08-76) This case is currently being reviewed to see if there is sufficient evidence to proceed with an accusation against the guide.

8. C 76-14769 (12-08-76) A preliminary hearing was held on this case last December based on complaints

filed by various clients of the guide. At that time, the Board instructed the Department of Law to proceed with an investigation of the case and to file an accusation against the guide based on alleged unethical conduct, specifically, taking out clients too early in the season to give them a good hunt, poor food, and double booking aboard the guide's boat. Since that time, the Department of Law has determined that while there may be merit in the complaints, there is not sufficient evidence present to support legal action against the guide, as there are as many letters from clients on file which praise the guide, as criticize him. However, investigation has uncovered one possible violation of a game regulation, which may have occurred on board the guide's boat, to-wit: shooting a deer from the boat. The Division of Fish & Wildlife Protection is currently investigating this charge. When their report is received, the Department of Law will determine whether there is sufficient evidence to proceed against the guide at this time.

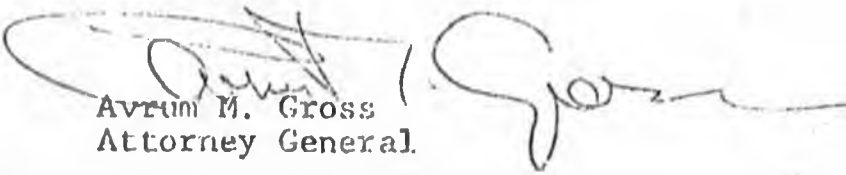
9. C 77-11983 (09-23-76) An accusation has been filed against this guide, but he has not returned a Notice of Defense indicating that he intends to defend against it. A Hearing Officer has been requested. The hearing should be held in the near future, and the matter should be ready for final disposition by the Board at their December meeting.

As you know, the Guide Board Investigator has filed a number of accusation requests with the Department of Law this year, all of which have been filed since April. In our telephone conversation of October 7, 1977, you indicated that you would like review of these case to be treated in group form. Eleven such cases have been filed with our office. Accusations have been prepared, and in most cases served, in seven of those cases. Additional information has been requested in two of the remaining cases, and must be received prior to the filing of accusations. An accusation will be drawn up shortly in the tenth case, as it is based simply on the vicarious liability of a registered guide for his assistant guide, against whom an accusation has already been filed. With regard to the eleventh case, the office is reviewing it to see whether an accusation is warranted.

Perhaps it will be helpful to explain the general procedure followed by the Department of Law in processing these accusations. First, an accusation request is received from the Guide Board Investigator, along with supplemental material detailing the nature of the violation and the evidence currently available. The Department of Law reviews the request and the material, and determines if additional investigation and evidence is necessary for the state to

proceed. If this is so, the Department requests the Guide Board Investigator to make such investigations as are required. When we feel that sufficient evidence has been compiled, an accusation is drawn up. The original is sent to the Department of Commerce & Economic Development, and copies are served upon the guide. Oftentimes it may take four to eight weeks to effect service, as the guides are often difficult to reach. Upon service, the guide has 15 days to return a Notice of Defense indicating that he wishes to defend against the action. Personal service on the guide is attempted, as opposed to service by registered mail, because the guides are often absent from their mailing addresses for periods in excess of two weeks, because of their work. Service by registered mail would therefore often result in a guide losing the option of defending the action. After a Notice of Defense is received, the Department requests a Hearing Officer through the Governor's Office. When a Hearing Officer is assigned, the Hearing Officer, the Department's attorney, and the guide and/or his attorney arrange a mutually-convenient date for the hearing. The Hearing Officer may or may not request supplemental briefing following the hearing. Subsequent to the hearing, the Hearing Officer reviews the facts elicited at the hearing, and issues findings of fact and conclusions of law, along with a proposed decision. At the next Board meeting (which occur about three times a year), the Hearing Officer's findings and proposed decision are read to the Board, at which time the Board either affirms and adopts the proposed decision, or rejects it and orders a new hearing. These proceedings are conducted under the Administrative Procedure Act (AS 44.62).

Sincerely,



Avrum M. Gross
Attorney General

AMG:d1m:CLP -

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU 99801

December 13, 1977

Members of the
Legislative Budget and Audit Committee:

We have reviewed the consolidated responses of the Department of Commerce and Economic Development, Guide Licensing and Control Board, and Department of Law and the auditor's comments are listed below:

Recommendation No. 1

In the assignment of Exclusive Guiding Areas (EGA's), the Guide Licensing and Control Board (the Board) should uniformly apply the criteria established for the Game Management Unit under consideration.

Guide Licensing and Control Board Response to Recommendation No. 1:

"Your concern in this recommendation is that three individuals who had the required number of bear camp registrations did not receive a temporary permit. The reason they did not receive their temporary permit at our first hearing on Unit 9 was because they had over-filed on areas being used by older guides. In examining some of these individual cases the Board's concern was a possible building up of too much hunting impact in a small given area. We told these applicants to continue to examine the map on Unit 9 and see if they could find some areas that would be open and usable in that Unit. At a later meeting, areas for these individuals were being developed. The problem was not a lack of uniform application. I think the problem was the Board's concern of being realistic in trying to protect the resource from over-harvest. In most cases the guides themselves recognize this, although it seems that each man does everything possible to try and improve his own situation, which is probably to his credit."

Auditor's Comment:

In a letter dated December 12, 1977, to the Division of Legislative Audit, the Chairman of the Guide Board

stated that in a recent meeting the Guide Board did not uniformly apply the criteria established for assigning Exclusive Guiding Areas (EGA's) in Game Management Unit 4.

We maintain our position that the Guide Board, in the assignment of EGA's, should uniformly apply the criteria established for the Game Management Unit under consideration.

Department of Commerce and Economic Development Response to Recommendation No. 1:

"In making this recommendation, it appears, the auditors relied solely upon the minimum usage requirements established by the Board in order for an applicant to be eligible for either a temporary or permanent Exclusive Guiding Area (EGA), to determine that the criteria established were not being applied uniformly.

It is the Department's understanding that the Board has always considered additional factors such as the number of minimally qualified applicants for a specific EGA in relation to the harvestable resource available. This is consistent with the overall purpose of the regulatory effort in this industry. Since the review of the Board's records did not reveal this information, the Department will recommend that the Board take action to more clearly delineate its criteria."

Auditor's Comment:

It is the position of Legislative Audit that all factors should be considered before the criteria is established for assigning Exclusive Guiding Areas. Otherwise, the Board will not be able to follow AS 08.54.040(8) which requires that an equitable and reasonable procedure be followed in assigning exclusive Guiding Areas.

Recommendation No. 3

The Department of Law should take prompt action against Guides who violate Guide Board Statutes and Regulations.

Department of Law Response in Part:

"This audit finds shortcomings with the Department of Law in two respects: (1) failure to timely process accusations against guides for violation of the licensing statutes; (2) failure to take action against guides who have not filed Statements of Financial Remuneration required by 12 AAC 38.060. Let me briefly respond to each in turn.

Failure to Timely Process Accusations
Against Guides for Violation of the Licensing Statute

The audit is correct in stating that several accusations are quite old and that, in one case, a hearing officer recommended dismissal because of the remoteness of the events which were the subject of the accusation. The audit, I believe, errs in attributing these facts to deficiencies in the Department of Law.

A review of the guide board docket and our own files discloses that, with respect to the oldest case, there is no record that the department received investigatory reports for which accusations might have been filed. Had they been received, it is fair to presume that action would have been taken immediately, since particularly in the occupational licensing field our department has acted swiftly to initiate disciplinary proceedings. Other cases have been active for varying lengths of time. Any delays have been the result of attempting to serve papers on the respondents, scheduling by the hearing officers, and final action on proposed decisions."

Auditor's Comments:

The Department of Law in an attachment to their response states that they have no record of receiving investigatory reports for two cases (CC77-5089 and E2054) for which accusations might have been filed. According to the information supplied to us by the Department of Public Safety, Division of Fish and Wildlife Protection, these cases were filed with their office.

In another part of the Department's response they state:

"...The history of some of the cases does reflect the fact we were extremely short staffed in 1976 with regard to Guide Board matters, because the attorney position assigned to these matters was not filled for most of the year. In addition, there have been a few cases which have not moved as quickly as they might have..."

Recently, the Department has made progress in processing accusations in a timely manner.

We affirm our recommendation as written.

Department of Law Response in Part:

"Failure to Take Action Against Guides
Who Have Not Filed Statements of Financial Remuneration

The Department of Law has never refused to initiate administrative proceedings against licensed guides for

violation of 12 AAC 38.060. In fact, department personnel have encouraged the Guide Board Investigator to prepare cases based on violations of this regulation.

The department has declined to criminally prosecute guides for violation of 12 AAC 38.060. There are several reasons why prosecutions are not initiated, but they boil down to this: it is nearly impossible to convict a guide under that regulation. Let me elaborate. When a district attorney evaluates a case, he or she views it against the standard of proof required in criminal cases: proof beyond a reasonable doubt. To be successful in prosecuting a guide will require that either the client (hunter) or an employee of the guide testify, against the guide, that a hunt was conducted. Since over 80 percent of guided hunters are nonresidents, it is extremely expensive to procure their testimony. Their appearance cannot be required in our courts. The testimony of a guide's employees is difficult to procure. But even if the State can overcome those hurdles and can prove the hunt occurred, the guide can always say that he mailed the Statement of Financial Remuneration to the appropriate office, but that it was "lost in the mail". The jury returns a verdict of not-guilty; the prosecutor has wasted valuable and limited resources; and a smug and no less unscrupulous guide goes about his business-as-usual."

Auditor's Comment:

We agree that it is difficult and expensive to prosecute a guide. However, the enforcement of all Guide Board Statutes and Regulations are necessary to ensure that the public and game resources are adequately protected and the guiding industry is properly regulated. By enforcing only certain Board laws and regulations, the attitude of non-compliance would be fostered among guides and the public which would be detrimental to the welfare of the State.

We affirm our recommendation as written.



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

September 30, 1977

SUBJECT: Exclusive Guiding Areas

TO: Roger Levine
Legislative Audit Division

FROM: Kenneth E. Vassar 
Staff Attorney

On June 28, 1974, the Guide Licensing and Control Board adopted regulations (12 AAC 38.040 and 050) which limited guides applying for new certification to a total of three districts and authorized exclusive guiding areas in units 8, 16, and 20 (guiding districts established by the board correspond to game management units established by the Board of Fish and Game in 5 AAC 90.10 as of January 1, 1974). On January 1, 1977, section one of 133 SLA 1976 took effect. This section added a paragraph to AS 08.54.040 and reads as follows:

(a) Except as provided in sec. 45 of this chapter, the board shall....

(8) establish a quota of licensed operating guides who may operate within designated geographical game units or subunits of the state and provide for an equitable and reasonable procedure for limiting the number of guides to that quota; preference shall be given to qualified available and willing licensed guides who reside within the designated game unit or subunit.

On February 25, 1977, the board amended 12 AAC 38.040 and 050. The amendment authorizes camp registration in all units - not just in units 8, 16, and 20 - based on occupancy, use, financial value, and other considerations. Camp registration is for the purpose of effectuating exclusive guiding areas surrounding the camps for distances to be determined by the board. The previous limitation of three districts per guide remained in effect.

The following questions have arisen as a result of this activity, and they are as follows:

- (1) Did the board have the authority, before January 1, 1977 (the effective date for section one of 133 SLA 1976), to authorize exclusive guiding areas?
- (2) Assuming it had such authority, did it exceed its authority in granting exclusive guiding areas outside units 8, 16, and 20?
- (3) What effect has section one of 133 SLA 1977 had on the authority, if any, of the board to establish exclusive guiding areas?
- (4) May guides who have been granted an exclusive guiding area transfer the right to guide exclusively in that area, and may the board authorize such practice?
- (5) Did the board have authority, before January 1, 1977, to limit guides to three districts each?
- (6) What effect has section one of 133 SLA 1976 had on that authority?

The following paragraphs will address these questions.

1. Exclusive guiding areas before January 1, 1977. The regulation in effect before January 1, 1977, which authorized the establishment of exclusive guiding areas in units 8, 16, and 20 was 12 AAC 38.050(a) and (b). These subsections stated:

- (a) Registration of one main camp by guides in units 8, 16, and 20 will be allowed based on occupancy, use, and financial value that must be substantiated to the board's satisfaction.
- (b) Camp registration is to effectuate an exclusive big game guiding area surrounding the registered camp, for a distance to be determined by the board.

The authority cited for this section was AS 08.54.050, which has not been amended since then. It provides:

The board shall adopt procedural and substantive regulations, under the Administrative Procedure Act (AS 44.62), required by this chapter or reasonably necessary for its administration.

Considering the language of AS 08.54.050, it is apparent that 12 AAC 38.050(a) and (b) could have been justified only if it were "reasonably necessary" for the administration of some provision of the chapter. It is arguable that the establishment of exclusive guiding areas was "reasonably necessary" for administering the following paragraphs of AS 08.54.050(a):

(a) Except as provided in sec. 45 of this chapter, the board shall....

(3) establish guide performance standards and regulate activity...

(6) prohibit guiding activities which are unsportsmanlike, unethical, unsafe, against principles of conservation, degrading to the guiding profession, or which adversely affect the natural resources....

Generally speaking, state officers, boards, commissions, and departments have such powers as may have been delegated to them by express constitutional and statutory provisions, or as may properly be implied from the nature of the particular duties imposed on them. It will be noted that AS 08.54.040(a)(3) grants broad powers to the board. The board shall regulate the activities of guides. Courts have recognized the wide range of discretion vested in state boards under such broad statutes and have refused to interfere with the exercise of that discretion unless the person challenging it demonstrated that the board's action was prohibited by a specific statutory provision or by clear legislative intent. The following synopsis is a small sampling of those cases reaching this result:

Courts should not substitute their judgment for that of the commission with respect to what is wise and fair in the economy of the state. Sun Oil Co. v. Burford, 130 F.2d 10. (1942 C.A. 5th Cir)

A state officer's decision is not arbitrary and capricious, even though not the wisest and best that could be made, if action was exercised honestly and on due consideration, and there was room for two opinions. Whatcom County v. Langlie, 246 P.2d 836. (1952 Wash)

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A board or commission on which the legislature confers broad general powers is invested with discretion in choosing the means and methods of accomplishing the result expected, and, in the absence of fraud or manifest abuse of that discretion, its determination is conclusive. Elliott v. Superior Court, 180 C.A.2d 894.

An administrative agency which has authority to enact regulations is vested with a large measure of discretion and the burden of showing that the agency has acted improperly in enacting regulations rests upon the one who asserts it. Page v. Welfare Commissioner, 365 A.2d 1118 (1976 Conn)

The powers granted in AS 08.54.040(a)(3), as noted before, are broad. If the cases cited apply, which it seems they should, then the board's actions have a rebuttable presumption of validity based upon the board's wide discretion in choosing the means of accomplishing the results expected. The presumption of validity cannot be rebutted merely by asserting that the board's decision is not "the wisest and the best that could be made." The burden is on the party challenging the board's actions to show that they are arbitrary, capricious, or fraudulent, or that they constitute manifest abuse of the discretion granted the board. To the best of my knowledge, no such showing has been made.

Beyond the wide discretion vested in the board under AS 08.54.040(a)(3), there is the further discretion inherent in administering the powers granted the board under AS 08.54.040(a)(6). That paragraph gives the board the power to prohibit guiding activities which are "against principles of conservation...or which adversely affect the natural resources." This, too, is a broad power since the legislature did not restrict the means for accomplishing the results expected, and it carries with it wide discretion in choosing the means to be used. A look at the situation which existed before adoption of the regulation in issue illustrates the reasonableness of the board's decision to authorize exclusive guiding areas. Senator Poland, in floor debate over CS SB 661 (a precursor of 133 SLA 1976) on March 25, 1976, stated:

Kodiak Island was one of the toughest ones of all, because they had had, believe it or not, 198 guides that had been guiding on Kodiak at one time or another.

By the use of the, by using past records of guiding there, they were able to reach an amicable agreement where 19 are now guiding there. The others had to go to other districts.

It is important to recognize that Kodiak Island is within unit 8, one of the designated units within which exclusive guiding areas were authorized.

In a situation where a large number of guides are concentrating on limited areas of hunting, thus causing potentially irreversible damage to the resources in those limited areas, and where it is the duty of the board to prohibit guiding activities which adversely affect the natural resources, it seems that there is "room for two opinions" as to the reasonable necessity of establishing exclusive guiding areas in those regions. Hence, the board's decision to use such areas was within its range of discretion.

In short, I believe that the broad powers and wide discretion granted the board under AS 08.54.040(a)(3) and (6) encompass and authorize the establishment of exclusive guiding areas.

2. Exclusive guiding areas outside units 8, 16, and 20 before February 25, 1977. Assuming that 12 AAC 38.050, as it read before the recent amendment (2/25/77), was valid, granting exclusive areas outside units 8, 16, and 20 would not have been valid. The establishment of such areas would have been beyond the authority of the board's own regulations, since authorizing exclusive areas in certain units implies a lack of authorization for exclusive guiding areas in other units.

3. The effect of 133 SLA 1976 on exclusive guiding areas. After the effective date of section one of 133 SLA 1976, the board amended 12 AAC 38.050(a) to read:

Registration of camps by guides will be allowed based on occupancy, use, financial value and other considerations that must be substantiated to the board's satisfaction.

The listing of authority under the regulation was also amended to add AS 08.54.040(a)(6), as well as AS 08.54.050. It is interesting to note that section 40(a)(6) was listed and not section 40(a)(8), the new paragraph dealing specifically with quotas.

Roger Levine
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There are at least two considerations which support the argument that passage of 133 SLA 1976 (hereinafter referred to as sec. 40(a)(8)) ratified or at least did not refute the board's power to authorize exclusive guiding areas.

The first consideration relates to the language of sec. 40(a)(8). The section is quoted on the first page of this memorandum. It requires the board to establish quotas within "designated geographical game units or subunits of the state." Since an exclusive guiding area simply amounts to a quota of one within a designated subunit of the state, the establishment of such areas is expressly authorized under this language.

The section also requires the board to provide for an equitable and reasonable procedure for limiting the number of guides to the quota. In furtherance of this requirement, the board has utilized advice from biologists in the Department of Fish and Game to determine where exclusive guiding areas are needed. Furthermore, the regulations provide guidelines for the granting of exclusive areas; under these guidelines, the board must take into consideration occupancy, use, financial value, and other considerations.

It is true that the guiding districts used by the board correspond to districts established by regulation of the Board of Fish and Game and that there are also established subunits under those regulations which do not correspond to the exclusive guiding areas. Nevertheless, the legislation does not specify the subunits to which the board must adhere. Thus, the board is free to designate its own subunits and is not bound by regulations adopted by the Board of Fish and Game.

The second consideration supporting exclusive guiding areas subsequent to the enactment of sec. 40(a)(8) relates to the legislative history of sec. 40(a)(8). It was introduced in the senate in 1976 as SB 661, section one of which provided for quotas "within designated geographical areas." This bill was replaced with CS SB 661, section one of which provided for quotas "within designated geographical game units or subunits." The new language was provided by the Senate Resources Committee and represents a conscious effort by the chairman of that committee to assure the authority of the board to establish exclusive guiding areas. In her statement on the Senate floor on March 25, 1976, Senator Poland, the chairman of the committee, specifically referred

to the method in use by the board at that time on Kodiak Island (this statement is quoted supra), and in describing CS SB 661, she stated:

It's a policy of setting a quota and assigning guides to definite units. It has been practiced on Kodiak Island and has worked out extremely well there....

I think there can be no question but that the author of the language which was enacted and became sec. 40(a)(8) intended it to authorize the continued practice of granting exclusive guiding areas and that the legislature, at least by implication, intended the same result in passing the bill.

4. Transferral of guiding rights in exclusive guiding areas. The grant of an exclusive guiding area is a privilege and not a vested right of the grantee. Under sec. 40(a)(8), the privilege may only be granted by the board subject to "equitable and reasonable" procedures established by the board. It may not be granted, then, by any other person or group, including the holder of a grant. Furthermore, the authorization by the board of such practice would constitute the abrogation of its statutory duty to establish "equitable and reasonable" procedures for limiting guides to the quota established. Part of the procedure established by the board includes consideration of the use and occupancy of the area by the guide seeking the privilege. To allow the sale or transfer in any manner of the privilege by its holder would destroy the equitable and reasonable nature of the grant since it would eliminate the use and occupancy considerations. Therefore, such practice is beyond the authority of any grantee of an exclusive guiding area and may not be authorized by the board.

5. Three districts per guide before sec. 40(a)(8).

6. Three districts per guide after sec. 40(a)(8).

Sec. 40(a)(8) provides for the establishment of quotas within districts; it does not address itself to the establishment of a three district per guide quota. Therefore, since sec. 40(a)(8) has no effect on such a quota, the board's authority to limit guides to three districts must be based upon some other section in the chapter, and questions 5 and 6 may thus be answered together.

Roger Levine
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The regulation limiting new certifications to a limit of three districts per guide is 12 AAC 38.040. Before the amendments of February 25, 1977, the authority listed for this regulation was AS 08.54.050, but after the amendment, this was expanded to include AS 08.54.040(a)(3) and (6). These sections have been quoted previously in this memorandum and will not be reproduced here.

The establishment of a three district per guide limitation is within the authority of the board under the broad powers established in sec. 40(a)(3) and (6), for it can be justified as reasonably necessary to the regulation of guiding activity under sec. 40(a)(3) and to the prohibition of guiding activities which are unsafe under sec. 40(a)(6). By limiting a guide to three districts, the board is better able to assure the competence of the guide in the areas where he is guiding. The guide is more likely to become well aware of the individual nature of his guiding area and of the animals and potential dangers therein. Thus, the regulation promotes competency, safety, and conservation in guiding and is within the authority of the board to adopt.

I hope this has satisfactorily answered your questions. If there is anything more I can do for you, please let me know.

KEV:jpd

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D - JUNEAU 99011

March 20, 1978

Representative Al Osterback, Chairman
House Resources Committee
Alaska State Legislature
Juneau Alaska

*Copies
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Dear Al:

The Commerce Department notified me today that you had scheduled House Joint Resolution 95 for a hearing on Friday afternoon.

The Guide Licensing & Control Board has had to readjust its proposed hearing in Fairbanks and now have it scheduled starting March 27, to run through that week. For some of the members to spend a week away from their jobs has been difficult and they have had to reschedule many of their activities to be prepared to attend the Board meeting. In talking to some of the Board members it seems under the circumstances they would be unable to come to Juneau for Friday's meeting.

Our own staff in Anchorage is loaded with work, trying to get ready for the meeting, and the Attorney General's office in Anchorage, where we have Liza Fessner as our special attorney, is also swamped. She is in the process of finalizing a full day of court cases for the Board to hear. I would very much like to have her at a hearing in case legal questions come up that the Board members could not answer.

At our last hearing on H.J.R. 95 the time ran on so long that your committee did not hear from the Department of Game or the Attorney General's office. Both of these departments have been somewhat involved in our activities, and where I do not know what their testimony would be it might be that your committee would want to hear from them.

Respectfully yours,

Mark

Marcus F. Jensen, Chairman
Guide Licensing and Control Board

cc: Board members
Wm. Bellinger

****PLEASE NOTE****

THE ORIGINAL FILE CONTAINS AN OVERSIZED DOCUMENT THAT IS UNSUITABLE FOR FILMING. PLEASE REFER TO THE ALASKA STATE ARCHIVES TO VIEW THE ORIGINAL.

DESCRIPTION: MAP (XEROXED COPY)

GUIDING UNITS 23-26