

SUNSET  
Guide  
BOARD

Hearing 2/14/80

Discussion 2/19/80

Letter of Intent to Speaker passed 3/11/80  
Printed in journal for 3/13/

\* (See CSHB 1032 - House Resources  
bill for continuation  
of Guide Board)



# Alaska State Legislature

## House

HOUSE RESOURCES COMMITTEE

**FISH & GAME ISSUES**  
 Alvin Osterback, Chairman

Pouch V, State Capitol  
 Juneau, Alaska 99811  
 (907) 465-3715

### HEARING NOTIFICATIONS

| <del>DATE</del>                                    | DATE INFORMED | LETTER/PHONE | INFORMED  | HEARING DATE |
|--|---------------|--------------|---|--------------|
|  | 2/5/80        | 2535         | Commerce Dept. - Div. of Occupational Licensing : Ann Greggs to attend hearing        | 2/14/80      |
| Sunset Review of Guide Licensing and Control Board | 2/5/80        | In person    | Marc Jensen, Chairman of Guide Board He and other Board members to attend and testify | 2/14/80      |
|  | 2/5/80        | 243-3977     | Professional Hunters Assoc. Pres. Phil Driver to testify                              | 2/14/80      |
|  | 2/5/80        | 3748         | Senate Commerce Committee (sen. Bradley) (Having review in senate side)               |              |
|  | 2/5/80        | 3830         | Legislative Audit - to provide performance review of Guide Board                      |              |

# Interior Wildlife Association of Alaska

Conservation Wise USE of Resources

PHONE (907) 452-3788 • BOX 60255 • FAIRBANKS, ALASKA 99701

BOARD OF DIRECTORS:

Dr. P. B. Haggland, Chairman  
H. C. "Bud" Wiese, Treas.  
William G. Stroecker  
Richard A. Burley  
William I. Waugaman  
Charles L. Gray

March 20, 1980

Representative Alvin Osterback  
Co-Chairman, Resources Committee  
House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Representative Osterback and Committee Members,

As a former member of the Guide Board, I have an abiding interest in its success. Any objective study or audit of the Board will show that a lot has been accomplished in the face of adversity. The Board, through its dedicated chairman, has accomplished the near-impossible in straightening out and bringing some degree of professionalism to the guiding business.

Because of this, we are distressed that a more positive report regarding the sunset review did not come out of your committee (House Journal, No. 29, 3-13-80). We are particularly concerned about paragraphs 5 and 5a. Surely the clean bill given the Board by the Division of Legislative Audit and by the Senate Commerce Committee this year warrant better than a one year extension by your committee! What long range plans can be carried out with a restriction like that? What further miracles must the Board perform to be given a pat on the back and encouraged rather than have additional road blocks thrown in the way?

Judging from Representative Rick Halford's request to the AG's office for a legal review of the Board, he may have had an adverse affect on your committee's report. It would appear to us, based on wording in Halford's request, that his personal and family problems with the Board may be coloring his views.

It is rumored in Fairbanks that Representative Halford has had lucrative summer flying contracts for the Game Department. Until this is checked out, we can only question the propriety of such practices by a legislator and wonder about conflict of interest problems--moral, if not legal. Maybe the AG should be asked about this?

The Guide Board needs assistance and encouragement, not unnecessary impediments. Much has been accomplished and much more can be accomplished if the Board is given a chance. It doesn't appear your committee is giving it that chance.

Sincerely,  
Interior Wildlife Assoc.

*Bud Wiese*  
Bud Wiese  
Director

cc: Committee Members

"Concerned Sportsmen"

copy

Provided by:  
Div. of Occupational  
Licensing

STATE OF ALASKA  
Guide Licensing and Control Board  
May, 1979

Findings

The Guide Licensing and Control Board functions to establish guiding areas, limit the number of guides in areas, and assure that a guide is competent enough to care for himself and others in the remote setting. Guides are also concerned with environmental conservation and animal husbandry. Regulation of this profession is in the best interests of the State and should be continued. The Board is carrying out its duties in a responsible manner and appears to be meeting needs and demands reasonably; therefore, we believe the board also should be continued. Guides and their clients are also subject to Alaska Department of Fish and Game hunting regulations.

Section 1, ch. 106, SLA 1976, provides: "Purpose. It is the purpose of this Act to protect the safety of the citizens of the state and better manage and protect its resources by licensing persons who transport hunters for hire so that reasonable standards and guidelines will be met and activities affecting the state's game resources will be more accurately monitored and assessed."

I. General Information

A. Regulated Parties

1. Master Guides
2. Registered Guides
3. Class-A Assistant Guides
4. Assistant Guides
5. Transporters

B. Definitions

"(2) 'guide,' 'guides' or 'guiding' means assisting another person to take game with the intent of receiving monetary or material remuneration for the services, by accompanying and directing that person personally or through a licensed assistant guide for the duration of a hunt, and not solely for the purpose of providing transportation services;

(5) 'transporting' or the 'activity of transporting' means conveying a person by any lawful means to an area for remuneration or material benefit in excess of normal operating costs, when the primary purpose of the person being conveyed is the taking of big game and the associated removing of big game meat and parts of big game after big game has been taken; big game as used in this paragraph means game which, if taken by a nonresident, would require a big game tag." (AS 08.54.240)

C. Nature and Composition of Board

1. Board members and terms:

Three-year term (no restrictions regarding consecutive terms or number of terms).

|                             |                    |
|-----------------------------|--------------------|
| Marcus F. Jensen (Chairman) | ends June 15, 1980 |
| Clark Engle                 | ends June 15, 1981 |
| Glen Glenzer                | ends June 15, 1980 |
| Charles Keim                | ends June 15, 1979 |
| Hubert Weise                | ends June 15, 1979 |
| Norman Sutliff              | ends June 15, 1979 |
| Donald Harris               | ends June 15, 1981 |

2. Representation:

Profession - 3  
Public = 4

3. Qualifications:

"...No more than three members of the board shall have a guide license. The other members shall have a general knowledge of the game resources of the state. A minimum of 10 years residence in the state is required for all members of the board."  
AS 08.5..010

D. Licensing Data

Current licenses (effective May, 1979)

|                    |   |           |
|--------------------|---|-----------|
| Master guides      | = | 35        |
| Registered guides  | = | 268       |
| Class-A assistants | = | 95        |
| Assistant guides   | = | 413       |
| Transporters       | = | <u>47</u> |
| Total              |   | 858       |

All licentiates in this profession are in-State.

E. Fees

|                                     |         |
|-------------------------------------|---------|
| 1. master guide license, annual     | \$75.00 |
| 2. registered guide license, annual | 75.00   |
| 3. class-A assistant guide, annual  | 15.00   |
| 4. assistant guide license, annual  | 10.00   |
| 5. transporter license              | 10.00   |
| 6. examination fee                  | 25.00   |

(Also subject to Fish and Game fees under AS 16.05.340(e).)

F. Board Revenues and Expenditures

|                               | FY '76             | FY '77             | FY '78             | FY '79             |
|-------------------------------|--------------------|--------------------|--------------------|--------------------|
| Receipts                      | \$39,054.64        | \$39,025.50        | \$41,882.00        | \$41,601.00        |
| - refunds                     | <u>254.64</u>      | <u>330.00</u>      | <u>265.00</u>      | <u>605.00</u>      |
| Total                         | \$38,800.00        | \$38,695.50        | \$41,617.00        | \$40,996.00        |
| Expenditures                  |                    |                    |                    |                    |
| Transportation                | 2,913.37           | 2,607.63           | 3,457.12           | 3,042.11           |
| Per Diem                      | 5,213.88           | 5,057.75           | 8,840.68           | 6,672.80           |
| Phone                         | 382.99             | 569.68             | 815.01             | 813.13             |
| Printing, Adver.<br>& Postage | 966.17             | 1,592.27           | 2,584.38           | 626.51             |
| Fees & Services               | 300.00             | 430.00             | 362.00             |                    |
| Rents, Leases<br>& Other      | <u>293.90</u>      | <u>-</u>           | <u>768.98</u>      | <u>3,094.70</u>    |
| Total                         | <u>\$10,070.31</u> | <u>\$10,257.33</u> | <u>\$16,828.17</u> | <u>\$14,249.25</u> |
| Surplus                       | \$28,729.69        | \$28,438.17        | \$24,788.83        | \$26,746.75        |
| Deficit                       | -                  | -                  | -                  | -                  |

(EXCLUDES DIVISION OF OCCUPATIONAL LICENSING ADMINISTRATIVE OVERHEAD)

G. Complaints

Enforcement of Guide Licensing and Control statutes and regulations is the responsibility of the Department of Public Safety, Division of Fish and Wildlife Protection. An Anchorage based Assistant Attorney General is specifically designated for the Board. Sixty-

one investigations were reported to have been conducted by the Division of Fish and Wildlife Protection during the period from April, 1977 through April, 1979. During this same period 35 accusations were filed for disciplinary hearings before the Board.

## II. Analysis

### A. To what extent has the Guide Licensing and Control Board operated in the public interest?

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The Board operates to protect the public interests by controlling hunting activity, promoting hunter safety, and protecting wildlife resources. Accordingly, the Board has statutory responsibility for: (1) preparation, grading and administration of examinations; (2) passing on applicant qualifications; (3) regulation of guide activity and performance standards; (4) maintaining a current register; (5) maintaining and publishing a list of active registered or master guides; (6) regulating guide activities and conduct; (7) revocation, denial and suspension of licenses; (8) establishing geographical guiding quotas; and (9) adoption of procedural and substantive regulations concerning guiding.

Special permit provisions exist for qualified applicants who are limited by language barriers. Candidates for examination who may not fully understand the English language may be given the examination orally in their native language. The Board has recently concentrated a great deal of effort in recruiting qualified guides from remote bush and coastal areas. A separate guiding district has been created (making a total of 27) which includes all western, northwestern and northern Alaska coastal areas north of latitude 50° north for the purpose of regulating marine mammal hunting. Board members have traveled to outlying villages to educate the populace on guide qualifications and to take applications for licensure. Meetings in Nome and/or Kotzebue are planned in 1979 assuming an Arctic guide program is started.

Examinations given by the Guide Licensing and Control Board are Board constructed. Only applicants for registered guide status must take a written examination. Oral examinations are administered by the Board to candidates for both registered and master guide. A passing score of 80% must be achieved. Even though the Board has failed applicants on the basis of the oral examination, it has not made or kept a record of these proceedings. The Board should record all oral examinations in support of its determinations and should ensure that its reasons for denial of applications and licenses are cited in meeting minutes and in notices to the applicant. Review indicated that this procedure is not always followed.

State licensure constitutes exclusive permission to engage in an activity that would otherwise be unlawful. Board procedures are designed to assure that those persons so licensed and engaged are qualified by virtue of past experience and demonstrated competence.

The Anchorage office of the Division of Fish and Wildlife Protection maintains records and files on all enforcement activities and on all guides. These records are complete and up to date. Individual guide files contain all relevant information from initial licensure to latest renewal. A transfer of the Board and regulation to the Division of Fish and Wildlife Protection should be given consideration, particularly in view of the fact that the division has responsibility for enforcement of guiding laws. In a memorandum dated November 8, 1978, to the Office of the Governor, an official of the Department of Public Safety indicated that such a transfer would be favorable. The Board also has indicated support for this proposal.

The Guide Licensing and Control Board is active in disciplinary proceedings concerning the profession. A number of hearings have been held by the Board and subsequent action taken. Viability of enforcement is

largely due to authorization of investigation, administrative support services and Department of Law assistance assigned particularly to guide activities.

AS 08.54.190(a) provides that all licenses expire every year on December 31. As of May, 1979, 858 licenses were in effect and the number increases every year. A statutory amendment should be considered which would allow for biennial renewal.

AS 08.54.200(c)(3) makes revocation of a guide license mandatory upon conviction of two violations of federal or State sport fish, game or guide statutes or regulations. The Board is presently given no discretion or latitude by which it may consider the seriousness of offenses or lesser disciplinary action such as suspension; the most minor violations must result in license revocation. SB 101, with which the board is in agreement, was introduced during the 1979 session of the Legislature (see Appendix A). Passage of this bill would allow the Board to take disciplinary action commensurate with the nature of offenses.

Transporters are required by AS 02.05.040 (the Alaska Air Commerce Act of 1960) to have "in force a certificate issued by the commission [Alaska Transportation Commission] authorizing that person to engage in air commerce as a certificated carrier, contract carrier, or air taxi operator." Title 02, § 170(f), also requires filing of game transporter reports with the Department of Fish and Game. The Alaska Business Act (43.70) requires that transporters maintain a current business license. An abundance of regulations covering this subject also exists under AS 16.05, Fish and Game Code. Licensed guides are exempt from license requirements for transporters. In view of the enforcement and regulatory difficulties encountered in this area, and the fact that transporters are otherwise regulated, it is suggested that appropriate revisions be made to Guide Licensing statutes.

12 AAC 38.055 provides for a limited time waiver of guide area use requirements in case of death of a permit holder. During this period "an heir may apply to the board for a reassignment of the permit to a person designated by the heir" (emphasis added). In case of mental incompetence, a guardian may, during this same limited period "apply to the board for a reassignment of the permit to a person designated by the guardian" (emphasis added). It is questionable whether designation of permit holders should be done by heirs and guardians and whether preference should be given by the Board to persons so designated. It should not be a function of a State board to protect the monetary interests of a licensee. Rather, the Board should consider the qualifications of all applicants, as is done in other instances, and grant permits on that basis alone.

- B. To what extent has the operation of the Guide Licensing and Control Board been impeded or enhanced by existing statutes, procedures and practices which it has adopted, or any other matter, including budgetary, resource and personnel matters?

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Resources and services provided for this Board far exceed those provided for other boards and commissions under Title 8. As previously noted, enforcement and investigation of its statutes and regulations is adequately handled by the Department of Public Safety. The Board has been assigned an Assistant Attorney General, located in Anchorage, and issues have been pursued actively, both by the Department of Law and by the Board. Other support staff is provided by the Division of Occupational Licensing and is presently adequate. Employee turnover has impeded to some extent continuity and follow through on Board requests.

The Board has not been particularly impeded by budgetary constraints. Meetings and/or hearings have been scheduled as necessary. A special appropriation in the amount of \$10,000 was made by the Legislature in 1979 to allow the Board to conduct hearings and formulate procedures

related to hunting of marine mammals. Fees and revenues for all boards and commissions under the jurisdiction of the Division of Occupational Licensing are collected through the Division and are deposited into a general fund. Monies deposited and withdrawn are identified by codes so that direct board revenues and expenses may be determined.

The Board has expressed a desire to repeal statutes in Title 8 concerning transporters (§§ 142, 144 and 146). Interpretation of AS 08.54.130(2) has apparently caused some confusion in that it is not clear whether the supervisor of a Class-A assistant should be in the guide unit or merely giving direction from any location in the State. AS 08.54.190(a) should be amended to allow for biennial rather than annual renewal of licenses. SB 101, introduced in 1979, would give the Board some latitude in disciplinary actions where guide have been convicted of federal or State sport fish, game or guide laws.

Examinations for registered and master guides are given once a year in November or December, in Anchorage. Control and security of testing materials is maintained by the Department of Public Safety. Board regulations state that applicants who fail either the written or oral test may not be reexamined for six months. An annual examination procedure means that an applicant who fails will miss an entire subsequent hunting season before he can take the next examination. It is suggested that consideration be given to scheduling two examinations each year in two areas of the State to coincide with regular Board meetings.

Public members are included in the composition of the Board. Total membership of seven is felt to be adequate. Terms of membership are three years, however, at least two members have served since the Board was established in 1973.

C. To what extent has the Guide Licensing and Control Board recommended statutory changes which are generally of benefit to the public interest?

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In 1976 statutory amendments concerned regulation of transporters and "housekeeping" items. One significant 1976 amendment mandated that the Board "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" (AS 08.54.040(a)(8)). The Board has recently accomplished this directive.

Statutory recommendations made by the Board have been cited previously.

- D. To what extent has the Guide Licensing and Control Board encouraged interested persons to participate in and report to it concerning the making and effect of its regulations and decisions, or to report to it concerning the effectiveness, economy, and availability of service which it has provided?

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Guide Board meetings and hearings are well attended by interested parties. Petitioners before the Board will not even have their petitions considered unless they or their representative(s) are present. Any party possibly affected by a petition is also notified that the matter will be discussed so they may participate.

There is evidence to indicate that Board members have made themselves visible and available to members of the public and the industry. Some members have spent a considerable amount of time on personal correspondence and even personal visits with interested parties in some cases. For instance, members have traveled to Nunivak to meet with and recruit potential guides.

Public interests are felt to be furthered by the presence of public members on professional boards. "In recent years a number of states have added one or more public members (citizens with no particular interest in the occupation or profession governed by the board) to licensing boards in an effort to ensure that the interests of the public would be represented in decisionmaking."<sup>1</sup> The State of California, which provides for a one-third public membership on health care boards and a public majority on others, has indicated that its experience with public members has been highly rewarding.

E. How efficiently are public inquiries or complaints regarding the Guide Licensing and Control Board processed and resolved?

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Routine correspondence regarding Board activities may be responded to by the Division of Fish & Wildlife Protection, the Division of Occupational Licensing or by individual Board members. Review of Board files indicates that responses generally are made in an appropriate and timely manner.

Sixty-one investigations were reported to have been conducted by the Division of Fish and Wildlife Protection during the period from April, 1977 through April, 1979. Thirty-five Accusations for Disciplinary Hearings before the Board were filed during this time.

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<sup>1</sup>Shimberg, B. and Roederer, D., Occupational Licensing: Questions a Legislator Should Ask, The Council of State Governments, Lexington, Kentucky, March, 1978, pg. 20.

At least one complaint regarding the examination was filed with the Office of the Ombudsman and was determined by that office to have been partially justified.

- F. To what extent does the Guide Licensing and Control Board present qualified applicants to serve the public?

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Individuals seeking licensure must submit fees and qualifying documents to the administrative agency for consideration by the Board. Examinations for registered and master guides are given annually. Applicants who are qualified and/or demonstrate a specified level of knowledge and proficiency are issued a license.

Licensure does not, however, guarantee assignment of hunting units. This is also determined by past use, animal resources and number of guides already in the area, and compatibility with present users and facilities. Current policy limits the number of hunting units that a guide may be certified for; past assignments in excess of the general limit were not rescinded but once lost or forfeited are usually re-assigned to another qualified applicant. These procedures are intended to comply with § 040(1)(8).

- G. To what extent have State personnel practices, including affirmative action requirements, been complied with by the Guide Licensing and Control Board in its own activities, and in its area of activity or interest?

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Board staff consists of the support services of a licensing examiner employed by the Division of Occupational Licensing (also responsible for

two other boards) who is hired through the State Personnel System and is subject to affirmative action.

Licenses are issued on the basis of specific criteria. Affirmative action requirements are not applicable to these licensure qualifications.

H. To what extent are statutory, regulatory, budgetary, or other changes necessary to enable the Guide Licensing and Control Board to better serve the interests of the public?

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Transfer of licensing and record keeping functions to the Department of Public Safety would contribute to continuity and centralization of Board operations. Enforcement and investigative services provided by that Department, and the services of the Department of Law, have proved satisfactory.

AS 08.54.190(a) should be amended to allow for biennial renewals. § 200(c)(3) should be amended to vest some disciplinary discretion with the Board in instances concerning convictions of minor violations. §§ 142, 144 and 146, concerning transporters, should be repealed. This intent was also expressed by the Board by resolution at its April 3, 1979 meeting.

The Board should review its regulations with respect to implications that heirs and guardians of permit holders may designate successors. The Board should also consider regulatory clarification of "supervision" as cited in § 130(2).

The Board should reconsider its policy of scheduling examinations only annually and only in Anchorage.

## Article 1. Guide Licensing and Control Board.

### Section

10. Creation and membership of board
20. Appointment and term of office
30. Chairman of board
40. Powers and duties
45. Special guiding permit
50. Board regulations
60. Board hearing
70. Compensation and expenses

Sec. 08.54.010. Creation and membership of board. There is created the Guide Licensing and Control Board consisting of seven members. No more than three members of the board shall have a guide license. The other members shall have a general knowledge of the game resources of the state. A minimum of 10 years residence in the state is required for all members of the board. (§ 1 ch 17 SLA 1973)

Sec. 08.54.020. Appointment and term of office. The members of the board shall be appointed by the governor and confirmed by the legislature for staggered terms of three years or until their successors are appointed. Initial terms are as follows: three members for one year, two members for two years, and two members for three years. A member may be removed at the pleasure of the governor. (§ 1 ch 17 SLA 1973)

Sec. 08.54.030. Chairman of board. The board shall elect one of its members as chairman. (§ 1 ch 17 SLA 1973)

Sec. 08.54.040. Powers and duties. (a) Except as provided in § 45 of this chapter, the board shall

- (1) prepare, grade and administer examinations;
- (2) determine and pass on qualifications of applicants for licenses and authorize the issuance of licenses to those who qualify;
- (3) establish guide performance standards and regulate activity;
- (4) compile, maintain and publish a guide register of guides who have not been convicted of a violation of a federal or state sport fish, game, or guiding statute or regulation; a guide listed in the register whose license is revoked or suspended shall be removed from the register while his license is revoked or suspended;
- (5) compile, maintain and publish a record of registered or master guides who have completed a contract hunt in any of three years immediately preceding the publishing of the record;

(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;

(7) after a hearing, revoke, suspend or deny renewal of a license in accordance with § 200 of this chapter;

(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.

(b) If a person is unable to competently understand the written portion of an examination given under (a)(1) of this section, he shall be given the complete examination orally in a language which he understands. (§ 1 ch 17 SLA 1973; am § 1 ch 133 SLA 1976)

Sec. 08.54.045. Special guiding permit. This chapter does not limit the power of the board or its authorized designee, to issue a special guiding permit, in place of a guide license, to a person to guide in a specifically designated area, if the person is considered sufficiently experienced to perform the services of a guide and is limited solely by language barriers from securing a regular guide license. (§ 1 ch 17 SLA 1973)

Sec. 08.54.050. Board regulations. 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. (§ 1 ch 17 SLA 1973)

Sec. 08.54.060. Board hearing. The Administrative Procedure Act (AS 44.62) applies to proceedings and hearings under this chapter. (§ 1 ch 17 SLA 1973)

Sec. 08.54.070. Compensation and expenses. Members of the board receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards. (§ 1 ch 17 SLA 1973)

## Article 2. Licensing.

### Section

- 100. Qualifications for a master guide license
- 110. Qualifications for registered guide license
- 120. Qualifications for a class-A assistant guide license
- 130. Privileges and limitations of class-A assistant guides
- 140. Qualifications for assistant guide license
- 142. Qualifications for transporter license

- 144. Restriction to transportation
- 146. Transporter report
- 150. Responsibility of registered or master guide for violations
- 170. License fees
- 180. Examination fee
- 185. Additional fees
- 190. Expiration and renewal
- 200. Grounds for disciplining a licensee
- 210. Unlawful acts
- 220. Injunction against unlawful action

Sec. 08.54.100. Qualifications for a master guide license. A person is entitled to be licensed as a master guide if he

(1) has legally hunted in the state for a part of each of 10 years during which time a substantial source of his income was from guiding or related activities directly contributing to his experience and competency as a guide;

(2) meets all the requirements of a registered guide and has been actively engaged in licensed guiding activities in the state for at least five years preceding application;

(3) has not been convicted of a violation of federal or state sport fishing, game or guiding laws or regulations within the preceding five years;

(4) has consistently performed in a superior manner as evidenced by required reports submitted to the board and by inquiries made by the board to at least two of the guide's clients of record; and

(5) meets additional qualifications which the board may require. (§ 1 ch 17 SLA 1973)

Sec. 08.54.110. Qualifications for registered guide license. A person is entitled to be licensed as a registered guide if he

(1) is 21 years of age or more;

(2) is a resident of the state and maintains a permanent place of abode in the state;

(3) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of trophies, first aid and photography;

(4) is familiar with the terrain and transportation problems in the district for which the license is requested;

(5) has passed the qualification examination prepared and administered by the board;

(6) has demonstrated to the board sufficient standards of competence and ethical conduct and has not been convicted of a crime involving moral turpitude;

(7) has legally hunted in the state for all or part of each of five years in a manner directly contributing to his experience and competency as a guide;

(8) has been licensed as and performed the services of an assistant guide in the state for a part of each of three years;

(9) submits a written recommendation to the board from a registered guide for whom the applicant has worked;

(10) is capable of performing the physical duties associated with guiding activities;

(11) has been favorably recommended in writing by two hunters that he has guided or assisted in guiding during each year of his three years as an assistant guide, whose recommendations have been solicited by the board from a list provided by the applicant;

(12) meets additional qualifications which the board may require. (§ 1 ch 17 SLA 1973)

Sec. 08.54.120. Qualifications for a class-A assistant guide license. A person is entitled to be licensed as a class-A assistant guide if he

(1) has been employed for at least one season as a licensed assistant guide;

(2) has had at least 20 years experience in the guide district in which he is to be employed; for the purposes of this paragraph physical presence at some time of the year during each of the 20 years constitutes adequate evidence of experience, and military service outside the state for no more than six years shall be accepted as part of the required 20 years experience;

(3) has been recommended in writing as qualified by a registered or master guide to the board. (§ 1 ch 17 SLA 1973)

Sec. 08.54.130. Privileges and limitations of class-A assistant guides. A class-A assistant guide

- (1) may not contract for hunts;
- (2) shall be under the supervision of a registered or master guide who has contracted with the client for whom the class-A assistant guide is conducting the hunt;
- (3) may take charge of a camp and conduct hunts from it without the registered or master guide necessarily being present in the area if the registered or master guide is physically present in the state and is actively supervising in guiding activities. (§ 1 ch 17 SLA 1973)

Sec. 08.54.140. Qualifications for assistant guide license. A person is entitled to be licensed as an assistant guide if he

- (1) is 19 years of age or more;
- (2) is a resident of the state;
- (3) is favorably recommended to the board, in writing, by a registered guide;
- (4) meets additional qualifications which the board may require;
- (5) is in sound physical condition. (§ 1 ch 17 SLA 1973)

Sec. 08.54.142. Qualification for transporter license. (a) No person may engage in the activity of transporting unless he is licensed as a transporter under this chapter. A person may be licensed as a transporter if he

- (1) is a resident of the state;
- (2) is familiar with the terrain and transportation problems in the district or districts for which the license is requested;
- (3) obtains a business license to do business as a transporter under AS 43.70.030.

(b) No person may engage in the activity of transporting by air without an air commerce certificate as required by AS 02.05.040. (§ 2 ch 106 SLA 1976)

Sec. 08.54.144. Restriction to transportation. (a) A licensed transporter may transport persons whose primary purpose is the taking of big game or the associated removing of big game meat and parts of big game, with the intent of receiving monetary or material remuneration for the transportation.

(b) Air carriers who transport person between airports, landing strips or other landing areas officially listed in the United States government Flight Information Publication, Alaska Supplement, as revised, or the United States government Sectional Aeronautical Charts, as revised, are exempted from the license requirements for transporters under this chapter but shall comply with the reporting provisions as prescribed in AS 02.05.170(f).

(c) Master guides, registered guides, class-A assistant guides or assistant guides are exempted from the license requirements for transporter under this chapter but shall comply with the reporting provisions as prescribed in AS 02.05.170(f). (§ 2 ch 106 SLA 1976)

Sec. 08.54.146. Transporter report. A transporter shall maintain a record of (1) the names and addresses of all persons he transports; (2) the type of game transported; (3) an estimate of the quantity of meat transported; (4) the date of transporting; and (5) if known, the locality where the game was taken. The report shall be submitted to the Department of Fish and Game within 90 days after transporting the game. After receiving a report required under this section, the Department of Fish and Game shall send a copy of it to the Department of Public Safety. (§ 2 ch 106 SLA 1976; am § 4 ch 133 SLA 1976)

Sec. 08.54.150. Responsibility of registered or master guide for violations. A registered or master guide contracting for a hunt is equally responsible under § 200 of this chapter for a violation of a federal or state sport fish, game or guide statute or regulation committed by a class-A assistant guide or assistant guide while in the course of his employment. (§ 1 ch 17 SLA 1973)

Sec. 08.54.170. License fees. (a) License fees for engaging in the profession of guiding are:

|   |      |
|---|------|
| (1) master guide license, annual.....     | \$75 |
| (2) registered guide license, annual..... | 75   |
| (3) class-A assistant guide, annual.....  | 15   |
| (4) assistant guide license, annual.....  | 10   |

(b) The license fee for a master guide, registered guide, class-A assistant guide or assistant guide license is in addition to the fee required for a hunting or fishing license.

(c) The license fee for a transporter is \$10. (§ 1 ch 17 SLA 1973; am § 3 ch 106 SLA 1976)

Sec. 08.54.180. Examination fee. An applicant for a guide examination shall pay a fee of \$25. (§ 1 ch 17 SLA 1973)

Sec. 08.54.185. Additional fees. In addition to the license and examination fees provided for under this chapter, master guides and registered guides are subject to fees imposed under AS 16.05.340(e). (§ 4 ch 268 SLA 1976)

Sec. 08.54.190. Expiration and renewal. (a) A master guide, registered guide, class-A assistant guide, assistant guide or transporter license expires on December 31, following issuance.

(b) No license may be issued to a class-A assistant guide or assistant guide who has failed to renew his license for two consecutive years unless he again meets the qualifications for initial issuance of the license.

(c) A master or registered guide who fails to renew a license is not required to requalify under § 100(2) or § 110(8) of this chapter, respectively. (§ 1 ch 17 SLA 1973; am § 12 ch 127 SLA 1974; am § 4 ch 106 SLA 1976)

Sec. 08.54.200. Grounds for disciplining a licensee. (a) The board shall hold a hearing to determine if disciplinary action is necessary if

(1) complaints concerning the licensee have been filed with the board from three or more clients of separate parties; or

(2) a licensee has been charged with a violation of federal or state sport fish, game or guide statutes or regulations; or

(3) a licensee has been convicted of a violation of federal or state sport fish, game or guide statute or regulation.

(b) After a hearing, the board may revoke, suspend, or deny renewal of a license if the board finds that the licensee

(1) engaged in unethical activity, unsafe activity, or activity which adversely affects the natural resources of the state when such activity is unrelated to the legal and legitimate purposes of the contract hunt; or

(2) violated a provision of a federal or state sport fish, game or guide statute or regulation.

(c) After a hearing, the board shall revoke a license if the board finds that the licensee

(1) does not meet the qualifications specified by statute or regulation for the class of license held;

(2) is incompetent as a master guide, registered guide, class-A assistant guide, or assistant guide;

(3) has been convicted of two violations of federal or state sport fish, game or guide statutes or regulations.

(d) No person who is disciplined under this section may engage in any guiding or transporting activity during the period of license revocation or disciplinary action. No person licensed under this chapter may hire or work for a guide whose license is suspended or revoked under this section.

(e) If the board revokes a license it shall notify the Department of Revenue, and the person whose license has been revoked shall return the license to the Department of Commerce and Economic Development. (§ 1 ch 17 SLA 1973; am § ch 43 SLA 1975; am § 5 ch 106 SLA 1976; am § 47 ch 218 SLA 1976)

Sec. 08.54.210. Unlawful acts. (a) It is unlawful for

(1) a master guide, registered guide, class-A assistant guide, assistant guide or transporter to fail to timely report to the Department of Public Safety, division of fish and wildlife protection, and in no event later than 30 days, violations by a client of a state fish, game or guiding statute or regulation;

(2) a master guide, registered guide, class-A assistant guide, assistant guide or transporter to aid the commission of a violation of this chapter or of AS 16.05 or a regulation promulgated under either chapter, or permit the commission of a violation in his sight without attempting to prevent it, short of using force, and without reporting it;

(3) a person to guide or transport as defined in this chapter without being licensed under this chapter and without having the license in his actual possession; however, for purposes of transporting by air, in the case of a corporation, company, partnership or other business entity, the license may remain at the principal place of business of the business entity;

(4) a person to advertise as or represent himself to be a licensed master guide, registered guide, class-A assistant guide, assistant guide or transporter without being currently licensed, or to falsely advertise services;

(5) a person to guide as defined in this chapter without having a current valid hunting and fishing license in his possession.

(6) a master or registered guide to employ or have under his supervision more than three assistant guides at the same time.

(7) a person to guide as defined in this chapter without paying a fee as prescribed in AS 16.05.340(e).

(5) A person who violates (a)(1)-(6) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both, and may have his license revoked for a period up to five years. However, a person who engages in guiding or transporting activity during the period his license is suspended or revoked under this chapter is guilty of a felony punishable, upon conviction, by a fine of not more than \$5,000 and by imprisonment for not less than one year nor more than three years. In addition to punishment for a felony, all guns, fishing tackle, boats, aircraft, automobiles or other vehicles, camping gear and other equipment and paraphernalia used in, or in aid of, guiding or transporting activity engaged in during the period of suspension or revocation shall be confiscated by persons authorized to enforce this chapter. A person who violates (a)(7) of this section, upon conviction, is subject to the same license revocation provision as for a violation of (a)(1)-(6) of this section and, in addition, is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both. (§ 1 ch 17 SLA 1973; am §§ 3, 4 ch 43 SLA 1975; am § 6 ch 106 SLA 1976; am § 3 ch 133 SLA 1976; am §§ 5, 6 ch 268 SLA 1976)

Sec. 08.54.220. Injunction against unlawful action. When in the judgment of the board a person or corporation or other entity has engaged in an act in violation of § 130 and §§ 200-210 of this chapter or the regulations promulgated under them, the board may apply to the appropriate court for an order enjoining the act. Upon a showing by the board that the person is engaging in the act, the court shall grant injunctive relief or other appropriate order without bond. (§ 1 ch 17 SLA 1973; am § 5 ch 43 SLA 1975)

### Article 3. General Provisions.

#### Section 240. Definitions

Sec. 08.54.240. Definitions. In this chapter

- (1) "board" means the Guide Licensing and Control Board;
- (2) "guide", "guides" or "guiding" means assisting another person to take game with the intent of receiving monetary or material remuneration for the services, by accompanying and directing that person personally or through a licensed assistant guide for the duration of a hunt, and not solely for the purpose of providing transportation services;
- (3) "resident" means a person who maintains a place of residence within the state; has not claimed residency in another state for

the immediately preceding 12 months; shows by all attending circumstances that his intent is to make this state his permanent residence;

(4) "unethical activity" means

(A) deception in any degree involving prospective or actual clients either before, during, or following contract hunts;

(B) misrepresentation either through private communication or public advertising of the nature, type, duration, cost, or other conditions of contract hunts.

(C) making a guaranty that a species or certain number of species of game will be taken on a contract hunt.

(5) "transporting" or the "activity of transporting" means conveying a person by any lawful means to an area for remuneration or material benefit in excess of normal operating costs, when the primary purpose of the person being conveyed is the taking of big game and the associated removing of big game meat and parts of big game after big game has been taken; big game as used in this paragraph means game which, if taken by a nonresident, would require a big game tag. (§ 1 ch 17 SLA 1973; am §§ 7, 8 ch 106 SLA 1976; am § 2 ch 33 SLA 1976)

CHAPTER 38.  
GUIDE LICENSINGARTICLE 2.  
GUIDE REGISTER

## Article

1. Examinations (12 AAC 38.010)
2. Guide Register (12 AAC 38.020)
3. General Provisions  
(12 AAC 38.030-12 AAC 38.190)

ARTICLE 1.  
EXAMINATIONS

## Section

## 10. Examinations

12 AAC 38.010. EXAMINATIONS. (a) The application for a guide examination must be made at least five months before the examination date on a form provided by the board. The application for examination shall include a listing of all hunters the applicant has guided or assisted in guiding during his apprenticeship and a letter of recommendation from any registered or master guide for whom he has worked.

(b) Guide examinations will be administered by the board or its authorized representatives at times and places as announced by the board.

(c) The registered guide examination will be composed of written and oral portions designed to reveal the actual qualifications of the candidate to practice guiding in the district or districts of his choice. However, a prospective guide unable to competently understand the written portion of the examination may be granted a guide license based on the outcome of the oral examination augmented by his experience. A score lower than 80 percent on either the written or oral portion of the test shall indicate inadequate qualifications. A person failing to achieve 80 percent or more on either the written or oral portion of the examination may not be reexamined for six months.

(d) A person contesting the results of any portion of the registered guide examination shall direct his appeal and the grounds therefor in writing to the chairman of the Guide Licensing and Control Board, Department of Commerce, Division of Occupational Licensing, Pouch D, Juneau, Alaska 99811, at least 30 days before the board meeting following the examination. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

## Section

## 20. Guide register

12 AAC 38.020. GUIDE REGISTER. (a) On December 31 of the register year, the names of all persons holding a master guide or registered guide license shall be entered by the board, on a register maintained by the board and shall be published for distribution to the public.

(b) All guides shall advise the board of their current address and all changes of address. (Eff. 6/28/74, Reg. 50; am 2/25/77, Reg. 61)

Authority: AS 08.54.040(a)(4) and (5)  
AS 08.54.050

ARTICLE 3.  
GENERAL PROVISIONS

## Section

30. Licenses
40. Restriction to districts
50. (Repealed)
51. Guiding area permits
52. Guide prohibited from using a guiding area not assigned to him or her
53. Application and qualification for guiding area permit
54. Reassignment of guiding area permit
55. Death or mental incapacity of guiding area permit holder
56. Changes to guiding area permit
57. Minimum use of guiding area
58. Grounds for revocation or suspension of a guiding area permit
60. Statement of financial remuneration
70. Responsibility of guide to his client
80. Survival gear
90. Presence of guide required
100. Taking of game by guides
110. Transporting meat
120. Cooperation with officials
130. (Repealed)
140. Requirements for a registered guide license
150. Requirements for a master guide
160. Improper certification
170. Improper reporting
180. Guiding ethics
190. Definitions

**12 AAC 38.030. LICENSES.** (a) A person must purchase his registered guide license within one year of passing the guiding examination or his eligibility lapses.

(b) An application for a guide license shall be made to the Division of Occupational Licensing, Department of Commerce, Pouch D, Juneau, Alaska 99811. (Eff. 6/28/74, Reg. 50)  
Authority. AS 08.54.050

**12 AAC 38.040. RESTRICTION TO DISTRICTS.** (a) A guide may conduct guiding activities only in districts for which he is certified.

(b) Twenty-six guide districts are established and defined as being identical to those areas described as game management units by the Board of Fish and Game in 5 AAC 90.010, as of January 1, 1974, with the addition of two subdistricts

(1) 18A - Nunivak Island and all waters within one mile of that island;

(2) repealed 6/6/79;

(3) 27 - Marine Mammals, including all the area between the western boundaries of districts 17, 18, 22, 23 and 26, except that area included in 18A, north of latitude 50 degrees north and east of the Convention Line of 1867 between the United States and the Union of Soviet Socialist Republics and south of latitude 75 degrees north.

(c) A guide licensed under AS 08.54 as of the effective date of this section is restricted to certification to guide in those districts for which he is certified on that date.

(d) After the effective date of this section, all guides applying for new certification are limited to a total of three districts including those districts for which they were certified as of that date.

(e) A master guide or registered guide may serve as a class A assistant guide in districts for which he is not certified.

(f) Notwithstanding any provision of this section, a guide may petition the board for a

transfer of certification to another district if he demonstrates to the satisfaction of the board

(1) that he will incur substantial hardship if a transfer is not permitted as evidenced by

(A) substantial land withdrawals from hunting within his district;

(B) significant reclassifications of land within his district;

(C) depletion of game as evidenced by actions of the Department of Fish and Game; or

(D) other demonstrations of hardship; and

(2) that he is qualified to guide in the district to which he wishes to be transferred. (Eff. 6/28/74, Reg. 50; am 2/25/77, Reg. 61; am 6/6/79, Reg. 70)

Authority: AS 08.54.040(a)(3) and (6)  
AS 08.54.050

**12 AAC 38.050. REGISTRATION OF MAIN CAMP.** Repealed 5/12/78.

**12 AAC 38.051. GUIDING AREA PERMITS.**

(a) Guiding area permits will be issued by the board to guides qualifying under secs. 53 and 54 of this chapter for exclusive or joint use of a specified area in order to limit the number of guides allowed to guide for big game animals in that area.

(b) The board will determine the size, boundaries and number of guiding areas assigned to a master or registered guide and is not limited by number or boundaries of guide districts which may be included.

(c) Each guiding area will be assigned a unique identification code. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.052. GUIDE PROHIBITED FROM USING A GUIDING AREA NOT ASSIGNED TO HIM OR HER.** No guide may contract guided big game hunts in an exclusive guiding area not assigned to him or her unless written permission to do so is obtained from the guide

to whom the guiding area is assigned. If more than one guide holds a permit for joint use of the guiding area, written permission must be obtained from each holder of a permit. The written permission must include the effective and expiration dates of use and the identity and number of the big game species to be hunted,

and must be dated and signed by all of the persons holding a permit for the guiding area. This written permission must be on the person of the guide conducting the hunt or in the base camp from which the hunt is conducted. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.053. APPLICATION AND QUALIFICATION FOR GUIDING AREA PERMIT.** (a) An applicant for initial issuance of a guiding area permit must, at the time of application and at the time the application is reviewed by the board, be a registered or master guide in good standing and must be certified in the district or districts in which the applied-for guiding area is located.

(b) In order to be considered, an applicant must submit to the board, on or before the published deadline, an application which describes the proposed geographic boundaries of the guiding area being applied for and a 1:250,000 scale map showing the proposed boundaries.

(c) Each application must include satisfactory documentation of the applicant's past use, occupancy, or financial investment in the guiding area applied for. The application may include other relevant information if it is substantiated by satisfactory documentation.

(d) The board will, in its discretion, issue a permanent guiding area permit to a qualified applicant who can substantiate his or her use, occupancy, or financial investment in the guiding area for at least three of the five years immediately preceding the published deadline for filing the application for that particular unit. The board will, in its discretion, issue a temporary guiding area permit to a qualified applicant who can substantiate his or her use, occupancy or financial investment in the guiding area for at least two of the five years immediately preceding the published deadline for filing the application for that particular unit.

(e) The holder of a temporary guiding area permit may apply for a permanent permit after one additional year of use, in the temporary guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.054. REASSIGNMENT OF GUIDING AREA PERMIT.** (a) Guiding area permits are not transferable by the permit holder. The board will, in its discretion, reassign a guiding area permit

(1) upon the death of the permit holder or upon a judicial determination that the permit holder is mentally incompetent;

(2) upon revocation or suspension of a guiding area permit;

(3) if the permit holder voluntarily relinquishes the guiding area permit; and

(4) upon application for reassignment.

(b) Under (a)(4) of this section, a permit holder may apply to the board for reassignment of his or her guiding area permit to a designated master or registered guide; the application must be made jointly by the permit holder and the designated master or registered guide. Approval of the reassignment will be given only upon a finding by the board, after notice and opportunity for a hearing, that the designated registered or master guide is qualified to guide in the area, is certified in the district or districts in which the applied-for guiding area is located, and that the reassignment is consistent with the public interest. The board will consider the designated master or registered guide's past use, occupancy, or financial investment in the guiding area and other relevant and reliable information in determining whether the designated master or registered guide is qualified.

(c) Except as otherwise provided in this chapter, an applicant for a guiding area permit which is to be reassigned must meet the requirements of sec. 53(a) of this chapter and make application in the manner prescribed for initial issuance of a guiding area permit.

(d) If an applicant cannot establish past use of the guiding area to be transferred or is not certified in the district or districts in which the guiding area is located, the board will consider experience and current use in another area similar terrain if the applicant can establish to the satisfaction of the board that he or she is competent because of other relevant factors to conduct guiding activities in the guiding area.

(e) The board will consider the recommendations of the prior holder of the guiding area permit to be reassigned and will, in areas of joint use, consider the recommendations of the other holders of permits for the guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.055. DEATH OR MENTAL INCAPACITY OF GUIDING AREA PERMIT HOLDER.** (a) Upon the death of a holder of a guiding area permit, the board will, in its discretion, grant a waiver, for a time specified by the board, of the requirements of sec. 57 of this chapter if application is made by the estate within 90 days after death. Failure to make application within 90 days is considered a voluntary relinquishment of the permit. At any time during the period of the waiver, an heir may apply to the board for a reassignment of the permit to a person designated by the heir.

(b) Upon a judicial determination that a guiding area permit holder is mentally incompetent, the board will, in its discretion, grant a waiver, for a time specified by the board, of the requirements of sec. 57 of this chapter if application is made by the permit holder's guardian within 90 days after a judicial determination of the permit holder's mental incompetency. Failure to make application within 90 days is considered a voluntary relinquishment of the permit. At any time during the period of the waiver the guardian may apply to the board for a reassignment of the permit to a person designated by the guardian. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.056. CHANGES TO GUIDING AREA PERMIT.** Petitions for changes to the size or boundary of a guiding area, for reassignment of a guiding area permit, or for any other changes affecting the guiding area, will be accepted for all guide districts and will be reviewed at a regularly scheduled meeting of the board. Each petitioner will be advised of the date and place of the meeting when his or her petition is scheduled for review. A petition will not be reviewed by the board if the petitioner or a person authorized in writing by the petitioner as his or her designee fails to appear at the time

of the scheduled review. If the petition concerns a joint use guiding area permit, each holder of a permit for that guiding area will be furnished a copy of the petition and advised of the date and place when the petition is scheduled to be reviewed and may appear before the board and present testimony relevant to the petition. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.057. MINIMUM USE OF GUIDING AREA.** Each holder of a guiding area permit must conduct at least two contracted hunts within two consecutive calendar years in the guiding area as evidenced by statements of financial remuneration filed in accordance with sec. 60 of this chapter. Failure to do so for any two consecutive calendar years may result in revocation of the guiding area permit unless the permit holder can demonstrate to the satisfaction of the board that circumstances beyond his control precluded conducting the required hunts. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.058. GROUNDS FOR REVOCATION OR SUSPENSION OF A GUIDING AREA PERMIT.** The board will, in its discretion, revoke or suspend a guiding area permit or permits if the permit holder

(1) violates a federal or state sport fish, game or guiding statute or regulation, which violation occurred while guiding;

(2) has his guide license revoked or suspended or is denied renewal of a license for violation of a federal or state sport fish or game or guiding statute or regulation other than for nonpayment of current license fees;

(3) is found by the board to have misused a guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.060 STATEMENT OF FINANCIAL REMUNERATION.** (a) Before hunting with his or her client, a guide shall complete or have completed a statement of financial remuneration in triplicate on a form provided by the board for this purpose and shall state

(1) that he received financial or material remuneration for his services;

(2) the dates of the contract hunt;

(3) the species to be hunted for;

(4) the legal signature of the guide and his client;

(5) the typed or printed name and address of the guide and his client;

(6) the guiding area permit unique identify code assigned under sec. 51(c) of this chapter.

(b) The original of the statement required in (a) of this section shall be sent to the Department of Public Safety, Division of Fish and Wildlife Protection, Records Section, P.O. Box 6188 Annex, Anchorage, Alaska 99502, within 21 days after completion of the hunt.

(c) The guide is responsible for furnishing one copy of the statement to his client.

(d) One copy of the statement shall be filed in camp for the duration of the hunt and thereafter at the guide's regular place of business for four years, and shall be produced for inspection upon request by an agent of the Department of Public Safety. (Eff. 6/28/74, Reg. 50; am 5/12/78, Reg. 66)

Authority: AS 08.54.050

**12 AAC 38.070. RESPONSIBILITY OF GUIDE TO HIS CLIENT.** (a) It is the responsibility of a guide to ascertain that a client has a proper license and appropriate tags and harvest reports, in his possession, for the big game species being hunted before hunting. The guide is responsible for attaching appropriate tags to any game taken by his client and is responsible for having all game sealed or marked as required by Alaska Department of Fish and Game regulations.

(b) A guide shall take every reasonable measure to assure the safety and comfort of his clients. He is responsible for having available the following:

(1) adequate first aid supplies;

(2) sufficient food to provide for emergencies that might render the party immobile;

(3) shelter which is normally considered satisfactory and comfortable under field conditions;

(4) transportation or communications or arrangements to obtain them without hardship or unreasonable delay. (Eff. 6/28/74, Reg. 50)  
Authority: AS 08.54.050

**12 AAC 38.080. SURVIVAL GEAR.** A guide is responsible for assuring that each aircraft operated by him, and used in any phase of a hunt conducted by him, carries survival gear as required by AS 02.35.110. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

**12 AAC 38.090. PRESENCE OF GUIDE REQUIRED.** A master, registered or class A assistant guide must be in the field and participating in the conduct of the guided hunt whenever assistant guides are guiding. (Eff. 6/28/74, Reg. 50; am 11/2/75, Reg. 56)

Authority: AS 08.54.050

**12 AAC 38.100. TAKING OF GAME BY GUIDES.** (a) No guide may take big game animals or marine mammals while acting as a guide, except in cases of actual emergency when a bear or other animal is attacking or when a bear or other animal is about to escape after being wounded. It is then the duty of the guide to take such actions as he considers necessary.

(b) It is unlawful for a master guide, registered guide, class A assistant guide or assistant guide guiding a hunter for walrus to take or assist in taking any walrus other than the animal taken by the client he is guiding; however, one crewman other than the guide may take one single cow walrus and its calf if this taking does not exceed the bag limit as prescribed by regulations of the Board of Game. (Eff. 6/28/74, Reg. 50; am 6/12/77, Reg. 62)

Authority: AS 08.54.050

**12 AAC 38.110. TRANSPORTING MEAT.** A guide is responsible for transporting the meat of big game animals, except bear, wolves, and wolverine, taken by his client from the site of the kill to its destination or to a common carrier

for shipping to its destination for the purpose of human consumption. If the meat is delivered to a person other than the person who took the animal, a signed and dated statement or receipt stating the kind and quantity of meat received in approximate pounds or named portions of the carcass must be obtained from the recipient and presented upon request to any officer authorized to enforce this chapter. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

**12 AAC 38.120. COOPERATION WITH OFFICIALS.** Failure on the part of a guide to assist the Departments of Fish and Game and Public Safety in determining the truth of any statements reported in accordance with secs. 30 - 180 of this chapter is considered a violation of ethical conduct. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

**12 AAC 38.130. REQUIREMENTS FOR AN ASSISTANT GUIDE LICENSE.** AN aled 5/12/79.

**12 AAC 38.140. REQUIREMENTS FOR A REGISTERED GUIDE LICENSE.** In addition to the requirements of AS 08.54.110, to be qualified for a registered guide license, a person must

(1) demonstrate to the board that he has spent 90 days in the field acting as an assistant guide as certified by the master or registered guides who employed him;

(2) not have violated a federal or state sport fish, game or guide statute or regulation or engaged in unethical activity, unsafe activity or activity which adversely affects the natural resources of the state for the preceding five years. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050  
AS 08.54.110(12)

**12 AAC 38.150. REQUIREMENTS FOR A MASTER GUIDE.** In addition to the requirements of AS 08.54.100, to be qualified for a master guide license a person must have acted as a registered guide for 12 consecutive years. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050  
AS 08.54.100(5)

**12 AAC 38.160. IMPROPER CERTIFICATION.** No master or registered guide may improperly certify that a person has met the qualifications for a guide license. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

**12 AAC 38.170. IMPROPER REPORTING.** No guide may knowingly falsify any information required to be set out on any form required by the Alaska Department of Fish and Game or the Guide Licensing and Control Board. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

**12 AAC 38.180. GUIDING ETHICS.** Unethical activity includes, but is not limited to

(1) not fully cooperating with state and federal wildlife officials or not abiding by and advising clients and personnel of all applicable conservation and game laws and regulations or condoning their violation;

(2) misrepresenting or not clearly defining rates, accommodations and services to prospective clients prior to booking and acceptance of deposit, or otherwise misleading prospective clients through false or fictitious advertising;

(3) being unwilling or incapable of making financial restitution to a client for any breach of contract by the guide or his employees, owing to no fault of the client;

(4) not advising clients of game population to the best of the guide's ability based on past performances in hunting areas and advising him of his chances of encountering the species he desires in the time allotted;

(5) making "guarantees" as to the success of a hunt or the number of pieces of game to be collected;

(6) not maintaining and providing stock,

mechanical equipment, gear, food supplies and facilities to a quality and condition to provide services equal to or better than described in the guide's advertising, correspondence, verbal declaration or contractual agreements;

(7) not maintaining a neat, orderly and sanitary camp at all times, or not providing reasonably well-prepared, palatable and balanced camp meals for clients and personnel in keeping with the conditions of the hunt;

(8) contracting for more hunts or for more hunters at any one time than the guide or his employees can adequately facilitate rendering services for;

(9) hiring guides that are improperly licensed, or ill trained in the arts of woodsmanship, judging trophies, cooking, first aid, photography, firearms, trophy preparation and caring for clients;

(10) failing, while guiding a client, to take all precautions if an animal is wounded;

(11) failing to use every means at his disposal to bag any wounded animal while it is in danger of escaping, or if in a serious emergency, human life or well-being is endangered;

(12) filling a client's game tag or bag limit;

(13) failing, barring unforeseen conditions, to properly prepare, according to generally accepted procedures, all antlers, horn, hides and capes to be delivered to the taxidermist or to the client at the conclusion of a hunt in a satisfactory and unspoiled condition;

(14) failing to endeavor to salvage all meats of trophies taken by his client, in accordance with existing state law;

(15) promoting hunting or the taking of trophies by means other than fair chase: specifically, the pursuit of a trophy in an illegal or unsportsmanlike manner, by herding, driving or chasing of animals with the use of any mechanically powered equipment;

(16) failing to practice sound wildlife conservation or failing to create an awareness of conservation needs and practices during his associations with the public. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.040(6)  
AS 08.54.050

12 AAC 38.190. DEFINITIONS. Unless otherwise indicated, in this chapter

(1) "competence" means a professional standard of conduct which satisfactorily implements, under field conditions, the knowledge and qualifications of a guide;

(2) "transport" means shipping, carrying, importing, exporting, or receiving or delivering for shipment, carriage or export;

(3) "board" means the Alaska Guide Licensing and Control Board. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

Original sponsor: Bradley

Offered: 2/16/79  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 101

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the disciplining of a licensed  
7 guide."

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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\* Section 1. AS 08.54.200(c)(3) is repealed.

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# STATE OF ALASKA

A PERFORMANCE REVIEW  
OF THE  
GUIDE LICENSING AND CONTROL BOARD

July 17, 1979



DIVISION OF LEGISLATIVE AUDIT  
Juneau, Alaska

A PERFORMANCE REVIEW  
OF THE  
GUIDE LICENSING AND CONTROL BOARD

July 17, 1979

Commissioner of the Department  
of Commerce and Economic  
Development

Charles R. Webber

Commissioner of the Department  
of Public Safety

William R. Nix

Commissioner of the Department  
of Revenue

Thomas K. Williams

Members of the  
Guide Licensing and Control Board

Chairman  
Member  
Member  
Member  
Member  
Member  
Member

Marcus F. Jensen  
Clark Ferte  
Charles Keim  
Glen Glenzer  
Hubert C. Weise  
Norman G. Sutliff  
Donald Harris

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**THE LEGISLATURE**

**BUDGET AND AUDIT COMMITTEE**

LEGISLATIVE DIVISION  
FOURTH FLOOR, STATE CAPITOL

JUNEAU, ALASKA 99801

July 17, 1979

Members of the  
Legislative Budget and Audit Committee:

In accordance with the intent of Title 24 and 47 of the  
Alaska Statutes, the attached report is submitted for your  
review.

A PERFORMANCE REVIEW  
OF THE  
GUIDE LICENSING AND CONTROL BOARD

July 17, 1979



Gerald L. Wilton, Jr.  
Legislative Services  
Division

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## PURPOSE AND SCOPE OF THE REVIEW

### Purpose

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), an audit of the Guide Licensing and Control Board was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Guide Licensing and Control Board should be reestablished. The law currently specifies that this Board will terminate on June 30, 1980 but will continue until June 30, 1981 for the purpose of concluding its affairs.

### Scope

The major areas reviewed were the Board's operations and its licensing, administration, complaint, examination and affirmative action functions. Our review consisted of analyzing and evaluating the following:

- (1) Applicable statutes and Board regulations;
- (2) discussion with the Board and questionnaires sent to Board members;
- (3) tests of records and documents of the Board, the Division of Occupational Licensing (OL), Department of Commerce and Economic Development and the Division of Fish and Wildlife Protection - Investigation Section, Department of Public Safety;
- (4) interviews with OL employees, Fish and Wildlife Protection employees, Division of Game employees, Department of Revenue employees, employees in the Office of the Governor and employees in the Attorney General's Office;
- (5) complaints filed with the Division of Fish and Wildlife Protection, the Ombudsman's Office, the Attorney General's Office, the Equal Employment Opportunity Office and the Human Rights Commission;
- (6) questionnaires sent to 180 State licensed Registered and Master Guides.

Scope Constraint

This review was hampered by the Board not having established and reported financial and program plans as required by AS 37.07.050 nor has it developed and reported performance information required by AS 37.07.090.

## ORGANIZATION AND FUNCTION

The Guide Licensing and Control Board 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 Board is appointed by the Governor with confirmation by the Legislature and is restricted to having no more than three members as licensed guides. Board members serve staggered terms of three years or until their successors are appointed.

The Board is organized under the Department of Commerce and Economic Development, Division of Occupational Licensing. Two budgeted positions, a Guide Investigator and Administrative Assistant, in the Department of Public Safety, Division of Fish and 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 (exclusive guiding areas). The Board through the assignment of exclusive guiding areas limits hunting pressure by guides within a specific geographical area.

In addition, the Board licenses "transporters", a licensed "transporter" is a person who transports hunters for hire.

## REPORT CONCLUSION

### Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these issues, the legislative oversight committees should consider the findings and alternatives presented in this report in reaching their decision.

### Report Conclusion

In our opinion, the Guide Licensing and Control Board should be continued. For the following reasons, we believe the regulation and licensing of guides is needed to protect the public's health, safety and welfare:

- A. This profession involves contracting for hunting game that could result in severe physical harm if practiced by incompetent persons. Potential harmful results include injury or death to the hunter due to neglect or carelessness on the part of the guide.
- B. Other users of game resources, such as the general public and subsistence hunter, can be directly or indirectly affected by guiding activities. For example, overhunting by guides in an area not only depletes the game resources available to the general public but also adversely affects the subsistence hunters in that area.
- C. In order to protect the public without unduly restricting individual rights, AS 16.05.407(a) exempts Alaskan residents from requiring the services of a guide.

While the reasons above indicate that the Board should continue to license and regulate guides, certain changes need to be implemented in order for the Board to more effectively serve the public.

The Board should seek legislation to have the guide licensing function transferred to the Department of Public Safety. Currently, staff support for the Board is being provided by two departments - the Department of Public Safety and the Department of Commerce and Economic Development. Personnel in both Departments believe that the licensing function as well as enforcement would be enhanced by consolidation of the two functions in one department (see Recommendation No. 1).

The Board should seek legislation to have the transporter laws (Alaska Statutes 08.54.142, 144, 146 and 08.54.170(c)) repealed, as they are confusing and of little value (see Recommendation No. 2).

The Board should continue its efforts to make the statutes and regulations more relevant and workable (see Recommendation No. 3).

The Department of Revenue should collect fees from guides as required by statute (see Recommendation No. 4).

The Board should establish formal goals, objectives and quantifiable measures (see Recommendation No. 5).

## FINDINGS AND RECOMMENDATIONS

Findings and Recommendations No. 1 through No. 3 are addressed to the Guide Licensing and Control Board, No. 4 is addressed to the Department of Revenue, No. 5 is addressed to the Division of Occupational Licensing (OL) and should be read in conjunction with "A Performance Review of the Division of Occupational Licensing, Department of Commerce and Economic Development, October 30, 1978".

### Recommendation No. 1

The Guide Licensing and Control Board should seek legislation to have the guide licensing function transferred to the Department of Public Safety.

Staff support for the Guide Licensing and Control Board is currently being provided by two departments - the Department of Commerce and Economic Development (DCED), Division of Occupational Licensing (OL) and the Department of Public Safety (DPS), Division of Fish and Wildlife Protection (F&WP).

Applications for guide licenses are required by Alaska Statute 08.01.060 to be sent to DCED. A licensing examiner in the Division of Occupational Licensing (OL) in Juneau receives the application and fees and, upon authorization from the Board, issues the license. The licensing examiner also provides other administrative and clerical support to the Board. In addition, the licensing examiner maintains files on each individual licensee, and copies of the material in the files are sent to the Division of Fish and Wildlife Protection in Anchorage.

The Division of Fish and Wildlife Protection (F&WP), Investigation Section in Anchorage has two budgeted positions, a Guide Investigator and an Administrative Assistant, assigned to provide assistance in the licensure and investigation of guides. F&WP is also responsible for the enforcement of guide related statutes and regulations. In addition, F&WP maintains current and complete history files on all licensed guides as well as maintaining files on all the exclusive/joint use guiding areas.

Personnel in both OL and F&WP have stated that the licensing and investigative services provided to the Guide Licensing and Control Board should be consolidated within one agency. OL personnel have stated that public convenience, and staff availability would be enhanced by the consolidated effort. F&WP personnel believe that the licensing function as well

as enforcement would be enhanced by consolidation of the two functions. A reduction in operating costs should result to OL, based on the reduced work load of the licensing examiner, who estimates that she spends approximately 2/3 of her time on Guide Board related matters.

Recommendation No. 2

The Guide Licensing and Control Board should seek legislation to have the "transporter laws" repealed.

The purpose of the "transporter laws" (Alaska Statutes 08.54.142, .144, .146 and 08.54.170(c)) is to protect the safety of the citizens of the State and better manage and protect its resources by licensing persons who transport hunters for hire so that reasonable standards and guidelines would be met and activities affecting the State's game resources would be more accurately monitored and assessed.

In our opinion, the "transporter laws" are not needed to protect the safety of the public or manage the game resources.

Personnel in the Department of Public of Safety, Division of Fish and Wildlife Protection, consider the "transporter laws" confusing and difficult to enforce. In addition, we found the information and reports that transporters are required to file are not being used and are not needed to manage the game resources of the State. Furthermore, air transporters' flying safety qualifications and aircraft safety are regulated by the Federal Aviation Administration.

Recommendation No. 3

The Board should continue its efforts to make the statutes more clear, relevant and workable.

Over the past several years the Board has been adopting regulations to make the statutes more clear, relevant and workable. However, we noted several statutes which need further consideration. For example:

- a. AS 08.54.142.144, .146 and 08.54.170(c) as discussed in Recommendation No. 2, the Board should seek legislation to have the "transporter laws" repealed.

- B. AS 08.54.190(a) requires an annual renewal of guide licenses. This conflicts with AS 08.01.100(a) which requires biennial renewal of occupational licenses. It also creates additional administrative effort for both the Division of Occupational Licensing and the licensee, with no demonstrable benefit to the public.
- C. AS 08.54.110(6) pertaining to moral turpitude is considered to be vague and should be repealed as the regulation (12 AAC 38.180) defining unethical activity provides sufficient public protection in this area.
- D. AS 08. 54.200(c)(3) is considered to be unduly restrictive because it requires the Board to revoke a guide's license upon two convictions of federal or State sport fish, game or guide violations regardless of how minor the violations may have been or how long ago they may have occurred.
- E. AS 08.54.130(2) requiring a Class-A assistant guide to be under the supervision of a registered or master guide is considered vague. The term "supervision" should be clarified to indicate exactly what constitutes supervision during the conduct of a hunt.

Recommendation No. 4

The Department of Revenue should collect fees from guides as required by statute.

Alaska Statute 16.05.340(e) effective January 1, 1977 requires licensed master and registered guides to pay a fee in the following amounts for each caribou, sheep, moose, brown or polar bear taken on a guided hunt over a specified number:

- 1) over 5 up to a total of 10 per season - \$20;
- 2) over 10 up to a total of 25 per season - \$100;
- 3) over 25 per season - \$500.

Executive Order No. 17 requires the Department of Revenue to collect and account for all revenues incidental to the regulation and management of Alaska's fish and game resources. The Department has not developed forms and procedures necessary to collect and account for revenue under AS 16.05.340(e).

Recommendation No. 5

The Board should establish formal goals, objectives and quantifiable measures which should be included in the Division of Occupational Licensing's (OL's) budget document.

Objectives describe what an agency or Board is seeking to accomplish during a specific year. Well formulated objectives are capable of measurement and should include numerical targets so that actual accomplishments can be compared with stated targets. Without goals and objectives, the Board's performance cannot be adequately evaluated and analyzed.

OL establishes its own budget goals and objectives. The budget documents do not include any goals or measures for individual boards. Without the Board's goals and measures being identified or measured, neither the Governor's Office nor the Legislature can evaluate the Board's performance.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analysis of Board activities relate to the public need factors defined in the "sunset" law. This analysis is not intended to be all inclusive, but addresses those areas we were able to cover within the scope of our review.

- I. The extent to which the board, commission or program has operated in the public interest.
  1. The Board has adopted regulations defining unethical conduct which clarify and strengthen the professional's responsibility to the public.
  
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.
  1. The Division of Fish and Wildlife Protection, Department of Public Safety, has handled investigations of complaints in a timely and effective manner.
  2. The Board is required to license and regulate transporters under AS 08.54.142, .44, .146 and AS 08.54.170(c). Board members, personnel in the Departments of Public Safety and Fish and Game consider these statutes to be confusing and of little value (see Recommendation No. 2).
  
- III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

1. Although the statutes and regulations governing Board activities should be subjected to further review, the Board has adopted revisions to its regulations that significantly improve their clarity and applicability (see Recommendation No. 3)

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

1. The public is invited to attend Board meetings and to give their input about the workings of the Board. Notices of meetings are advertised in each of three newspapers throughout the State. In addition, guides are notified by registered mail of meetings that might affect them.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

1. As stated under criteria IV, the public is invited, by published notices in newspapers, to attend Board meetings to give their input about Board regulations or submit written testimony.

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

1. Since 1977, five complaints have been filed with the Ombudsman's Office concerning guides and/or the Board. All five cases were relatively minor and were all resolved satisfactorily.
2. During the period between April 1977 and April 1979, the Investigative Support Unit of the Division of Fish and Wildlife Protection, Department of Public Safety conducted 61

investigations involving all classifications of guides. During this same period, 35 accusations were filed for Disciplinary Hearings before the Board. Many of the Disciplinary Hearings resulted in the Board taking action such as suspending or revoking a guide's license.

VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

1. As of June, 19, 1979 approximately 39 Master Guides, 289 Registered Guides, 116 Class-A Assistant Guides, 468 Assistant Guides and 48 Transporters are licensed in Alaska.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

1. The applications pertaining to licensing of guides and transporters contain requests for information such as birthdate, birthplace, marital status, sex and whether the applicant is a citizen of the United States. These requests may be violations of the Equal Employment Opportunity requirements. However, some of this information may be necessary to confirm an applicant's qualifications. We recommend that the requirements for licensure be analyzed to determine if a valid need for the information exists (see the OL Performance Audit Report).
2. Although the Board does not have a formal affirmative action plan, it has been making an effort to increase the participation of Native Alaskans in the guiding industry. For example, in August 1979, two Board members, a Fish and Game Biologist and the Chairman of the Interim Subsistence Committee in the State House of Representatives went to several native villages along the Arctic coast for the purpose of explaining the guiding business and how the natives along the Arctic coast can become licensed to guide for marine mammals such as walrus. In addition, a

Board meeting has been scheduled to be held in Nome at the end of November 1979, in order to orally examine native applicants for guide licenses. We recommend that the Board continue its efforts to include more Native Alaskans in the guiding industry.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

1. Staff support for the Guide Licensing and Control Board is currently being provided by two departments. In our opinion, consolidation of the licensing and investigation functions would result in a more efficient, economical and effective performance of both functions (see Recommendation No. 1).
2. Please refer also to the previous section of this report, Findings and Recommendations.

APPENDIXES

APPENDIX A

GUIDE LICENSING AND CONTROL BOARD  
REVENUES COMPARED WITH EXPENDITURES  
 Fiscal Year 1978  
 (UNAUDITED)

|  |               |                          |
|--|---------------|--------------------------|
| Average Revenue (Schedule 1,<br>Note 1 and Note 2) |               | \$ 40,157                |
| Expenditures-OL (Note 3)                           | \$38,843      |                          |
| Expenditures-F&WP (Note 3)                         | <u>77,242</u> | <u>116,086</u>           |
| Excess of Expenditures over<br>Revenues            |               | <u><u>\$(75,929)</u></u> |

Schedule 1  
Types of Revenues

| <u>Revenues</u>                        | <u>Amount</u> | <u>Collection Time</u> |
|--|---------------|------------------------|
| Master Guide License                   | \$75          | Annually               |
| Registered Guide License               | \$75          | Annually               |
| Class-A Assistant Guide<br>License     | \$15          | Annually               |
| Assistant Guide License                | \$10          | Annually               |
| Transporter License                    | \$10          | Annually               |
| Application For A Guide<br>Examination | \$25          | With Application       |
| Late Renewal Penalty                   | \$10          | With Late Payment      |

Note 1

Although guide and transporter licenses are renewed annually, we calculated and reported an average of the revenues collected in Fiscal Years 1977 and 1978 in order to present a fair representation of collected revenues.

Note 2

The average revenue amount reported does not include revenue obtained from the sale of game tags or hunting licenses. It only includes revenue obtained from fees required to obtain and/or renew guide licenses.

Note 3

Expenditures include those made by Board members, such as travel and per diem, and an allocated percentage (estimated) of total administrative expenses of OL. Also included were expenditures which were charged to the Board by the Department of Public Safety, Division of Fish and Wildlife Protection - Investigation Section. The amount reported does not include expenditures for efforts of other departments, such as the Department of Law, that may be assisting the Board, OL and the Division of Fish and Wildlife Protection.

APPENDIX B

ADMINISTRATIVE STATISTICS

| <u>Currently Licensed</u> | <u>As of<br/>June 19, 1979</u> |
|---------------------------|--------------------------------|
| Master Guides             | 39                             |
| Registered Guides         | 289                            |
| Class-A Assistant Guides  | 116                            |
| Assistant Guides          | 468                            |
| Transporters              | 48                             |

Board Meetings Between  
October 14, 1977 and June 20, 1979

December 03 - 09, 1977

February 18 - 21, 1978

March 27 - 30, 1978

November 25 - December 01, 1979

January 29 - February 01, 1979

April 03 - 06, 1979

---

Note: The examinations (written and oral) for a Registered Guide license are given once a year in late November or during December.

APPENDIX C

QUESTIONNAIRE SENT TO BOARD MEMBERS

1. What do you believe to be the goals and objectives of the Guide Licensing and Control Board?

Number of Board  
Members' Responses  
(See Notes 1, 2 and 3)

Description

- |    |  |   |
|----|--|---|
| A. | To establish a viable guiding industry.  | 2 |
| B. | To assure public protection by allowing adequate entrance of qualified guides into the guiding business. | 1 |
| C. | To establish a conservation program for game management through the use of exclusive guiding areas.      | 1 |
| D. | To set standards of conduct such as a Code of Ethics.  | 1 |

2. How does the Board measure its progress in meeting its goals and objectives? Please specify.

Number of Board  
Members' Responses

Description

- |    |   |   |
|----|---|---|
| A. | By the establishment of exclusive guiding areas by game management units.   | 3 |
| B. | Proposed regulations are scheduled for hearings.  | 1 |
| C. | Guide exams are scheduled and given.  | 2 |
| D. | Hearings on accusations are scheduled and handled.  | 1 |
| E. | Monitor political issues that affect the guides and/or the guiding industry.  | 1 |
| F. | Progress is measured by the support of the majority of ethical guides/businessmen even while they remain as the Board's constant critic/mentor. | 1 |

3. What evidence exists demonstrating that the absence of guide regulations and/or the Board would be detrimental to the public's best interest? Please explain.

Number of Board Members' Responses

Description

- A. The Guide Board has the power to act against the license of an errant guide. This power appears to be the greatest deterrent the guides willingly recognize. 2
- B. Because the Board has spread out the guiding pressure, the public now has a better chance at a good hunting trip. Guides themselves have endorsed the program of exclusive guide areas as a way to conserve game. "
- C. Prior to the Board's existence, unqualified people set themselves up as "guides" to an unknowing public-- particularly those outside Alaska. This resulted in hunters leaving the State bitterly disappointed. 1
- D. Through the use of Regulations - Code of Ethics, qualifications and tests, exclusive guiding areas, etc., society is starting to recognize and respect the guide as a professional. 1

4. A. Is the staff from the Department of Commerce and Economic Development and/or the Department of Public Safety adequate to perform and enforce all laws and regulations relating to the Guide Licensing and Control Board?

Number of Board Members' Responses

Description

- A. Yes. A workable staff has been established. Complaints (founded and unfounded) have dropped over 80% since the Board has been established according to a Public Safety spokesman. 1
- B. Yes. All staff personnel are doing a good job. There is some delay and confusion in handling inquiries and license

4. (Cont'd.)

Number of Board  
Members' Responses

research due to the support staff being split into two departments.

1

- C. More support for the enforcement end of the guiding industry is needed.

1

4. B. What staff support services are provided adequately/inadequately?

Description

- A. Guides, Guide Board files and exclusive guide area maps are handled very well. Support from the AG's Office is good at this time.

1

- B. Staff support now is the best it has ever been.

1

- C. The Board needs more travel and per diem so it can meet in other places in the State besides Anchorage, Fairbanks, and very seldom Juneau.

1

4. C. Are investigations performed adequately/inadequately?

Description

- A. Yes. Present investigations are very thorough.

1

- B. Yes. The biggest improvement in the last year is in the timeliness of investigations and hearings. This is mainly due to the fact the Attorney General's Office has assigned a special attorney to handle our cases.

2

5. Are the Board functions and activities and/or the guiding industry hampered by any statutes or regulations which you believe to be obsolete, vague or unduly restrictive? Please list and explain.

Number of Board  
Members' Responses

Description

A. Yes. Some statutes and regulations are obsolete, vague and unduly restrictive. The Board and an advisory committee appointed by the Board are reviewing this. Statutes and regulations are a part of each Board meeting, and only with input from the public and the AG's Office can these be evaluated and changed when needed.

1

B. The Guide Board set up a joint committee with the professional guides to examine problems concerning regulations or statutes. The joint committee has made recommendations to the Board concerning changes needed in the regulations and statutes.

2

6. Has the Board recommended any statutory changes which are generally in the public's best interest? Please list and explain.

Number of Board  
Members' Responses

Description

A. Believe the Board has recommended changes in the statutes, but without researching, can not list.

1

B. The Board just passed a regulation establishing an Arctic Coast guide unit, which would be called Guide Unit 27. In future programs we will be assigning guides for the taking of marine mammals.

1

C. 1) Establishment of Exclusive Guiding areas;

1

2) placing more emphasis upon the guides' recommendations for assistant guides;

1

7. What changes could be made to the Board which would improve its service to the public and guiding industry? Please discuss.

Number of Board  
Members' Responses

Description

A. Believe the Board has served the public interests and the guiding industry very well.

1

B. Have enough funds to pay for a public address system at our meetings.

1

C. My experience on the Board has finally convinced me that the mere increase in numbers would make it more efficient, more fair. I believe that with a couple more meetings each year, the Board would have more time before each meeting for discussion.

1

8. In your opinion, what effect have exclusive and joint use guiding areas had on the guiding profession and the game resources of the State? Are exclusive and joint use guiding areas beneficial to the Alaskan public? Please discuss.

Number of Board  
Members' Responses

Description

A. Exclusive and Joint Use Guiding Areas have given guides an incentive to better manage the game resources in their areas.

4

B. They have provided the public the following benefits; 1) less guide pressure in areas of high game count; 2) better guide service; 3) more game available to the hunter; 4) overall better public acceptance of hunting as a sport, not a slaughter as some special interest groups would like the public to believe.

7

C. With the help of Exclusive Guiding Areas, the Board has largely brought illegal guiding activities under control.

1

9. Any other comments?

Number of Board  
Members' Responses

Description

- A. Believe the news media has to be used to better inform the public of guiding and/or hunting. 1
- B. Fees from guides and guiding activity should reimburse the State for the costs of the Guide Board and related activity of other Departments. The Board should be kept active for a minimum of another four years so that the effect of its performance can be adequately measured. 1
- C. The Board has passed a regulation setting forth an offshore guide area in the Arctic. This area could offer guided hunts for walrus, seal, whales, and polar bear. There are many non-residents who are interested in these types of hunts. If the Native hunters become interested in the guiding profession it could add a great deal to their economy. Our Board is going to try to make a personal survey with the Arctic villages to see if they are interested in a guide program.
- I feel that the Guide Board is working fairly with the Attorney General's Office, Public Safety, Commerce Department and the professional guides. Our program is pretty well understood by the guides and we have made every effort to be as fair as possible.
- D-2 Land settlement might cause the Board to re-evaluate what could be done for those guides put out of business. We would ask for public input and information from the Dept. of Game as to what possibilities are open to us. 1
- D. The exclusive guiding areas (EGA) are starting to work for the good of all. The removal of the EGA system now would be chaotic. The greatest losses would be to the game populations, the Alaska general public and the industry itself. 1

Note 1

|                                    |          |
|------------------------------------|----------|
| Number of Board Members            | <u>7</u> |
| Number of Board Members' Responses | <u>4</u> |

Note 2

Some Board Members responded to each question with several answers. Therefore, total responses to a question may exceed the number of Board members.

Note 3

Comments were all reviewed and considered in the performance of our audit, and are briefly summarized in this appendix.

APPENDIX D

QUESTIONNAIRE SENT TO LICENSED MASTER GUIDES  
AND LICENSED REGISTERED GUIDES

The following questionnaire was sent to licensed master and registered guides (see Note 1). For each question on the questionnaire we have noted the percentage of yes and no responses. We have also shown the most typical written comments for each question as compiled from the questionnaire (see Note 2).

|    |   | <u>% of Responses</u> |           |                |
|----|---|-----------------------|-----------|----------------|
|    |   | <i>(See Note 1)</i>   |           |                |
|    |   | No                    |           |                |
|    |   | <u>Yes</u>            | <u>No</u> | <u>Opinion</u> |
| 1. | <u>Do you believe the Guide Licensing and Control Board has operated in the public's and guiding industry's best interest?</u>  |                       |           |                |
|    | <i>Comments:</i>  | 79%                   | 26%       | 2%             |
|    | <i>Yes. Competition for hunting areas has been reduced tremendously since assigned areas were implemented by the Board. Action by the Board against unethical operations has had a good effect on the industry.</i> |                       |           |                |
| 2. | <u>Would the absence of the Board be detrimental to the public's best interest?</u>   |                       |           |                |
|    | <i>Comments:</i>  | 68%                   | 29%       | 3%             |
|    | <i>Yes. The Board is necessary if we are to regulate the guiding profession.</i>  |                       |           |                |
| 3. | <u>Are there any statutes or regulations which you believe to be obsolete, vague or unduly restrictive?</u>   |                       |           |                |
|    | <i>Comments:</i>  | 51%                   | 35%       | 14%            |
|    | <i>Yes. The three assistant guide limit is unduly restrictive. The transporter law should be deleted, as all it does is legalize a bunch of \$10 guides who are not restricted to area, ethics.</i>                 |                       |           |                |

|    |   | <u>% of Responses</u> |           |                |
|----|---|-----------------------|-----------|----------------|
|    |   | <u>Yes</u>            | <u>No</u> | <u>Opinion</u> |
| 4. | <u>Are you aware of any discriminatory practices by the Board with regard to an individual's race, religion, color, national origin, age or sex?</u>  |                       |           |                |
|    | <i>Comments:</i>  | 10%                   | 88%       | 2%             |
|    | <i>Yes. No comments were received for the 10% yes responses.</i>  |                       |           |                |
|    | <i>No. In fact they go overboard to be fair.</i>  |                       |           |                |
| 5. | <u>Do you believe that Alaska's licensing requirements (for assistant guide, Class-A assistant guide, registered guide and master guide) are adequate and effective in ensuring that the public is protected?</u> |                       |           |                |
|    | <i>Comments:</i>  | 72%                   | 24%       | 4%             |
|    | <i>Yes. The requirements are adequate.</i>  |                       |           |                |
|    | <i>No. Tests should be much more rigid and cover broader areas.</i>   |                       |           |                |
| 6. | <u>Are there any additional statutes, regulations or licensing requirements needed to ensure the public is adequately protected?</u>  |                       |           |                |
|    | <i>Comments:</i>  | 30%                   | 59%       | 11%            |
|    | <i>Yes. There should be a legal limit placed on the number of guides because there is a limited amount of game.</i>   |                       |           |                |
|    | <i>No. We have too many statutes and regulations on the books now.</i>  |                       |           |                |
| 7. | <u>Do you have any complaints concerning the service provided by the staff support of the:</u>  |                       |           |                |
|    | 1) <u>Department of Commerce and Economic Development, Division of Occupational Licensing?</u>  | 13%                   | 83%       | 13%            |
|    | 2) <u>Department of Public Safety, Division of Fish and Wildlife Protection?</u>  | 30%                   | 59%       | 11%            |

| <u>% of Responses</u> |           |                |
|-----------------------|-----------|----------------|
|                       | <u>No</u> |                |
| <u>Yes</u>            | <u>No</u> | <u>Opinion</u> |

7. (Cont'd.)

Comments:

Yes. The Department of Commerce and Economic Development is too slow in getting licenses issued.

No. Staff support has been good.

Yes. Protection officers seem to tend to be more interested in making cases than working to prevent offenses. By the same token, they spend time checking sport fishermen for licenses rather than work on more important offenses.

Favoritism. Harassment of some well meaning and hardworking guides.

No. They have been doing a good job.

8. Do you believe that the examination given by the Board for a registered guide license is a fair and reasonable test of a guide's professional knowledge and ability?

79% 14% 7%

Comments:

Yes. Between the written and oral exams an applicant gets adequate testing.

No. Some emphasis should be placed on contracts, civil rights and legal rights. A guide should also be required to attend a First Aid course or an adequate substitute.

9. Do you feel that the issuance of exclusive and joint use guiding area permits is in the best interests of the public and the guiding industry?

63% 31% 6%

Comments:

Yes. It is the only way to preserve our industry and maintain a healthy game population.

No. Areas are unfairly proportioned with little or no standardization. The big money operators were given huge tracts,

% of Responses  
No  
Yes   No   Opinion

9. (Cont'd.)

*much of which they seldom if ever use. This has eliminated the opportunity for many newer and smaller guide operations to have any area at all.*

10. Do you believe that there is a need for licensure of all transporters in the State?

42%   51%   7%

Comments:

*Yes. One of the biggest abuses of the wildlife resource in Interior Alaska has been by transporters (pilots without guide licenses) who act, for all practical purposes as guides.*

*No. A so called transporter does the same job as a guide and should be qualified as a guide. It's a way around the guide law, and has been abused by many Air Taxi operators and residents.*

11. Any other comment to assist us in evaluating the public need for the Board and/or its performance?

*The Guide Board has worked very hard for the guiding industry. I believe that should the Guide Board be dissolved, the guiding industry would die. There is evidence that guiding brings a lot of money into the State that stays here. I strongly recommend the Guide Board be retained.*

*I believe the Guide Board should be abolished. They have been given too much power. If you aren't friends or have the money you are out. Who needs them!*

---

Note 1

|   |     |
|---|-----|
| Number of questionnaires sent to licensed master guides and licensed registered guides. | 180 |
| Number of responses.  | 91  |
| Response Rate.  | 51% |

Note 2

Comments were all reviewed and considered in the performance of our audit, and are briefly summarized in this appendix.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

ALC-11

SEP 28 1979  
LEGISLATIVE  
AUDIT

September 28, 1979

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

Dear Mr. Wilkerson:

We have reviewed the enclosed Department of Commerce and Economic Development response to your preliminary report entitled:

"A Performance Review of the Guide Licensing  
and Control Board -July 17, 1979"

Additionally, we have reviewed the interim response data submitted by the Departments of Revenue and Public Safety and are forwarding them to you.

You will note that the Department of Revenue is consulting with the Department of Law concerning Recommendation No. 4 and that they plan to make an official response within ten days. Also, the Department of Public Safety has indicated that there have been no changes of substance since their response to your interim letter. Accordingly, they and we feel that the original response is adequate and self-explanatory.

Sincerely,

Richard A. Smith  
State Internal Auditor

RAS/PJA/mjc  
Enclosures

## STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D - JUNEAU 99811

September 27, 1979

RECEIVED

SEP 28 1979

LEGISLATIVE  
AUDIT

Mr. Gerald Wilkerson, C.P.A.  
Division of Legislative Audit  
Pouch W  
Juneau, Alaska 99811

Dear Mr. Wilkerson:

The following comments are in response to the Performance Review of the Guide Licensing and Control Board, as submitted by the Division of Legislative Audit.

Recommendation No. 1: Agree. We believe that consolidation of guide licensing and control into one agency would enhance efficiency of operations, avoid duplication, and be less confusing. Transfer of licensing to the Department of Public Safety would not, however, have a significant effect in reducing Division of Occupational Licensing operating costs. We still would maintain equipment, overhead expenses, and the licensing examiner who is also currently responsible for two other boards. The reduction in workload would result in reallocation of duties from other high volume areas.

Recommendation No. 2: Agree. The division and the board are in agreement with this recommendation and will be preparing appropriate statutory amendments for consideration during the 1980 legislative session.

Recommendation No. 3: Agree. The board works on a continual basis to make its statutes and regulations comprehensible and relevant. The division will assist the board in these efforts.

Recommendation No. 4: N/A

Recommendation No. 5: Agree. All boards and commissions were requested to submit this information for inclusion in the FY '81 budget document. The Guide Licensing and Control Board has complied with that request.

Thank you for the opportunity to respond to this report and for the time and effort expended by you and your staff.

Sincerely,

*[Handwritten Signature]*  
Bertram L. Wagon  
Acting Commissioner

BLW/kb

Gerald Wilkerson, Director  
Legislative Auditor  
Division of Legislative Audit

August 10, 1979

William R. Nix, Commissioner  
Department of Public Safety

Interim Letter No. 1  
Guide Licensing and  
Control Board

Having reviewed the Interim Letter No. 1 concerning the sunset audit conducted by your agency of the Guide Licensing and Control Board, I offer the following comments:

Recommendation No. 1

The Guide Licensing and Control Board should seek legislation to have the guide licensing function transferred to the Department of Public Safety.

This department endorses this recommendation. The duplicated efforts currently practiced by two departments will be eliminated and all guide licensing functions placed under one authority. This will greatly simplify the citizens involvement with guide licensing functions. Additionally, it will eliminate the need to correct numerous errors that currently occur due to a split in the duties and responsibilities.

Recommendation No. 2

The Guide Licensing and Control Board should seek legislation to have the "transporter laws" repealed.

Again the department endorses this recommendation. As written the transporter laws do not serve a useful purpose in enforcement, game management, or protection of the resources. Some discussion between the Department of Fish and Game and the Department of Public Safety on this subject last year indicated that they share our opinion. To a large degree, our functions with the transporter laws overlaps that of the Federal Aviation Administration.

Recommendation No. 3

The Board should continue its efforts to make the statutes more clear, relevant and workable.

In general, many of the statutes and regulations are confusing to the public and our protection officers. It does little good to have statutes on the book and regulations

promulgated if the public doesn't understand them. In response to the examples you cited I offer the following:

- A. This was covered in our response to recommendation number 2. This law is not only unworkable, but does not serve the purpose for which it was intended.
- B. This may not be as confusing as it sounds because all fish and game licenses are renewed annually. If the guide licensing functions are placed under one authority (recommendation #1) it may eliminate the problems.
- C. We admit that the term moral turpitude is vague; yet, ethical conduct or ethical activity, as recommended by the auditor, only applies to persons acting in the guide profession after a license is secured. Section 08.54.110(6) speaks to the qualifications for a registered guide license and the wording "has not been convicted of a crime involving moral turpitude" gives us a court established precedent for requesting applicants fingerprints and for conducting background investigations. If "moral turpitude" is repealed, some substitute qualification should be found that continues to give us the ability to eliminate applicants with serious criminal backgrounds.
- D. The department agrees with the auditor that this section is very restrictive. The same intent could probably be accomplished by changing the word shall to may. Other statutes such as AS 08.54.200(b) and AS 08.54.200(c) give the board the authority to revoke licenses for other types of violations.
- E. We would like to caution trying to define "supervision" as it could end up in the same category as "participate in a hunt" (AS 38.090) or "cooperate with officials" (AS 38.120). For purposes of enforcement, we feel that the current wording is sufficient.

#### Recommendation No. 4

The Board should establish formal goals, objectives and quantifiable measures which should be included in the in the Division of Occupational Licensings' budget document.

I feel that the board does have definite objectives and would have no reluctance to stating those objectives.

If you have additional questions or need a comment clarified, please feel free to contact me.

SEP 28 1979

LEGISLATIVE  
SERIES

TO [ Richard Smith, Director  
Internal Audit Division  
Department of Administration

DATE: September 28, 1979

FILE NO

TELEPHONE NO

FROM Thomas K. Williams, Commissioner  
Department of Revenue

*JKD  
for*

SUBJECT: Legislative Audit's Performance  
Review of the Guide Licensing  
& Control Board

RECOMMENDATION NO. 4 - THE DEPARTMENT OF REVENUE SHOULD COLLECT FEES FROM GUIDES, AS REQUIRED BY STATUTE.

This law requires the participation of several State agencies. In 1976, the Department of Revenue met with the Departments of Law, Fish and Game, Commerce, Public Protection, and the Guide Licensing and Control Board.

The determination at that time was that the Guide Board, working with the Department of Commerce, was the only State agency that could effectively collect fees. The Guide Board and the Department of Law were to resolve the various problems and formulate the policy and procedures.

In the first week of October, the Department of Law is to release a memorandum which will set the guidelines and recommend appropriate action by each participating agency.

The Department of Revenue would like to defer an official response to Recommendation No. 4 until the Department of Law's memorandum has been reviewed. We request a ten-day postponement.

MEMO RECEIVED  
from the desk of

9/22/79

SEP 22 1979

LEGISLATIVE AUDITOR  
Mr. Gerald L. Wilkerson, CPA  
Legislative Auditor

Dear Mr. Wilkerson:

Thanks for the copy of the preliminary audit of the Guide Board. I've caught up with me in Port Angeles a couple of days ago. I notice that the chairman of the Board is requested to provide you with a response within 20 days. The last communication I received from Marcus Jensen via a copy of a letter to someone else indicated that he would not be back in Alaska until the latter part of October. He then will be in Juneau for a time until he goes to deer camp. My reaction to the audit is that it is both thorough and perceptive.

Sincerely,

Member  
GL&C

cc

*Charles J. Kern*

# Alaska House of Representatives



## COMMITTEE ON NATURAL RESOURCES

POUCH V • JUNEAU, ALASKA 99811

February 14, 1980

The Speaker has referred to House Resources for consideration for confirmations to the Guide Licensing and Control Board:

\*Mr. Norman Sutliff, Kodiak  
Term expiring 06/15/85

\*Mr. Charles Keim, College  
Term expiring 06/15/82

Mr. William Stroecker, Fairbanks  
Term expiring 06/15/82

\*Reappointed

### CO. CHAIRMEN

REP. ALVIN OSTERBACK (465 3715) • REP. BILL MILES (408 3770)

### VICE CHAIRMAN

REP. FRED ZHAROFF

REP. PAT CARNEY • REP. C. V. CHAT. CHATTERTON • REP. SAM COTTEN  
REP. DICK ELIASON • REP. JACK FULLER • REP. RICK HALFORD

### Article 1. Guide Licensing and Control Board.

| Section                              | Section                       |
|--------------------------------------|-------------------------------|
| 10. Creation and membership of board | 45. Special guiding permit    |
| 20. Appointment and term of office   | 50. Board regulations         |
| 30. Chairman of board                | 60. Board hearing             |
| 40. Powers and duties                | 70. Compensation and expenses |

**Sec. 08.54.010. Creation and membership of board.** There is created the Guide Licensing and Control Board consisting of seven members. No more than three members of the board shall have a guide license. The other members shall have a general knowledge of the game resources of the state. A minimum of 10 years residence in the state is required for all members of the board. (§ 1 ch 17 SLA 1973)

**Sec. 08.54.020. Appointment and term of office.** The members of the board shall be appointed by the governor and confirmed by the legislature for staggered terms of three years or until their successors are appointed. Initial terms are as follows: three members for one year, two members for two years, and two members for three years. A member may be removed at the pleasure of the governor. (§ 1 ch 17 SLA 1973)

**Sec. 08.54.030. Chairman of board.** The board shall elect one of its members as chairman. (§ 1 ch 17 SLA 1973)

**Sec. 08.54.040. Powers and duties.** (a) Except as provided in § 45 of this chapter, the board shall

- (1) prepare, grade and administer examinations;
- (2) determine and pass on qualifications of applicants for licenses and authorize the issuance of licenses to those who qualify;
- (3) establish guide performance standards and regulate activity;
- (4) compile, maintain and publish a guide register of guides who have not been convicted of a violation of a federal or state sport fish, game, or guiding statute or regulation; a guide listed in the register whose license is revoked or suspended shall be removed from the register while his license is revoked or suspended;
- (5) compile, maintain and publish a record of registered or master guides who have completed a contract hunt in any of three years immediately preceding the publishing of the record;
- (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;
- (7) after a hearing, revoke, suspend or deny renewal of a license in accordance with § 200 of this chapter;
- (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.

(b) If a person is unable to competently understand the written portion of an examination given under (a)(1) of this section, he shall be given the complete examination orally in a language which he understands. (§ 1 ch 17 SLA 1973; am § 1 ch 133 SLA 1976)

**Effect of amendment.** — The 1976 amendment added paragraph (8) of subsection (a).

**Sec. 08.54.045. Special guiding permit.** This chapter does not limit the power of the board or its authorized designee, to issue a special guiding permit, in place of a guide license, to a person to guide in a specifically designated area, if the person is considered sufficiently experienced to perform the services of a guide and is limited solely by language barriers from securing a regular guide license. (§ 1 ch 17 SLA 1973)

**Sec. 08.54.050. Board regulations.** 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. (§ 1 ch 17 SLA 1973)

**Editor's note.** — Section 6, ch. 17, SLA 1973, provides: "A regulation promulgated by the Guide Licensing and Control Board in effect before March 14, 1973 remains in effect after that date until revoked or modified by the Guide Licensing and Control Board created by this Act."

**Sec. 08.54.060. Board hearing.** The Administrative Procedure Act (AS 44.62) applies to proceedings and hearings under this chapter. (§ 1 ch 17 SLA 1973)

**Sec. 08.54.070. Compensation and expenses.** Members of the board receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards. (§ 1 ch 17 SLA 1973)

**Article 2. Licensing.**

|   |  |
|---|--|
| <b>Section</b>  | <b>Section</b>   |
| 100. Qualifications for a master guide license              | 144. Restriction to transportation                               |
| 110. Qualifications for registered guide license            | 146. Transporter report  |
| 120. Qualifications for a class-A assistant guide license   | 150. Responsibility of registered or master guide for violations |
| 130. Privileges and limitations of class-A assistant guides | 170. License fees  |
| 140. Qualifications for assistant guide license             | 180. Examination fee   |
| 142. Qualification for transporter license                  | 185. Additional fees   |
|   | 190. Expiration and renewal                                      |
|   | 200. Grounds for disciplining a licensee                         |
|   | 210. Unlawful acts   |
|   | 220. Injunction against unlawful action                          |

**Sec. 08.03.010. Termination, continuation and reestablishment of regulatory boards.** (a) Boards listed in this subsection have a termination date of June 30, 1979:

- (1) Board of Chiropractic Examiners (AS 08.20.010);
- (2) Board of Dental Examiners (AS 08.36.010);
- (3) State Medical Board (AS 08.64.010);
- (4) Board of Nursing (AS 08.68.010);
- (5) Board of Dispensing Opticians (AS 08.71.010);
- (6) Board of Examiners in Optometry (AS 08.72.010);
- (7) Board of Pharmacy (AS 08.80.010);
- (8) Board of Veterinary Examiners (AS 08.98.010);
- (9) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);
- (10) Board of Nursing Home Administrators (AS 08.70.010);
- (11) Physical Therapy Board (AS 08.84.010).

(b) Boards listed in this subsection have a termination date of June 30, 1980:

- (1) Board of Public Accountability (AS 08.04.010);
- (2) Board of Barber Examiners (AS 08.12.010);
- (3) Collection Agency Board (AS 08.24.011);
- (4) Board of Hairdressing and Beauty Culture Examiners (AS 08.28.010);
- (5) Board of Electrical Examiners (AS 08.40.010);
- (6) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011);
- (7) Guide Licensing and Control Board (AS 08.54.010);
- (8) Board of Marine Pilots (AS 08.62.010);
- (9) Real Estate Commission (AS 08.88.011);
- (10) Board of Welding Examiners (AS 08.99.010);
- (11) Board of Governors of the Alaska Bar Association (AS 08.08.040).

(c) Upon termination, each board listed in (a) and (b) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(d) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(e) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 2 ch 149 SLA 1977)

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1. Boar  
2. Cert  
3. Publ  
4. Reg  
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6. Misc  
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**Sec. 44.66.050. Legislative oversight.** (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or § 10 of this chapter, or of an agency program under §§ 20 and 30 of this chapter, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board,

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March 11, 1980

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Resources Committee has had under consideration for "Sunset" review the Guide Licensing and Control Board pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with statutory requirements a public hearing was held on the review of this board at which testimony was taken from members of the board and of the profession as well as from the administrative agencies dealing with the operation and enforcement of Guide Board functions.

Directed, in part, by the report prepared by the Division of Legislative Audit the Committee took into consideration the factors required to be evaluated under AS 44.66.050(c).

Your Resources Committee thereby makes the following findings:

1. That the licensing of Guides is needed to protect the safety and welfare of the public and to protect the Resources of the State of Alaska.
2. That the licensing function as it applies to guides should be transferred from Occupational Licensing to Public Safety.
3. That the "Transporter Laws" should be repealed as unworkable.
4. That certain other statutute changes primarily those listed in the audit report be included in the "Sunset" legislation to be introduced by this committee.
5. That the Guide Licensing and Control Board be continued for one year during which time...
  - a. the Department of Law is requested to perform a complete legal audit of the minutes and records of the Board to determine whether their procedures and actions have been in full compliance with the Alaska Constitution and all applicable statutes.
  - b. ~~a legislative committee~~<sup>a</sup> legislatively directed study can evaluate and recommend specific statutory changes under which rural residents can enter the guiding profession and receive the maximum benefits from local guiding activities.

~~A bill will be introduced by the Resources Committee~~

Respectfully submitted,

~~Facilitated by the findings and recommendations in the letter~~

Rep. Alvin Osterback  
Co-Chairman  
House Resources Committee

Members ↘ ↙

# Alaska State Legislature

REPRESENTATIVE -  
Rick Halford  
District 8



P.O. BOX 66  
CHUGIAK, ALASKA 99567  
Phone 907-682-2470

While in Juneau  
POUCH V  
JUNEAU, ALASKA 99811

## House of Representatives

To: Office of the Attorney General  
From: Representative Rick Halford  
Date: March 10, 1980  
Request: Legal Review of the Powers, Duties and Performance of the  
State Guide Licensing and Control Board

The House Resources Committee is considering the merits of continuation or termination of the Guide Licensing and Control Board under the Sunset review process. Because the Guide Board's mandate and procedures have been the subject of numerous legal questions, it seems appropriate to request that your department review certain issues which are beyond the expertise of Legislative audit.

A substantial portion of the Guide Board's time, since its creation, has been devoted to the development and implementation of a limited entry system under the terminology of "exclusive guide areas". Specific questions include:

- 1) Does the exclusive guide area system comply with the provisions of Article I, Section I of the State Constitution and the further provisions of Article VIII, Section 17 in concept (if carried out properly).
- 2) If the system is conceptually within Constitutional bounds, does the method of implementation used by the Guide Licensing and Control Board comply with all applicable Constitutional and Statutory provisions.

These two questions are basic to the entire area system which has been in place for several years:

- 1) If guide A is cited for guiding in an area assigned to guide B, and guide A is willing to go through the entire legal appeal process, will he win if he is in every other way legal to guide in the area in question?
- 2) Do the broad protections applied to a guide's license in the Herscher case logically extend to the exclusion from using that license under the exclusive areas?

It would also be useful to have copies of all past correspondence between your office and the Department of Public Safety or the Guide Board on this subject.

Agency Services.

owers formerly held by the  
of Highways relating to  
struction, maintenance and  
state transportation facilities  
te highways, roads, bridges,  
and signals, the supervision  
nce of state automotive and  
equipment, the control of  
vertising visible from state  
d all other duties and powers  
artment of Highways, and  
ncluding powers and duties  
ld by the Department of  
der AS 19, AS 28.01, AS 28.05,  
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contracts.

and the Department of  
r into agreements under  
of way, construction,  
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o the Department of Public  
ubsection (c).  
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the amendment, it is not set out.

ng with or employing  
he Department of Health  
bor, the Department of  
ment of Military Affairs,

ent of Health and Social  
ch require expertise in  
tion; or

(2) employ a person whose duties require expertise in determining or reducing the hazards of radiation.

(b) As used in this section, "state agency" or "agency of the state" means a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the Alaska State Housing Authority; "state agency" or "agency of the state" does not include the University of Alaska, a municipality, or an agency of a municipality.

(c) As used in this section, "radiation" does not mean radiation emitted from a Federal Communications Commission licensed facility emitting radiation of a wave length longer than one centimeter and an average power output not exceeding two kilowatts. (§ 2 ch 172 SLA 1978)

Cross reference. — As to radiation protection, see AS 18.60.475.

Chapter 66. Review of the Activities of Agencies.  
Boards and Commissions.

| Section   | Section                    |
|---|----------------------------|
| 10. Termination of state boards and commissions | 30. Program identification |
| 20. Agency programs                             | 50. Legislative oversight  |
|   | 60. Existing claims        |

Cross reference. — As to the termination, continuation and reestablishment of regulatory boards, see AS 08.03.010.

Editor's note. — Section 1, ch. 149, SLA 1977, provides: "The legislature finds that the substantial increase in the number of state agencies, boards and commissions, and the proliferation of rules and regulations which each has adopted have contributed to a public disenchantment with the operation of state government,

and that there is need for an effective and regular system of scrutiny of the programs and activities of all agencies, boards and commissions. The legislature further finds that the establishment of a system for periodic review by the public and the executive and legislative branches of certain state agencies, boards and commissions will help the governor and the legislature to determine the need for the continued existence of each of the agencies, boards and commissions."

Sec. 44.66.010. Termination of state boards and commissions. (a) Boards and commissions listed in this subsection expire on the date set out after each:

- (1) Alcoholic Beverage Control Board (AS 04.05.010) — June 30, 1979;
- (2) Alaska Transportation Commission (AS 42.07.011) — June 30, 1978;
- (3) State Board of Parole (AS 33.15.010) — June 30, 1980;
- (4) Alaska Public Utilities Commission (AS 42.05.010) — June 30, 1980;

- (5) Alaska Pipeline Commission (AS 42.06.010) — June 30, 1981;  
 (6) Alaska Council on Science and Technology (AS 44.19.181) — June 30, 1983;  
 (7) Alaska Renewable Resources Corporation (AS 37.12.010) — June 30, 1982.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 3 ch 149 SLA 1977; am § 3 ch 101 SLA 1978; am § 10 ch 1979 SLA 1978)

*Effect of amendments.* — The first 1978 amendment added paragraph (6) of subsection (a). The second 1978 amendment added paragraph (7) of subsection (a).

**Sec. 44.66.020. Agency programs.** (a) Agency programs and activities listed in this subsection which are specifically designated as provided in § 30 of this chapter are subject to termination during the regular legislative session convening in the month and year set out after each:

- (1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;
- (2) programs in the budget categories of education and the University of Alaska — January, 1981;
- (3) programs in the budget categories of health and social services — January, 1982;
- (4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under § 30 of this chapter. (§ 3 ch 149 SLA 1977)

**Sec. 44.66.030. Program identification.** During the legislative session preceding each of the years set out in § 20 of this chapter, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

**Sec. 44.66.050. Legislative dissolution, continuation or reestablishment.** A commission, board, committee, or agency created under AS 08.03.010 or § 10 c under §§ 20 and 30 of this chapter, which shall be the starting point for more hearings to receive testimony from the department having administrative jurisdiction over the board, commission, or agency or committee involved. The committee shall also consider the continuation, reestablishment, or agency program 37.07.050(f), and the performance of the commission, or agency program division as prescribed in AS 2 any other report of the activities including but not limited to an Legislative Affairs Agency, and manner of conduct of activities program prepared by the office.

(b) During a public hearing the commission, board, committee, or agency shall have the burden of demonstrating the necessity for the existence or the continuation of the program and any change in the manner of operation of the program to increase efficiency of administration and in the public interest.

(c) A determination as to whether a program has demonstrated a public interest shall take into consideration the following:

- (1) the extent to which the program has been operated in the public interest;
- (2) the extent to which the program has been improved, and procedures, and practices which have been developed, including budgetary, resource, and personnel management;
- (3) the extent to which the program has recommended statutory changes in the public interest;
- (4) the extent to which the program has encouraged interested persons to participate in regulations and decisions on the program, and availability of services;

(5) the extent to which the program has encouraged public participation in decisions;

2.06.010) — June 30, 1981;  
 Technology (AS 44.19.181) — June

poration (AS 37.12.010) — June

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 3 ch 10 SLA 1978; am § 10 ch

the second 1978 amendment added  
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 shall designate, not later than  
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Budget and Audit Committee  
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 ld terminate those designated  
 y 1 of the following year. (§ 3

**Sec. 44.66.050. Legislative oversight.** (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or § 10 of this chapter, or of an agency program under §§ 20 and 30 of this chapter, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishment;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board,

commission, or agency program  
(§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing ch  
termination or dismissal of a c  
commission or program of a  
which is subject to litigation. C  
department to which the boar  
chapter was attached for adm

## Part 8. Cla

### Chapter 77. Cl

#### Sec. 44.77.010. Presentatio

Legislative history of section. —  
State v. ZIA, Inc., Sup. Ct. Op. No.  
(File No. 2518), 556 P.2d 1237 (1976).

This section is only applicable after  
claimant has pursued an administr  
remedy. State v. ZIA, Inc., Sup. Ct. Op.  
1337 (File No. 2518), 556 P.2d 1257 (1976).

The word "given" serves only to m  
the word "services." State v. ZIA,  
Sup. Ct. Op. No. 1337 (File No. 2518)  
P.2d 1257 (1976).

It is apparent that if "given" mo  
"money," "labor," "materials"  
"supplies," each term would have a d  
modifier and the statute would be su  
to construction not contemplated by  
legislature. State v. ZIA, Inc., Sup. Ct.  
No. 1337 (File No. 2518), 556 P.2d  
(1976).

For the purposes of the filing  
contract claims, "promptly" is  
defined in calendar terms. State v.  
Inc., Sup. Ct. Op. No. 1337 (File No. 1  
556 P.2d 1257 (1976).

If the legislature had intended to d  
"promptly" for other claims (incl  
contract claims) and had a period of ti

## Chapter 80.

### Article 3. Sp

#### Section

70. Special use of highways and  
areas

Sec. 44.80.070. Special use  
state, or a department or agen  
highway or vehicular way or

MARCUS F. JENSEN  
P. O. BOX 2220  
JUNEAU, ALASKA 99803

April 22, 1980

Representative Alvin Osterback  
Alaska State Legislature  
Resources Committee of the House of Representatives  
Juneau, Alaska

Dear Representative Osterback:

I have just received copy of a letter sent to you by the Alaska Professional Hunters Association. I would be surprised if you would give credence to an unsigned letter. Unsigned letters are often from "mad letter writers".

The contents of the letter surprises me, as it would appear to have been written by someone who is not registered to guide in Unit 4, which is Southeastern Alaska.

Notification of the meeting in Fairbanks was handled the same way every meeting is handled when petitions are to be presented. All guides involved were sent a letter personally. Some of these guides answered by letter, and some testified in person.

I have guided in Unit 4 for over 30 years, and until last year the Southeastern guides honored their word in respect to not guiding in my particular area. The reason for their sudden change is the fact that the Game Board has a closure on what they call the "inside" and left the fringe on the "outside" open ten days longer. I have been very conservative in the number of contracts I take because of the public hunting pressure in the area as well.

No guide in Southeastern Alaska would object to my area if he would agree to an exclusive area for himself which would automatically reduce his number of contracts from eight or ten to three or four at the most. This is really what the controversy is all about. There has been too much guiding pressure on the "inside". Too many guides still have the attitude that they will shoot the last cub bear for a dollar. I am enclosing copy of a letter from the Game Biologist in Unit 4. He estimated at that time only 25 bear should be taken and since the guides and the public split the total take that would mean only 12 bear for the guides and their assistants. He has probably increased that 25 figure to 40 since the letter was written, which would allow in the neighborhood of 20 bear for the guides. The guides' success ratio for the number of contracts is very low - around 50%. If trophy bear were taken the percentage would be considerably lower than 50% because most of the takable bear have been shot.

To give you a better example of what is happening in Unit 4 I refer you to contracts of a guide named John Erickson. He had 10 hunters contracts in spring of 1979. Of those ten, four got no bear, and four took bear under five feet. I am enclosing some of the sealing certificates to give you an idea of what I mean. When the going rate for a hunt is four to five thousand dollars I think it behooves the guiding profession to give the hunter more chance for a trophy bear.

I do not think the action of the Guide Licensing and Control Board should be criticized for trying to save a small area from being totally raped. The petitions that guides from Unit 4 are putting in now will be handled in an orderly manner by the staff and the Board.

Representative Alvin Osterback

Page 2

As chairman of the Guide Licensing and Control Board, and as an Alaska resident for over 50 years, and as a registered guide for some 35 years, I have been criticized by some guides for my strong stand against guides who want to rape the game resources. A stand like this doesn't necessarily make everyone love you. A situation happened last spring where two guides took over 30 grizzlies in Unit 23. I was very upset over this and wanted to bring the guides before our Board for a hearing. I am now in the process of scheduling a meeting with the Kotzebue Native Corporation on this subject of game resource. I have made every effort to work with the Natives and intend to continue to do so in the future. Some guides criticize me for this.

I would hope that the House Resource Committee appreciate what most of our Board members are trying to do for the State of Alaska, and that is weed out the "bandits" who are raping our resource, and develop exclusive guide areas for the protection of the resource and improved game management.

Respectfully yours,

A handwritten signature in cursive script that reads "Mark Jensen". The signature is written in dark ink and is positioned centrally below the typed name.

Marcus F. Jensen, Master Guide



# Alaska

## Professional Hunters Association, Inc.

P. O. BOX 4-1832  
ANCHORAGE, ALASKA 99509

Phone (907) 243-3977

April 17, 1980

### OFFICERS

PHIL DRIVER  
President

KIRK GAY  
Vice President

VERNON HUMBLE  
Secretary/Treasurer

Representative Alvin Osterback  
Pouch V  
Juneau, Alaska 99811

Dear Representative Osterback:

### BOARD OF DIRECTORS

LYNN CASTLE  
PHIL DRIVER  
STAN FROST  
KIRK GAY  
HANK HANKARD  
VERNON HUMBLE

We have had a situation that came up during the recent Guide Board meeting that was held in Fairbanks, Alaska that may be worthy of some consideration by your committee in evaluating the conduct of the Board under Sunset review. These tapes and the transcript of the meeting should be available to your committee at the Department of Commerce.

EXECUTIVE SECRETARY  
PAMELA R WILSON

Mark Jensen, the Chairman of the Guide Board, was awarded the only exclusive guide area in Units 1 thru 4 in Southeastern Alaska. The area awarded was the total outside coast of Chichasof Island. This was done over the objections of all Southeastern guides, who testified in person or by letter, who had joint use of this area. Their right to hunt this area has been taken away and given to one man without the consideration of the other twenty guides.

We would like to point out that APHA has no objection to Mr. Jensen having an exclusive guide area but it was the manner in which this was done. This was, in the eyes of the guiding industry, a flagrant abuse of power by the Chairman to serve his own personal financial interests.

APHA believes that this action by the Board should be revoked and an opportunity given to all guides in Southeastern Alaska to apply to the Board for an exclusive area.

The next Guide Board meeting should be held in Juneau, not in Fairbanks, so that all petitions to be considered would allow maximum participation by the Southeastern guides.

Sincerely,

THE BOARD OF APHA

P.S. IT is interesting to note that the only Board Member, who could see how unfair this action was and voted against it was a full-time guide. We believe at least three full-time guides should be on the Board.

cc: TO ALL GUIDE LICENSING AND CONTROL BOARD MEMBERS

PLEDGED FAIR CHASE

# STATE OF ALASKA

## DEPARTMENT OF FISH & GAME

JAY S. HAMMOND, Governor

P.O. Box 499  
Sitka, AK 99835

April 9, 1979

Mr. Marcus Jensen  
P.O. Box 2220  
Juneau, AK 99803

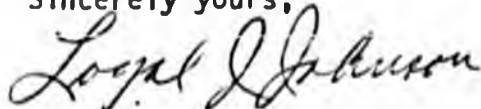
Dear Marc:

The Alaska Board of Game has now met and taken action on the Unit 4 brown bear situation. I am writing you at this earliest possible moment so that you can adjust your schedule to conform to the Board's action.

The Board adopted a substantially shortened season which will go into effect at the start of the new regulatory year, July 1. The season the Board adopted is as follows: September 15-May 20 for Admiralty and the east side of Baranof and Chichagof and September 15-May 31 for the west side of Baranof and Chichagof. The line of division between east and west Baranof and Chichagof is shown on the enclosed map. To eliminate the possibility of an excessive harvest this coming spring season, the Board has directed the Commissioner of the Department of Fish and Game to adopt an Emergency Order, effective immediately, which implements the season outlined above. Therefore, the closing date for this spring season, 1979, will end May 20 for Admiralty and the eastern side of Baranof and Chichagof and May 31 for the western side of Baranof and Chichagof.

The Board has also directed the Department of Fish and Game to closely monitor hunting during the spring 1979 season; and if it appears the kill will exceed 25 bears on Admiralty, east Baranof, and east Chichagof, the Commissioner will close the season in these areas by Field Announcement. The season on west Baranof and west Chichagof will remain open until May 31.

Sincerely yours,



Loyal J. Johnson  
Area Game Biologist

Enclosure

Mr. Marcus F. Jensen  
Registered And Master Guide  
Box 2220  
Juneau, Alaska

15 February 1980  
Juneau, Alaska

Dear Mark:

Sometimes people are apt to forget that when a person takes on a public chore and serves gratis, he doesn't give up his individual rights. Following the action of the Guide Licensing and Control Board this past week while it was reexamining the status of Unit #4 concerning Brown Bear and Exclusive and Joint Usage Guiding Areas, you no doubt are wondering if you'll ever get what you, like other guides, set out to get--an Exclusive Guiding Area, which is what you have wanted all along. I want it to be a matter of record that you put in for an EGA at the onset. Most of the guides in the Panhandle (the preponderance of whom in no way had "rights" that would measure up to yours) opted for joint usage in Units 1-4. You regretfully went along with the rest, at the Board's insistence. Later, long before this recent reexamination, you again requested your EGA. The Board, still trying to make the collective Joint Usage work, felt you should withdraw the second request. It was not accepted.

This past week as the Board learned that there is a growing pressure on a fairly static resource (Brown Bear) but decided to maintain the status quo, it also learned that not all the guides who agreed at the initial meeting on this subject to respect your area of operations were doing so. The Board, therefore, encouraged you to again petition for your EGA, and the guides present pretty well agreed that they would have no objection to your doing so. There was general recognition that your rights, based on the criteria the Board has shaped over time, are on or are very close to the very foundation stone.

Times and circumstances change, as does makeup of various organizations. Memory falters and fades. I feel that because of all these factors I should put together this brief summary inasmuch as I have attended all meetings on this subject as it touches Units 1-4, and wish you well.

Fraternally,  
*Charles J. Keim*  
Charles J. Keim  
Member, GL&CB

(For State Use Only)

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME

Hide 48623 TENAKEE 5-19-79  
(Seal Numbers) (Place of Sealing) (Date of Sealing)  
Skull 48624 CERTIFICATE NUMBER 36105

| SPECIES                  | *SEX                            | SEX IDENTIFIERS               |
|--------------------------|---------------------------------|-------------------------------|
| Brown Grizzly <u>X</u>   | Male <u>X</u>                   | Penis Sheath <u>X</u>         |
| Polar _____              | Female _____                    | Vaginal Orifice _____         |
|                          | Unknown _____                   | Teats L _____ M _____ S _____ |
|                          |                                 | Nare _____                    |
| SKULL                    | HIDE                            | SPECIMEN COLLECTED            |
| Length <u>10 1/2</u> in. | Length <u>3</u> ft <u>8</u> in. | Tooth <u>X</u>                |
| Width <u>5 1/8</u> in.   | Width <u>5</u> ft <u>0</u> in.  | Skull _____                   |
| Total _____ in.          | Total _____ ft _____ in.        | Repro _____                   |
| C.B.L. <u>10 2/8</u> in. | Rubbed _____                    | Cem. Age _____                |
|                          | Unrubbed <u>X</u>               |                               |

TRANSPORTATION USED

Aircraft \_\_\_\_\_

Off road Vehicle \_\_\_\_\_

Boat X

Snowmachine \_\_\_\_\_

Dog Team \_\_\_\_\_

Horse \_\_\_\_\_

Other \_\_\_\_\_

Days Hunted 6 \*Date of Kill 5-16-79

\*Location of Kill Unit 4 Sub Unit \_\_\_\_\_

Mr Range and Drainage CHICAGO IS. TENAKEE INLET

Specific Location HEAD OF INLET

Name of Hunter JOHN W. RINEHART

P.O. Box 104 HILLSDALE AK 99060  
(Address) (City) (State)

License No. 02935 Tag No. 357 Guided Hunt Yes X No \_\_\_\_\_

Resident \_\_\_\_\_ Non Resident \_\_\_\_\_

Guides Name ERICKSON



Signature of Hunter \_\_\_\_\_ (Sealed by) \_\_\_\_\_

Remarks \_\_\_\_\_

Code \_\_\_\_\_

11-78A

\*MUST BE FILLED OUT

For State Use Only

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME

Hide 35096 (Seal Number) JUNEAU (Place of Sealing) 5/14/79 (Date of Sealing)

Skull 35097

CERTIFICATE NUMBER 40658

| SPECIES                  | *SEX                             | SEX IDENTIFIERS                |
|--------------------------|----------------------------------|--------------------------------|
| Brown-Grizzly <u>X</u>   | Male _____                       | Penis Sheath _____             |
| Polar _____              | Female _____                     | Vaginal Orifice _____          |
|                          | Unknown <u>X</u>                 | Teats: L _____ M _____ S _____ |
|                          |                                  | None _____                     |
| SKULL                    | HIDE                             | SPECIMENS COLLECTED            |
| Length <u>13</u> in.     | Length <u>4</u> ft <u>11</u> in. | Tooth <u>LOWER LEFT</u>        |
| Width <u>7</u> in.       | Width <u>6</u> ft <u>11</u> in.  | Skull _____                    |
| Total <u>20</u> in.      | Total <u>11</u> ft <u>10</u> in. | Repro _____                    |
| C.B.L. <u>11 1/4</u> in. | Rubbed <u>NONE</u>               | Cem. Age _____                 |
|                          | Unrubbed _____                   |                                |

TRANSPORTATION USED

Aircraft \_\_\_\_\_

Off-road Vehicle \_\_\_\_\_

Boat X

Snowmachine \_\_\_\_\_

Dog Team \_\_\_\_\_

Horse \_\_\_\_\_

Other \_\_\_\_\_

Days Hunted 10 \*Date of Kill 5/10/79

\*Location of Kill: Unit 4 Sub Unit \_\_\_\_\_

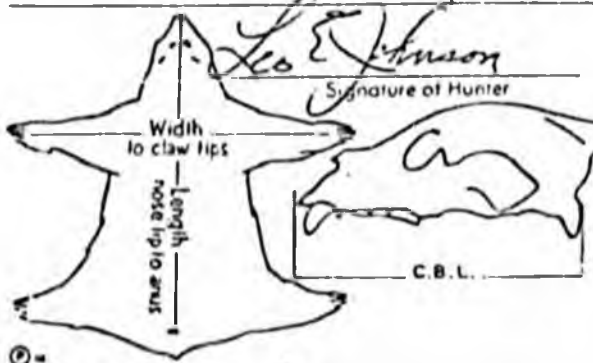
Mt. Range and Drainage HEAD TENHREE

Specific Location INLET ON CHILHAGOF

Name of Hunter LEO E JOHNSON

17508 184TH AVE NE WINDSVILLE WASH.  
(Address) (City) (State)

| License No.                | Tag No.      | Guided Hunt*                  |
|----------------------------|--------------|-------------------------------|
| Resident _____             | <u>79AAA</u> | Yes <u>X</u> No _____         |
| Non Resident <u>029416</u> | <u>347</u>   | Guides Name <u>J. ERIKSON</u> |



M. FOX FWP  
Sealed by

Remarks HUNTER SAYS IT WAS DEFINITELY MALE

Code \_\_\_\_\_

\*MUST BE FILLED OUT

(For State Use Only)

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME

Hide 48621 TEWAKEE 5-19-79  
(Seal Numbers) (Place of Sealing) (Date of Sealing)

Skull 48622 CERTIFICATE NUMBER 36104

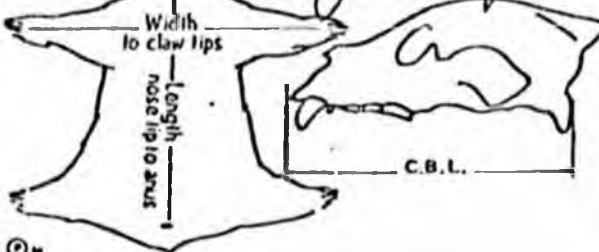
| SPECIES                  | *SEX                            | SEX IDENTIFIERS                |
|--------------------------|---------------------------------|--------------------------------|
| Brown-Grizzly <u>X</u>   | Male <u>X</u>                   | Penis Sheath <u>X</u>          |
| Polar _____              | Female _____                    | Vaginal Orifice _____          |
|                          | Unknown _____                   | Tears: L _____ M _____ S _____ |
|                          |                                 | None _____                     |
| SKULL                    | HIDE                            | SPECIMENS COLLECTED            |
| Length <u>12 1/4</u> in. | Length <u>5</u> ft <u>1</u> in. | Tooth <u>X</u>                 |
| Width <u>7</u> in.       | Width <u>6</u> ft <u>3</u> in.  | Skull _____                    |
| Total _____ in.          | Total _____ ft _____ in.        | Repro. _____                   |
| C.B.L. <u>11 1/8</u> in. | Rubbed _____                    | Cem. Age _____                 |
|                          | Unrubbed <u>X</u>               |                                |

| TRANSPORTATION USED    |  |
|------------------------|--|
| Aircraft _____         | Days Hunted <u>5</u> Date of Kill <u>5-17-79</u> |
| Off-road Vehicle _____ | *Location of Kill: Un* <u>4</u> Sub Unit _____   |
| Boat <u>X</u>          | Mt. Range and Drainage <u>CHICKSEE</u>           |
| Snowmachine _____      | Specific Location <u>TEWAKEE INLET</u>           |
| Dog Team _____         | <u>HEAD OF INLET.</u>                            |
| Horse _____            |  |
| Other _____            |  |

Name of Hunter HARRY W. WHYEL  
Box 805 PINEDALE WY 82941  
(Address) (City) (State)

License No. \_\_\_\_\_ Tag No. \_\_\_\_\_ Guided Hunt  
Resident \_\_\_\_\_ Yes X No \_\_\_\_\_  
Non Resident 068170 134 Guides Name FRICKSON

Harry W. Whyel (Signature of Hunter) Richard Graham (Sealed by)



Remarks \_\_\_\_\_  
Code \_\_\_\_\_

# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FISH AND WILDLIFE PROTECTION

JAY S. HAMMOND, GOVERNOR

WILLIAM NIX  
COMMISSIONER

POUCH N - JUNEAU 99811

P.O. Box 6188 Annex, Anchorage, Alaska 99502

April 25, 1980

Mr. Sam Harbo  
Chairman of Game Board  
PO Box 80522  
College, Alaska 99735

Dear Sam:

I understand that your Game Board is meeting in Anchorage starting December 2, 1980. With that in mind, I am proposing to schedule our Guide Licensing and Control Board meeting for November 29 so that we wouldn't completely overlap your meeting. Would it be possible for our two boards to spend a half a day together discussing topics that should probably be identified ahead of time where we have a mutual interest. I think it might be very helpful in the long run to have both boards understand their particular role in this game resource management. If you would approve of such a meeting, I would suggest you contact our staff at the above address, Atten: Inv. William Bellinger, and make any suggestions you might think would be helpful.

Thank you.

Very truly yours,

*Marcus Jensen / Jean Sahl*  
Marcus Jensen, Chairman  
Guide Licensing and Control Board

MJ/jl

cc: Mr. Ron Summerville  
Mr. Phil Driver  
Sen. Frank Ferguson  
Rep. Jack Fuller  
Rep. Al Osterback  
Sen. Brad Bradley  
Mr. Ed Shavings  
Mr. Clark Engle  
Mr. Charles Keim  
Mr. William Stroecker  
Mr. Norman Sutliff  
Mr. Glen Glenzer  
Mr. Don Harris

# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FISH AND WILDLIFE PROTECTION

POUCH # - JUNEAU 99811

J. S. HAMMOND, GOVERNOR

WILLIAM NIX  
COMMISSIONER

P.O. Box 6188 Annex, Anchorage, Alaska 99502

April 25, 1980

Mr. Rodney Lincoln  
Chairman  
Kotzebue Area Fish and Game Advisory Committee  
Box 686  
Kotzebue, Alaska 99752

Dear Mr. Lincoln:

Thank you for your letter of February 8, 1980. I certainly appreciate your desire to meet with our board and discuss game resources. I think communication is very important as an improvement in game management. It is our understanding that the Game Board meeting will start December 2 in Anchorage. If there is no objection from our board members, I would like to start the Guide Board meeting agenda on November 29 so that we could handle some of our workload and still be able to meet with the Game Board members. On that basis, I would set a tentative agenda for November 29, in the afternoon starting at 2:00 pm. This schedule would be to hear people from your organization and some of the qualified people such as professional guides and the public, plus biologists that are acquainted with the area. I think an open meeting such as you have suggested is useful for all parties concerned. I think we would be establishing a little bit of history to sit down together and discuss all types of resource problems. It might be well to include in our agenda some comments on marine mammals, even though federal legislation is needed to commercialize this resource. I would hope that some time in the near future you can prepare a tentative agenda with a list of speakers and topics and the board will do the same from the board members and the guiding profession. If your correspondence could be addressed to the Department of Public Safety, address above, Attention: Inv. William Bellinger, the staff will keep you up to date as progress is made on the agenda.

Very truly yours,

  
Marcus Jensen, Chairman  
Guide Licensing and Control Board

MJ/jl

cc: Carl Gravogel, Biologist  
Rep. Jack Fuller  
Sen. Frank Ferguson

cc: Mr. Sam Harbo, Chairman, Game Board  
Mr. Ron Sommerville, Director of Game  
Rep. Al Osterback  
Mr. David Johnson, Kotzebue Fish & Game Advisory Comm.  
Mr. Phil Driver, President, APHA  
Mr. Ed Shavings, Mayor, Nunivak  
Sen. Brad Bradley  
Department of Commerce  
Mr. Clark Engle  
Mr. Charles Keim  
Mr. William Stroecker  
Mr. Norman Sutliff  
Mr. Glen Glenzer  
Mr. Don Harris

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING / POUCH D - BUREAU 83011

April 28, 1980

TO WHOM IT MAY CONCERN:

Attached hereto you will find a letter from Karl Lane, addressed to the Guide Licensing & Control Board to be used at our February meeting in Juneau, on Unit 4. I regret to say that this letter was misplaced and was not read at that meeting.

I have known Karl Lane for many years, I have worked on his boat and I have a great deal of respect for the man himself, and his operation as a guide. It is unfortunate that open friction developed on my request for a small area.

Karl's letter shows a great deal of understanding and foresight in the changes that are about to occur in this area. The constant change creates problems for the guiding industry. Conditions will not improve - they will gradually deteriorate. The exclusive guide area has been very effective in the Interior of Alaska, where most all guides are satisfied that it is the best approach. I would hope that the Board and the guides will develop some of the thoughts in Karl's letter and bring them to a conclusion.

Sincerely yours,



Marcus F. Jensen, Chairman  
Guide Licensing & Control Board

PS. A REMINDER! September 1 is the deadline for filing applications for areas! MJ.

**Karl E. Lane**

REGISTERED MASTER GUIDE & OUTFITTER

February 5, 1980

P.O. Box 295  
Juneau, Alaska 99802  
907-586-3822

Guide Licensing and Control Board  
Division of Occupational Licensing  
Pouch D  
Juneau, Alaska 99811

Gentlemen:

Although I will not be present to give oral testimony at the Feb. 13th thru 16th meeting of the Guide Board, I wish to assure you that I am still deeply concerned about the problems and future of brown bear guiding in Southeast Alaska and offer the following written testimony for consideration.

Somehow there must be found a way to reduce the guiding pressure by cutting down the number of active guide and also closing the loopholes that permit guides licensed for the area to sign contracts for guides not licensed for the area. This is being done by a few guides at the present time and it could allow an unlimited number to operate in Unit 4 and defeats any conservation measure you pass.

I would be in favor of exclusive areas if there is a proviso allowing Joint-Use if the individual guides so wish. The reason being that there is no fair way of dividing a country that is already split by different opening and closing dates for conservation reasons. There is also the problem of constant changing development in the logging industry. For example, the northern, eastern and southern coastlines of Chichagof Island will have intensive road building in '81 and full scale logging in '82. This will eliminate most of Chichagof. The northeast portion of Baranof will have the same development.

I would not be in favor of an exclusive area being transferred for any monetary value. If exclusive areas are issued to guides, they should be passed on to next qualified guide when the guide holding the area is not active for more than one season. The price of limited entry fishing permits are unfair.

If you are successful in limiting the guides to around ten or so, I have even been thinking of the possibility of cutting this number in half by guiding alternate years. For example, if you still had eight or ten guides which is still too many in my estimation, four or five guides with their clients would easily take one half of the quota of bears that the Game has set and the other half would surely be taken by the increase of resident hunting effort. A guided hunting trip would again have some quality and the bears would have a better chance of recovering.

Sincerely,  
*Karl E. Lane*  
Karl Lane

Mr. Marcus F. Jensen  
Registered And Master Guide  
Box 2220  
Juneau, Alaska

15 February 1980  
Juneau, Alaska

Dear Mark:

Sometimes people are apt to forget that when a person takes on a public chore and serves gratis, he doesn't give up his individual rights. Following the action of the Guide Licensing and Control Board this past week while it was reexamining the status of Unit #4 concerning Brown Bear and Exclusive and Joint Usage Guiding Areas, you no doubt are wondering if you'll ever get what you, like other guides, set out to get--an Exclusive Guiding Area, which is what you have wanted all along. I want it to be a matter of record that you put in for an EGA at the onset. Most of the guides in the Panhandle (the preponderance of whom in no way had "rights" that would measure up to yours) opted for joint usage in Units 1-4. You regretfully went along with the rest, at the Board's insistence. Later, long before this recent reexamination, you again requested your EGA. The Board, still trying to make the collective Joint Usage work, felt you should withdraw the second request. It was not accepted.

This past week as the Board learned that there is a growing pressure on a fairly static resource (Brown Bear) but decided to maintain the status quo, it also learned that not all the guides who agreed at the initial meeting on this subject to respect your area of operations were doing so. The Board, therefore, encouraged you to again petition for your EGA, and the guides present pretty well agreed that they would have no objection to your doing so. There was general recognition that your rights, based on the criteria the Board has shaped over time, are on or are very close to the very foundation stone.

Times and circumstances change, as does makeup of various organizations. Memory falters and fades. I feel that because of all these factors I should put together this brief summary inasmuch as I have attended all meetings on this subject as it touches Units 1-4, and wish you well.

Fraternally,  
*Charles J. Keim*  
Charles J. Keim  
Member, GL&CB



# Alaska

## Professional Hunters Association, Inc.

P. O. BOX 4-1932  
ANCHORAGE, ALASKA 99509

Phone (907) 243-3977

April 28, 1980

### OFFICERS

PHIL DRIVER  
President

KIRK GAY  
Vice President

VERNON HUMBLE  
Secretary/Treasurer

The Honorable Jay S. Hammond  
Governor of Alaska  
Pouch A  
Juneau, Alaska 99811

### BOARD OF DIRECTORS

LYNN CASTLE  
PHIL DRIVER  
STAN FROST  
KIRK GAY  
HANK HANKARD  
VERNON HUMBLE

Dear Governor Hammond:

A certain decision during the last meeting of the Guide Licensing and Control Board has caused a not insignificant consternation among the active licensed game guides of our industry. On a 3-1 vote of the four Board members present, an exclusive guide area was permitted to Mr. Marcus Jensen, Chairman of this board.

### EXECUTIVE SECRETARY

PAMELA R WILSON

This questionable decision comes at a time when this very Board and the policies adopted to administer the professional game guiding industry are being reviewed by this legislature. One of our concerns is that this action could bring about unfavorable reaction from the reviewing committee, which might jeopardize a basically sound Board and the concept of exclusive guide areas developed over the last several years. To negate the compromise, made by some 253 permit holders, who gave rather than gained, in order to allow a maximum number of licensed guides to participate in the limited game resources of Alaska would be disastrous. The Board and the exclusive or joint-use guiding areas has and is working to protect one of Alaska's most significant natural renewable resources, and should be continued.

Equally important, have the rights of other joint permit holders in Game Management Unit Four been safe guarded and considered during deliberation on the Jensen decision?

A closer look and re-evaluation would be in order. Of course, all interested parties should be allowed to participate so the facts can be aired and evaluated.

Sincerely,

ALASKA PROFESSIONAL HUNTERS ASSOCIATION, INC.

Phil Driver  
President

PD/sgn

PLEDGED FAIR CHASE



# Alaska

## Professional Hunters Association, Inc.

P. O. BOX 4-1932  
ANCHORAGE, ALASKA 99509

Phone (907) 243-3977

April 28, 1980

### OFFICERS

PHIL DRIVER  
President

KIRK GAY  
Vice President

VERNON HUMBLE  
Secretary/Treasurer

The Honorable Jay S. Hammond  
Governor of Alaska  
Pouch A  
Juneau, Alaska 99811

Dear Governor Hammond:

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Sincerely,

ALASKA PROFESSIONAL HUNTERS ASSOCIATION, INC.

Phil Driver  
President

PD/sgn



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 11, 1980

Mr. Mark Jensen  
Chairman  
Guide Licensing and  
Control Board  
P.O. Box 2220  
Juneau, Alaska 99803

Dear Mark:

This is in response to your request that I consider making changes in the membership of the Guide Licensing and Control Board. I appreciate your concerns in this matter and am sympathetic to the problems you have recently had to shoulder.

Even so, given the extreme sensitivity of the situation currently facing the Board and its members, I feel it would be inappropriate to force any changes in the Board composition until the larger issue before the State Senate has been resolved.

Your task, though a difficult one, is one you have handled with your characteristic tact and I am confident of your abilities to weather the current storms. If I can be of any assistance to you, please do not hesitate to ask.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "JSH".

Jay S. Hammond  
Governor

**12 AAC 38.030. LICENSES.** (a) A person must purchase his registered guide license within one year of passing the guiding examination or his eligibility lapses.

(b) An application for a guide license shall be made to the Division of Occupational Licensing, Department of Commerce, Pouch D, Juneau, Alaska 99811. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

**12 AAC 38.040. RESTRICTION TO DISTRICTS.** (a) A guide may conduct guiding activities only in districts for which he is certified.

(b) Twenty-six guide districts are established and defined as being identical to those as described as game management units by the Board of Fish and Game in 5 AAC 90.010, as of January 1, 1974, with the addition of two subdistricts

(1) 18A. — Nunivak Island and all waters within one mile of that island;

(2) repealed 6/6/79;

(3) 27 — Marine Mammals, including all the area between the western boundaries of districts 17, 18, 22, 23 and 26, except that area included in 18A, north of latitude 50 degrees north and east of the Convention Line of 1867 between the United States and the Union of Soviet Socialist Republics and south of latitude 75 degrees north.

(c) A guide licensed under AS 08.54 as of the effective date of this section is restricted to certification to guide in those districts for which he is certified on that date.

(d) After the effective date of this section, all guides applying for new certification are limited to a total of three districts including those districts for which they were certified as of that date.

(e) A master guide or registered guide may serve as a class A assistant guide in districts for which he is not certified.

(f) Notwithstanding any provision of this section, a guide may petition the board for a

transfer of certification to another district if he demonstrates to the satisfaction of the board

(1) that he will incur substantial hardship if a transfer is not permitted as evidenced by

(A) substantial land withdrawals from hunting within his district;

(B) significant reclassifications of land within his district;

(C) depletion of game as evidenced by actions of the Department of Fish and Game; or

(D) other demonstrations of hardship; and

(2) that he is qualified to guide in the district to which he wishes to be transferred. (Eff. 6/28/74, Reg. 50; am 2/25/77, Reg. 61; am 6/6/79, Reg. 70)

Authority: AS 08.54.040(a)(3) and (6)  
AS 08.54.050

**12 AAC 38.050. REGISTRATION OF MAIN CAMP.** Repealed 5/12/78.

**12 AAC 38.051. GUIDING AREA PERMITS.** (a) Guiding area permits will be issued by the board to guides qualifying under secs. 53 and 54 of this chapter for exclusive or joint use of a specified area in order to limit the number of guides allowed to guide for big game animals in that area.

(b) The board will determine the size, boundaries and number of guiding areas assigned to a master or registered guide and is not limited by number or boundaries of guide districts which may be included.

(c) Each guiding area will be assigned a unique identification code. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.052. GUIDE PROHIBITED FROM USING A GUIDING AREA NOT ASSIGNED TO HIM OR HER.** No guide may contract guided big game hunts in an exclusive guiding area not assigned to him or her unless written permission to do so is obtained from the guide

to whom the guiding area is assigned. If more than one guide holds a permit for joint use of the guiding area, written permission must be obtained from each holder of a permit. The written permission must include the effective and expiration dates of use and the identity and number of the big game species to be hunted,

and must be dated and signed by all of the persons holding a permit for the guiding area. This written permission must be on the person of the guide conducting the hunt or in the base camp from which the hunt is conducted. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.053. APPLICATION AND QUALIFICATION FOR GUIDING AREA PERMIT.** (a) An applicant for initial issuance of a guiding area permit must, at the time of application and at the time the application is reviewed by the board, be a registered or master guide in good standing and must be certified in the district or districts in which the applied-for guiding area is located.

(b) In order to be considered, an applicant must submit to the board, on or before the published deadline, an application which describes the proposed geographic boundaries of the guiding area being applied for and a 1:250,000 scale map showing the proposed boundaries.

(c) Each application must include satisfactory documentation of the applicant's past use, occupancy, or financial investment in the guiding area applied for. The application may include other relevant information if it is substantiated by satisfactory documentation.

(d) The board will, in its discretion, issue a permanent guiding area permit to a qualified applicant who can substantiate his or her use, occupancy, or financial investment in the guiding area for at least three of the five years immediately preceding the published deadline for filing the application for that particular unit. The board will, in its discretion, issue a temporary guiding area permit to a qualified applicant who can substantiate his or her use, occupancy or financial investment in the guiding area for at least two of the five years immediately preceding the published deadline for filing the application for that particular unit.

(e) The holder of a temporary guiding area permit may apply for a permanent permit after one additional year of use, in the temporary guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.054. REASSIGNMENT OF GUIDING AREA PERMIT.** (a) Guiding area permits are not transferable by the permit holder. The board will, in its discretion, reassign a guiding area permit

(1) upon the death of the permit holder or upon a judicial determination that the permit holder is mentally incompetent;

(2) upon revocation or suspension of a guiding area permit;

(3) if the permit holder voluntarily relinquishes the guiding area permit; and

(4) upon application for reassignment.

(b) Under (a)(4) of this section, a permit holder may apply to the board for reassignment of his or her guiding area permit to a designated master or registered guide; the application must be made jointly by the permit holder and the designated master or registered guide. Approval of the reassignment will be given only upon a finding by the board, after notice and opportunity for a hearing, that the designated registered or master guide is qualified to guide in the area, is certified in the district or districts in which the applied-for guiding area is located, and that the reassignment is consistent with the public interest. The board will consider the designated master or registered guide's past use, occupancy, or financial investment in the guiding area and other relevant and reliable information in determining whether the designated master or registered guide is qualified.

(c) Except as otherwise provided in this chapter, an applicant for a guiding area permit which is to be reassigned must meet the requirements of sec. 53(a) of this chapter and make application in the manner prescribed for initial issuance of a guiding area permit.

(d) If an applicant cannot establish past use of the guiding area to be transferred or is not certified in the district or districts in which the guiding area is located, the board will consider experience and current use in another area of similar terrain if the applicant can establish to the satisfaction of the board that he or she is competent because of other relevant factors to conduct guiding activities in the guiding area.

(e) The board will consider the recommendations of the prior holder of the guiding area permit to be reassigned and will, in areas of joint use, consider the recommendations of the other holders of permits for the guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.055. DEATH OR MENTAL INCAPACITY OF GUIDING AREA PERMIT HOLDER.** (a) Upon the death of a holder of a guiding area permit, the board will, in its discretion, grant a waiver, for a time specified by the board, of the requirements of sec. 57 of this chapter if application is made by the estate within 90 days after death. Failure to make application within 90 days is considered a voluntary relinquishment of the permit. At any time during the period of the waiver, an heir may apply to the board for a reassignment of the permit to a person designated by the heir.

(b) Upon a judicial determination that a guiding area permit holder is mentally incompetent, the board will, in its discretion, grant a waiver, for a time specified by the board, of the requirements of sec. 57 of this chapter if application is made by the permit holder's guardian within 90 days after a judicial determination of the permit holder's mental incompetency. Failure to make application within 90 days is considered a voluntary relinquishment of the permit. At any time during the period of the waiver the guardian may apply to the board for a reassignment of the permit to a person designated by the guardian. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.056. CHANGES TO GUIDING AREA PERMIT.** Petitions for changes to the size or boundary of a guiding area, for reassignment of a guiding area permit, or for any other changes affecting the guiding area, will be accepted for all guide districts and will be reviewed at a regularly scheduled meeting of the board. Each petitioner will be advised of the date and place of the meeting when his or her petition is scheduled for review. A petition will not be reviewed by the board if the petitioner or a person authorized in writing by the petitioner as his or her designee fails to appear at the time

of the scheduled review. If the petition concerns a joint use guiding area permit, each holder of a permit for that guiding area will be furnished a copy of the petition and advised of the date and place when the petition is scheduled to be reviewed and may appear before the board and present testimony relevant to the petition. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.057. MINIMUM USE OF GUIDING AREA.** Each holder of a guiding area permit must conduct at least two contracted hunts within two consecutive calendar years in the guiding area as evidenced by statements of financial remuneration filed in accordance with sec. 60 of this chapter. Failure to do so for any two consecutive calendar years may result in revocation of the guiding area permit unless the permit holder can demonstrate to the satisfaction of the board that circumstances beyond his control precluded conducting the required hunts. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.058. GROUNDS FOR REVOCATION OR SUSPENSION OF A GUIDING AREA PERMIT.** The board will, in its discretion, revoke or suspend a guiding area permit or permits if the permit holder

(1) violates a federal or state sport fish, game or guiding statute or regulation, which violation occurred while guiding;

(2) has his guide license revoked or suspended or is denied renewal of a license for violation of a federal or state sport fish or game or guiding statute or regulation other than for nonpayment of current license fees;

(3) is found by the board to have misused a guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.060. STATEMENT OF FINANCIAL REMUNERATION.** (a) Before hunting with his or her client, a guide shall complete or have completed a statement of financial remuneration in triplicate on a form provided by the board for this purpose and shall state

accounting for and custody of state revenues which are only incidental to the Department's regulation and management of the fish and game resources of the State of Alaska,

**"THEREFORE IT IS ORDERED**

"1. All duties, functions and powers relative to the collection, accounting for and custody of state revenues, which are only incidental to the regulation and management of the fish and game resources of the State of Alaska, at present performed by the Department of Fish and Game, are transferred to the Department of Revenue.

"2. The Department of Revenue shall be deemed and held to constitute a continuation of the Department of Fish and Game with the same force and effect, as to the transferred functions, powers and duties as if the functions, powers and duties had not been transferred.

"3. All funds appropriated to the Department of Fish and Game prior to the transfer of those functions, powers and duties attributable to the transferred functions, powers and duties are transferred to appropriate line items in the

appropriation of the Department of Revenue.

"4. This order shall become effective at a date hereafter to be designated.

"Dated November 24, 1961"

Alaska's fish and game laws are applicable as federal law on military reservations. 1964 Op. Att'y Gen., No. 2.

Hunting or fishing at a military reservation must be in accord with Alaska laws regulating seasons, bag limits, methods of taking, etc. 1964 Op. Att'y Gen., No. 2.

But military personnel are not required to comply with licensing requirements while on reservation. 1964 Op. Att'y Gen., No. 2.

Since AS 16 05.940(14) does not grant special resident privileges to military personnel, which is a requisite for requiring them to purchase licenses for use on military reservations under 10 U.S.C. 2671(a)(2), they cannot be required to do so. 1964 Op. Att'y Gen., No. 2.

ALR reference. — Applicability of state fishing license laws or other public regulations to fishing in private lake or pond, 15 ALR2d 754

**Sec. 16.05.335. Complimentary licenses.** The commissioner of revenue shall annually, at the request of the governor, provide him with not to exceed 50 complimentary fishing and hunting licenses and appropriate big game tags which the governor may distribute to distinguished visitors to Alaska at his discretion for their use in any one season during their visits to the state. The complimentary license for sport fishing or hunting or both shall be inscribed by the governor with the inclusive dates for its authorized use. The governor shall advise the Department of Fish and Game on any complimentary issuances, which information shall be available to the public. (§ 1 art II ch 94 SLA 1959; am § 1 ch 61 SLA 1962; am § 1 ch 31 SLA 1963; am § 1 ch 6 SLA 1965)

**Sec. 16.05.340. License and tag fees.** (a) Fees for licenses and tags are as follows:

- (1) Resident sport fishing license . . . . . \$10
- However, the fee is 25 cents for a resident who is blind.
- (2) Resident hunting license . . . . . 12
- (3) (A) Resident hunting and trapping license . . . . . 15
- (B) Resident trapping license . . . . . 3
- (4) Resident hunting and sport fishing license . . . . . 22
- (5) Resident hunting, trapping, and sport fishing license . . . . . 25

However, the fee is 25 cents for the head of a family or a dependent member of his family or one solely dependent upon himself for support upon proof presented by the applicant that the applicant (A) is obtaining or has obtained assistance during the preceding six

months under any state or federal welfare program to aid the indigent, or (B) has an annual family gross income of less than \$3,600 for the year preceding application.

(6) Visitor's special sport fishing license — valid for the period inscribed on the license

- (A) For 10-day license . . . . . 15
- (B) For one-day license . . . . . 5
- (7) Nonresident sport fishing license . . . . . 30
- (8) Nonresident hunting license . . . . . 60
- (9) Nonresident hunting and sport fishing license . . . . . 90

A nonresident may not take a big game animal without previously purchasing a numbered, nontransferable, appropriate tag, issued to him as provided in (16) of this subsection. The tag shall be affixed to the animal immediately upon capture and shall remain affixed until the animal is prepared for storage, consumed, or exported.

- (10) Nonresident hunting and trapping license . . . . . 200
- (11) Repealed by § 2 ch 32 SLA 1968.
- (12) Repealed by § 2 ch 32 SLA 1968.
- (13) Fur dealers:
  - (A) Resident fur dealer license . . . . . 50
  - (B) Nonresident fur dealer license . . . . . 200
- (14) Taxidermists:
  - (A) Resident taxidermy license . . . . . 75
  - (B) Nonresident taxidermy license . . . . . 200
- (15) Fish, fur or game farming license . . . . . 100
- (16) Nonresident big game tags:
  - (A) Bear, black, each . . . . . 100
  - (B) [deleted]
  - (C) Bear, brown or grizzly, each . . . . . 250
  - (D) Bear, polar, each . . . . . 250
  - (E) Bison, each . . . . . 250
  - (F) Caribou, each . . . . . 200
  - (G) Deer, each . . . . . 35
  - (H) Elk, each . . . . . 125
  - (I) Goat, each . . . . . 125
  - (J) Moose, each . . . . . 200
  - (K) Sheep, each . . . . . 250
  - (L) Walrus, each . . . . . 250
  - (M) Wolf, each . . . . . 50
  - (N) Wolverine, each . . . . . 50

(17) Repealed by § 2 ch 32 SLA 1968.

(18) Resident tags for bear, brown or grizzly, each . . . . . 25

(19) Resident or nonresident permit application fee (all species for which a limited drawing is conducted, except musk oxen) . . . . . 5

(b) The commissioner of fish and game may issue without cost a permit to collect fish and game, including fur animals, subject to the

limitations a propagative, issue a perm or (2) the rec The annual : purposes is : to satisfy th named for v

(c) The cc duplicate ta this section. tag and the revenue or destroyed. under (a) (5

(d) .Ment permanentl qualify as r nonresident for resident game anim hunting lic issued at tl

(e) Each registered following a and polar b of the gu

(1) polar (A) fo polar, bro brown or (B) fo polar, bro brown or

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(B) f — \$100, (C) f (3) she

limitations and provisions he considers appropriate, for scientific, propagative, or educational purpose. In addition, the commissioner may issue a permit for (1) the collecting of wild fur animals for fur farming, or (2) the recapturing of fur animals that have escaped from fur farms. The annual fee for a permit for collecting fur animals for fur farming purposes is \$100. A tag issued but not used for an animal may be used to satisfy the tagging requirement for any other animal of the species named for which the tag fee is of equal or less value.

(c) The commissioner of revenue may issue a duplicate license or a duplicate tag as a replacement for a license or tag issued under (a) of this section. A fee of \$2 shall be charged for each duplicate license or tag and the duplicate shall not be issued unless the commissioner of revenue or his delegate is satisfied that the original has been lost or destroyed. This subsection does not apply to a 25-cent license issued under (a) (5) of this section.

(d) Members of the military service on active duty who are permanently stationed in the state, and their dependents, who do not qualify as residents under § 940(14) of this chapter, may obtain special nonresident military small game and sport fishing licenses at the rates for resident hunting and sport fishing licenses, but may not take a big game animal without previously purchasing a regular nonresident hunting license and a numbered, nontransferable appropriate tag, issued at the nonresident rate, under (a)(16) of this section.

(e) Each master guide licensed under AS 08.54.100 and each registered guide licensed under AS 08.54.110 shall pay a fee in the following amount for each caribou, sheep, moose, brown or grizzly bear and polar bear taken on a hunt guided by or under the active supervision of the guide:

(1) polar, brown or grizzly bear:

(A) for each polar, brown or grizzly bear taken over a total of 5 polar, brown or grizzly bear per season and up to a total of 10 polar, brown or grizzly bear — \$20;

(B) for each polar, brown or grizzly bear taken over a total of 10 polar, brown or grizzly bear per season and up to a total of 25 polar, brown or grizzly bear — \$100;

(C) for each polar, brown or grizzly bear taken over a total of 25 polar, brown or grizzly bear per season — \$500;

(2) moose:

(A) for each moose taken over a total of 5 and up to a total of 10 per season — \$20;

(B) for each moose taken over 10 and up to a total of 25 per season — \$100;

(C) for each moose taken over 25 per season — \$500;

(3) sheep:

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## Chapter 01. Centralized Licensing.

| Section                                 | Section   |
|---|---|
| 10. Applicability of chapter            | 80. Department regulations                            |
| 20. Board organization                  | 87. Powers and duties of department                   |
| 25. Public members                      | 90. Applicability of the Administrative Procedure Act |
| 30. Quorum                              | 100. License renewal, lapse and reinstatement         |
| 40. Transportation and per diem         | 105. Penalty for improper payment                     |
| 50. Administrative duties of department | 110. Definitions                                      |
| 60. Application for license             |   |
| 70. Administrative duties of boards     |   |

**Sec. 08.01.010. Applicability of chapter.** This chapter applies to the

- (1) Board of Public Accountancy;
- (2) Board of Barber Examiners;
- (3) Repealed by § 6 ch 32 SLA 1971.
- (4) Board of Chiropractic Examiners;
- (5) Board of Hairdressing and Beauty Culture Examiners;
- (6) Board of Dental Examiners;
- (7) Board of Electrical Examiners;
- (8) State Board of Registration for Architects, Engineers and Land Surveyors;
- (9) State Medical Board;
- (10) Board of Nursing;
- (11) Board of Examiners in Optometry;
- (12) Board of Pharmacy;
- (13) Real Estate Commission;
- (14) Board of Veterinary Examiners;
- (15) Board of Psychologist and Psychological Associate Examiners;
- (16) Collection Agency Board;
- (17) Board of Welding Examiners;
- (18) Board of Marine Pilots;
- (19) Board of Dispensing Opticians;
- (20) Guide Licensing and Control Board;
- (21) State Physical Therapy Board. (§ 1 ch 59 SLA 1966; am § 2 ch 136 SLA 1967; am § 2 ch 101 SLA 1968; am § 2 ch 143 SLA 1968; am § 2 ch 151 SLA 1968; am § 1 ch 106 SLA 1970; am § 6 ch 32 SLA 1971; am § 4 ch 179 SLA 1972; am § 2 ch 45 SLA 1973; am § 14 ch 65 SLA 1973; am § 1 ch 43 SLA 1975; am § 1 ch 43 SLA 1977)

**Effect of amendments.** — The first 1973 amendment added paragraph (19).

The second 1973 amendment inserted "and Psychological Associate" in paragraph (15).

The 1975 amendment added paragraph (20).

The 1977 amendment added paragraph (21).

**Editor's note.** — Section 2, ch. 59, SLA 1966, provides: "The Department of Commerce shall provide for the orderly

transfer of the service functions which are to be performed by the department under this chapter."

Section 4, ch. 59, SLA 1966, provides: "A provision in existing law which conflicts with this Act is superseded by this Act."

**Legislative committee reports.** — For report on ch. 143, SLA 1968 (HB 707), see 1968 House Journal, p. 836. For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138.

Sec. 08.03.010. Termination, continuation and reestablishment of regulatory boards. (a) Boards listed in this subsection have a termination date of June 30, 1979:

- (1) Board of Chiropractic Examiners (AS 08.20.010);
- (2) Board of Dental Examiners (AS 08.36.010);
- (3) State Medical Board (AS 08.64.010);
- (4) Board of Nursing (AS 08.68.010);
- (5) Board of Dispensing Opticians (AS 08.71.010);
- (6) Board of Examiners in Optometry (AS 08.72.010);
- (7) Board of Pharmacy (AS 08.80.010);
- (8) Board of Veterinary Examiners (AS 08.98.010);
- (9) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);
- (10) Board of Nursing Home Administrators (AS 08.70.010);
- (11) Physical Therapy Board (AS 08.84.010).

(b) Boards listed in this subsection have a termination date of June 30, 1980:

- (1) Board of Public Accountancy (AS 08.04.010);
- (2) Board of Barber Examiners (AS 08.12.010);
- (3) Collection Agency Board (AS 08.24.011);
- (4) Board of Hairdressing and Beauty Culture Examiners (AS 08.28.010);
- (5) Board of Electrical Examiners (AS 08.40.010);
- (6) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011);
- (7) Guide Licensing and Control Board (AS 08.54.010);
- (8) Board of Marine Pilots (AS 08.62.010);
- (9) Real Estate Commission (AS 08.88.011);
- (10) Board of Welding Examiners (AS 08.99.010);
- (11) Board of Governors of the Alaska Bar Association (AS 08.08.040).

(c) Upon termination, each board listed in (a) and (b) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(d) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(e) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (S 2 ch 149 SLA 1977)

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**Sec. 08.54.100. Qualifications for a master guide license.** A person is entitled to be licensed as a master guide if he

(1) has legally hunted in the state for a part of each of 10 years during which time a substantial source of his income was from guiding or related activities directly contributing to his experience and competency as a guide;

(2) meets all the requirements of a registered guide and has been actively engaged in licensed guiding activities in the state for at least five years preceding application;

(3) has not been convicted of a violation of federal or state sport fishing, game or guiding laws or regulations within the preceding five years;

(4) has consistently performed in a superior manner as evidenced by required reports submitted to the board and by inquiries made by the board to at least two of the guide's clients of record; and

(5) meets additional qualifications which the board may require. (§ 1 ch 17 SLA 1973)

**Editor's note.** — Section 3, ch. 17, SLA 1973, provides: "A person licensed as a registered or master guide, class-A assistant guide or assistant guide as of March 14, 1973 shall, upon application, be issued a registered guide license, master guide license, class-A assistant guide license or assistant guide license, respectively."

**Sec. 08.54.110. Qualifications for registered guide license.** A person is entitled to be licensed as a registered guide if he

(1) is 21 years of age or more;

(2) is a resident of the state and maintains a permanent place of abode in the state;

(3) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of trophies, first aid and photography;

(4) is familiar with the terrain and transportation problems in the district for which the license is requested;

(5) has passed the qualification examination prepared and administered by the board;

(6) has demonstrated to the board sufficient standards of competence and ethical conduct and has not been convicted of a crime involving moral turpitude;

(7) has legally hunted in the state for all or part of each of five years in a manner directly contributing to his experience and competency as a guide;

(8) has been licensed as and performed the services of an assistant guide in the state for a part of each of three years;

(9) submits a written recommendation to the board from a registered guide for whom the applicant has worked;

(10) is capable of performing the physical duties associated with guiding activities;

(11) has been favorably recommended in writing by two hunters that he has guided or assisted in guiding during each year of his three years as an assistant guide, whose recommendations have been solicited by the board from a list provided by the applicant;

(12) meets additional qualifications which the board may require. (§ 1 ch 17 SLA 1973)

*Cross reference.* — See editor's note under AS 08.54.100.

**Sec. 08.54.120. Qualifications for a class-A assistant guide license.** A person is entitled to be licensed as a class-A assistant guide if he

(1) has been employed for at least one season as a licensed assistant guide;

(2) has had at least 20 years experience in the guide district in which he is to be employed; for the purposes of this paragraph physical presence at some time of the year during each of the 20 years constitutes adequate evidence of experience, and military service outside the state for no more than six years shall be accepted as part of the required 20 years experience;

(3) has been recommended in writing as qualified by a registered or master guide to the board. (§ 1 ch 17 SLA 1973)

*Cross reference.* — See editor's note under AS 08.54.100.

**Sec. 08.54.130. Privileges and limitations of class-A assistant guides.** A class-A assistant guide

(1) may not contract for hunts;

(2) shall be under the supervision of a registered or master guide who has contracted with the client for whom the class-A assistant guide is conducting the hunt;

(3) may take charge of a camp and conduct hunts from it without the registered or master guide necessarily being present in the area if the registered or master guide is physically present in the state and is actively supervising in guiding activities. (§ 1 ch 17 SLA 1973)

**Sec. 08.54.140. Qualifications for assistant guide license.** A person is entitled to be licensed as an assistant guide if he

(1) is 19 years of age or more;

(2) is a resident of the state;

(3) is favorably recommended to the board, in writing, by a registered guide;

(4) meets additional qualifications which the board may require;

(5) is in sound physical condition. (§ 1 ch 17 SLA 1973)

*Cross reference.* — See editor's note under AS 08.54.100.

§ 08.54.140

§ 08.54.142

BUSINESS AND PROFESSIONS

§ 08.54.146

**Sec. 08.54.142. Qualification for transporter license.** (a) No person may engage in the activity of transporting unless he is licensed as a transporter under this chapter. A person may be licensed as a transporter if he

(1) is a resident of the state;

(2) is familiar with the terrain and transportation problems in the district or districts for which the license is requested;

(3) obtains a business license to do business as a transporter under AS 43.70.030.

(b) No person may engage in the activity of transporting by air without an air commerce certificate as required by AS 02.05.040. (§ 2 ch 106 SLA 1976)

*Editor's note.* — Section 1, ch. 106, SLA 1976, provides: "Purpose. It is the purpose of this Act to protect the safety of the citizens of the state and better manage and protect its resources by licensing persons who transport hunters for hire so that reasonable standards and guidelines will be met and activities affecting the state's

game resources will be more accurately monitored and assessed."

Section 10, ch. 106, SLA 1976, provides: "Nothing in this Act gives a person licensed as a transporter a right as an air carrier which he does not otherwise hold under law."

**Sec. 08.54.144. Restriction to transportation.** (a) A licensed transporter may transport persons whose primary purpose is the taking of big game or the associated removing of big game meat and parts of big game, with the intent of receiving monetary or material remuneration for the transportation.

(b) Air carriers who transport persons between airports, landing strips or other landing areas officially listed in the United States government Flight Information Publication, Alaska Supplement, as revised, or the United States government Sectional Aeronautical Charts, as revised, are exempted from the license requirements for transporters under this chapter but shall comply with the reporting provisions as prescribed in AS 02.05.170(f).

(c) Master guides, registered guides, class-A assistant guides or assistant guides are exempted from the license requirements for transporters under this chapter but shall comply with the reporting provisions as prescribed in AS 02.05.170(f). (§ 2 ch 106 SLA 1976)

*Editor's note.* — Section 10, ch. 106, SLA 1976, provides: "Nothing in this Act gives a person licensed as a transporter a right

as an air carrier which he does not otherwise hold under law."

**Sec. 08.54.146. Transporter report.** A transporter shall maintain a record of (1) the names and addresses of all persons he transports; (2) the type of game transported; (3) an estimate of the quantity of meat

transported; (4) the date of transporting; and (5) if known, the locality where the game was taken. The report shall be submitted to the Department of Fish and Game within 90 days after transporting the game. After receiving a report required under this section, the Department of Fish and Game shall send a copy of it to the Department of Public Safety. (§ 2 ch 106 SLA 1976; am § 4 ch 133 SLA 1976)

**Revisor's note (1976).** — AS 08.54.146 was added by § 2, ch. 106, SLA 1976, and amended by § 4, ch. 133, SLA 1976. Since the two acts appear to be inconsistent, and ch. 106 is superseded by ch. 133, only the later enactment has been given effect here.

**Editor's note.** — Section 10, ch. 106, SLA 1976, provides: "Nothing in this Act gives a person licensed as a transporter a right as an air carrier which he does not otherwise hold under law."

**Effect of amendment.** — Section 4, ch. 133, SLA 1976, substituted "ninety days" for "thirty days" in the second sentence.

**Sec. 08.54.150. Responsibility of registered or master guide for violations.** A registered or master guide contracting for a hunt is equally responsible under § 200 of this chapter for a violation of a federal or state sport fish, game or guide statute or regulation committed by a class-A assistant guide or assistant guide while in the course of his employment. (§ 1 ch 17 SLA 1973)

**Sec. 08.54.170. License fees.** (a) License fees for engaging in the profession of guiding are:

- (1) master guide license, annual . . . . . \$75
- (2) registered guide license, annual . . . . . 75
- (3) class-A assistant guide, annual . . . . . 15
- (4) assistant guide license, annual . . . . . 10

(b) The license fee for a master guide, registered guide, class-A assistant guide or assistant guide license is in addition to the fee required for a hunting or fishing license.

(c) The license fee for a transporter is \$10. (§ 1 ch 17 SLA 1973; am § 3 ch 106 SLA 1976)

**Effect of amendment.** — The 1976 amendment added subsection (c).

a person licensed as a transporter a right as an air carrier which he does not otherwise hold under law."

**Editor's note.** — Section 10, ch. 106, SLA 1976, provides: "Nothing in this Act gives

**Sec. 08.54.180. Examination fee.** An applicant for a guide examination shall pay a fee of \$25. (§ 1 ch 17 SLA 1973)

**Sec. 08.54.185. Additional fees.** In addition to the license and examination fees provided for under this chapter, master guides and registered guides are subject to fees imposed under AS 16.05.340(e). (§ 4 ch 268 SLA 1976)

**Legislative committee report.** — For CSSSSB 335, see 1976 House Journal, p. 910. report on ch. 268, SLA 1976 (FCCS HCS

Article 3. General Provisions.

Section  
240. Definitions

**Sec. 08.54.240. Definitions.** In this chapter

- (1) "board" means the Guide Licensing and Control Board;
- (2) "guide", "guides" or "guiding" means assisting another person to take game with the intent of receiving monetary or material remuneration for the services, by accompanying and directing that person personally or through a licensed assistant guide for the duration of a hunt, and not solely for the purpose of providing transportation services;
- (3) "resident" means a person who maintains a place of residence within the state; has not claimed residency in another state for the immediately preceding 12 months; shows by all attending circumstances that his intent is to make this state his permanent residence;
- (4) "unethical activity" means
  - (A) deception in any degree involving prospective or actual clients either before, during, or following contract hunts;
  - (B) misrepresentation either through private communication or public advertising of the nature, type, duration, cost, or other conditions of contract hunts.
  - (C) making a guaranty that a species or certain number of species of game will be taken on a contract hunt.
- (5) "transporting" or the "activity of transporting" means conveying a person by any lawful means to an area for remuneration or material benefit in excess of normal operating costs, when the primary purpose of the person being conveyed is the taking of big game and the associated removing of big game meat and parts of big game after big game has been taken; big game as used in this paragraph means game which, if taken by a nonresident, would require a big game tag. (S 1 ch 17 SLA 1973; am §§ 7, 8 ch 106 SLA 1976; am § 2 ch 107 SLA 1976)

**Effect of amendments.** — The first 1976 amendment deleted "accompanying, guiding, or" preceding "assisting another person" near the beginning of paragraph (2), added the language beginning "by accompanying and directing that person" to the end of that paragraph, and added paragraph (5).

The second 1976 amendment added paragraph (4)(C).

**Editor's note.** — Section 10, ch. 106, SLA 1976, provides: "Nothing in this Act gives a person licensed as a transporter a right as an air carrier which he does not otherwise hold under law."

Chapter 56. Hotels and Boardinghouses.

- Section
- 10. Registration of travelers
  - 20. Effect of refusal to register
  - 30. Penalty for noncompliance
  - 40. Disposition of fines

- Section
- 50. Liability for valuables
  - 60. Baggage liability
  - 70. Definitions

KILLED  
ON  
SENATE FLOOR

Original sponsor: Commerce Committee

Offered: 4/25/80  
Referred: Rules

1 IN THE SENATE BY THE COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 574

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Guide Licensing  
7 and Control Board and amending the law relating to its  
8 powers and responsibilities; and providing for an  
9 effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 \* Section 1. AS 08.54.010 is amended to read:

12 Sec. 08.54.010. CREATION AND MEMBERSHIP OF BOARD. There is created  
13 in the division of fish and wildlife protection, Department of Public  
14 Safety, the Guide Licensing and Control Board consisting of seven mem-  
15 bers. Three [NO MORE THAN THREE] members of the board shall be ac-  
16 tively involved in guiding [HAVE A GUIDE LICENSE]. The other members  
17 shall have a general knowledge of the game resources of the state but may  
18 not (1) be engaged in guiding; (2) be associated by legal contract with a  
19 guide except as a consumer of the services provided by the guide; or (3)  
20 have a direct financial interest in a guide business. A minimum of 10  
21 years residence in the state is required for all members of the board.

22 \* Sec. 2. AS 08.540.020 is amended to read:

23 Sec. 08.54.020. APPOINTMENT AND TERM OF OFFICE. The members of  
24 the board shall be appointed by the governor and confirmed by the legis-  
25 lature for staggered terms of three years or until their successors are  
26 appointed. Initial terms are as follows: three members for one year,  
27 two members for two years, and two members for three years. A member  
28 may be removed at the pleasure of the governor. A person may not be  
29 appointed to the board for more than two consecutive terms.

1 \* Sec. 3. AS 08.54.030 is amended to read:

2 Sec. 08.54.030. CHAIRMAN OF BOARD. The board shall annually elect  
3 one of its members as chairman and one of its members as vice-chairman.  
4 A person elected as chairman may not serve for more than two consecutive  
5 years.

6 \* Sec. 4. AS 08.54.170(a) is amended to read:

7 (a) License fees for engaging in the profession of guiding are:

- 8 (1) master guide license, biennial [ANNUAL]. . . \$200 [\$75]  
9 (2) registered guide license, biennial [ANNUAL]. \$200 [75]  
10 (3) class-A assistant guide, biennial [ANNUAL] . \$ 50 [15]  
11 (4) assistant guide license, biennial [ANNUAL] . \$ 30 [10]

12 \* Sec. 5. AS 08.54 is amended by adding a new section to read:

13 Sec. 08.54.182. EXAMINATION. The qualification examination re-  
14 quired to be passed by persons seeking licensure under AS 08.54.100 and  
15 08.54.110 shall be administered twice a year in both Juneau and  
16 Anchorage.

17 \* Sec. 6. AS 08.54.190(a) is amended to read:

18 (a) A master guide, registered guide, class-A assistant guide, or  
19 assistant guide [OR TRANSPORTER] license expires on December 31 of the  
20 calendar year following the calendar year in which the license was issued  
21 [FOLLOWING ISSUANCE].

22 \* Sec. 7. AS 08.54.190(b) is amended to read:

23 (b) No license may be issued to a class-A assistant guide or  
24 assistant guide who has failed to renew his license for four [TWO]  
25 consecutive years unless he again meets the qualifications for initial  
26 issuance of the license.

27 \* Sec. 8. AS 08.54.200(a) is amended to read:

28 (a) The board shall hold a hearing to determine if disciplinary  
29 action is necessary if

1 (1) complaints concerning the licensee have been filed with  
2 the board from three or more clients of separate parties within the past  
3 five years; or

4 (2) [A LICENSEE HAS BEEN CHARGED WITH A VIOLATION OF FEDERAL  
5 OR STATE SPORT FISH, GAME OR GUIDE STATUTES OR REGULATIONS; OR]

6 (3) a licensee has been convicted of a violation of federal  
7 or state sport fish, game or guide statute or regulation.

8 \* Sec. 9. AS 08.54.200(c) is amended to read:

9 (c) After a hearing, the board shall revoke, suspend, or deny re-  
10 newal of a license if the board finds that the licensee

11 (1) does not meet the qualifications specified by statute or  
12 regulation for the class of license held;

13 (2) is incompetent as a master guide, registered guide,  
14 class-A assistant guide, or assistant guide;

15 (3) has been convicted of two violations of federal or state  
16 sport fish, game or guide statutes or regulations within the past five  
17 years.

18 \* Sec. 10. AS 08.54.210(a)(1) is amended to read:

19 (1) a master guide, registered guide, class-A assistant  
20 guide, or assistant guide [OR TRANSPORTER] to fail to timely report to  
21 the Department of Public Safety, division of fish and wildlife protec-  
22 tion, and in no event later than 30 days, violations by a client of a  
23 state fish, game or guiding statute or regulation;

24 \* Sec. 11. AS 08.54.210(a)(2) is amended to read:

25 (2) a master guide, registered guide, class A assistant  
26 guide, or assistant guide [OR TRANSPORTER] to aid the commission of a  
27 violation of this chapter or of AS 16.05 or a regulation adopted [PROMUL-  
28 GATED] under either chapter, or permit the commission of a violation in  
29 his sight without attempting to prevent it, short of using force, and

1 without reporting it;

2 \* Sec. 12. AS 08.54.210(a)(4) is amended to read:

3 (4) a person to advertise as or represent himself to be a  
4 licensed master guide, registered guide, class-A assistant guide, or  
5 assistant guide [OR TRANSPORTER] without being currently licensed, or to  
6 falsely advertise services;

7 \* Sec. 13. AS 44.41.020 is amended to read:

8 Sec. 44.41.020. DUTIES OF DEPARTMENT. (a) The Department of  
9 Public Safety shall administer functions relative to the protection of  
10 life and property.

11 (b) The Department of Public Safety shall administer the Guide  
12 Licensing and Control Board established under AS 08.54.010.

13 \* Sec. 14. AS 08.03.010(c) is amended by adding a new paragraph to read:

14 (2) Guide Licensing and Control Board (AS 08.54.010) --  
15 June 30, 1984.

16 \* Sec. 15. AS 08.01.010(20); AS 08.03.010(b)(7); AS 08.54.100(5), 08.54.-  
17 110(12), 08.54.142, 08.54.144, 08.54.146, 08.54.170(c), 08.54.240(5); and  
18 AS 16.05.340(e) are repealed.

19 \* Sec. 16. This Act takes effect immediately in accordance with AS 01.10.-  
20 070(c).

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL  
JUNEAU, ALASKA 99811

April 29, 1980

465-3600

Guide Licensing and Control Board  
Department of Commerce and  
Economic Development  
Pouch D  
Juneau, Alaska 99811

Gentlemen:

At the April 1980 Guide Board meeting in Fairbanks, the board granted a petition from Chairman Mark Jensen requesting he be granted exclusive use of a portion of Chicagof Island. At the time the board action occurred, Assistant Attorney General Liza Fussner advised you that the board's action was illegal. The board nonetheless granted the petition.

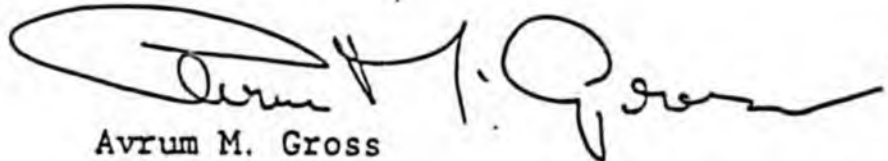
I have enclosed a copy of a memorandum from Ms. Fussner to Tom Koester, head of the Resources Division in my office. Because of the sensitive nature of this action involving as it does the Chairman of the Guide Board, I reviewed the matter personally and I believe that Ms. Fussner's advice to you is sound. The action of the board cannot be supported by law.

I have been advised that litigation will be commenced immediately to contest the board's action. Since we have already advised you the action is illegal, we will be forced to concede that illegality in court. Moreover, since we have advised you of the impropriety of your action and the board has nonetheless taken the action, there is a very real possibility that individual members of the board may be liable for damages, court costs, and possible attorney fees of any successful litigant.

I realize this is a difficult situation, but it is only going to get more difficult if nothing is done promptly. I strongly urge the board to immediately convene, by phone if necessary, to reconsider its action and rescind the decision. Full notice should be given to Mr. Jensen who will be free to contest the matter if he so chooses.

I would be happy to discuss this with you by phone or in person at your earliest convenience. Obviously, it is not pleasant for me to suggest this type of action to a state board, but my responsibilities under the laws of the state simply afford me no room for latitude.

Yours very truly,

A handwritten signature in black ink, appearing to read "Avrum M. Gross". The signature is fluid and cursive, with a large initial "A" and a long, sweeping tail.

Avrum M. Gross  
Attorney General

AMG:chw

Enclosure

cc: Bill Bellingar  
% Liza Fussner

# FROST GUIDE SERVICE, INC.

STAR RT. A. BOX 395-C  
ANCHORAGE, ALASKA 99507

FAREWELL LAKE  
VIA MCGRATH, ALASKA 99627

FAREWELL LAKE

PHONE (907) 344-5482

STAN FROST, REGISTERED GUIDE #17

March 26, 1980

Bud Wiese  
Interior Wildlife Association of Alaska  
Box 60255  
Fairbanks, Alaska 99701

COPY

*Mary  
Hardsell*

Dear Bud:

I was very disappointed to see your name at the bottom of the letter of March 20th to Representative Osterback.

Bud, I have always had great respect for you, and still believe that you were one of the best Guide Board members we ever had. You never pre-judged anyone and always tried to get both sides of a problem BEFORE you made a decision. Your stabilizing influence on the board is sincerely missed by the guiding industry.

I can not help but believe that you have been missled by, Mark's personal animosity towards me in making the unsubstanuated statements you made in this letter. -- When you, unfairly attack one of my family, and insinuate that the personal integrity of Rick is questionable, by inudendo and not having the balls to come right out with factual charges is something I can not understand.

You ,yourself, as a member of the guide board, REQUIRED facts and did not condemn a man on the emotional outburst of someone who may have an ax to grind.

You made a lot of decisions which affected the lives of many guides when you were on the Board. some guides disagreed with your decisions, You were not always right, but you made a judgement believing you made the best one. and in most cases I think you made good decisions.

You expected the guides to accept your actions, right or wrong, and would be very upset if you received a letter claiming that your personal and family problems entered into your decision. ----- That statement you made was strictly uncalled for. --- I believe you owe both Rick & I an explanation of that statement----

You, as one who was on the Board during the formative years, I would like to remind you of a few FACTS:

- (1) During the first years of the Guide Board, I was President of the Alaska Professional Hunters Assocc. and was always-(and still am) in favor of a Guide Board for the good of the guiding industry. Both you and I differed with Rick's ideas many times, but that does not mean he did not also have some good ideas also.

(page 2) March 26, 1980

- (2) Rick Halford has always been against the way the guide board has allocated areas, and A.P.H.A. has also complained about the way area's were given out because you had no set criteria and changed it from area to area.....BUT basicly the Guide Board has been a stabilizing influence on the guiding industry. But even you must agree,--If what the guide board is doing will not hold up in Law, The board must be given the chance to correct it. The Board should not be afraid of a Legal review of the regulations. If they are, something is very wrong!!!!

The next to the last para. of your letter really disturbs me. This is nothing but a muck racking attempt to discredit a Representative who differs with your thinking. Some of you take any criticism of the board as a personal insult, which is totally wrong.....I have differed with Rick many times, and he with me, and will continue to do so, but I don't try to discredit him.

....Do you really know what you are saying ???

You are insinuating that Rick has used his position as a State Representative for personal profit.....Bud I'm suprised at you....and dissapointed.. Rick flew for the Game Department, Before he was a State Representative. Just think about it,--you are in the trucking business,--if you were elected to the House, would you turn down the State contract you had for the past few years, and go out of business, because you were elected ?????? I hope you don't try to kid yourself when you answer that question.

Bud, you should listen to Mark, just like you listened to the guides when they testified before you----with an open mind----then get the other side of the story .... Don't go off half cocked. Its not like you to get involved in, gossip, muck-racking, or dwelling into the personal, and family life of anyone in an attempt to rationalize your position, especially when you don't know what you are talking about.

Take Chuck Grays letter to Rep. Osterback, it was excellant and was, to the point, concize, & factual with no bullshit about anyone. He put his points of dis~~re~~ment across very well.

We should all learn something when we compare these two letters complaining about the same things. I know I sure have. We all get carried away at times and Bud, I think that you owe Rick an apology as soon as possibly.

Looking forward to hearing from you.

Stan Frost

# CHARLES GRAY

311 Slater Street  
FAIRBANKS, ALASKA 99701

March 21, 1980

Representative Alvin Osterback  
Co-Chairman, Resources Committee  
House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Osterback,

As one of 10 guides who spontaneously appeared in Fairbanks for the recent Senate Commerce Committee teleconference on the sunset provision for the Guide Board, I want to tell you that we are all disappointed in the lukewarm endorsement for the Board that came out of your committee. When I say "we", I assume the others will be, too, for they all spoke highly of the Board's accomplishments.

Thanks to the Board, a guide can now concentrate on producing a quality hunt instead of trying to out-fox other guides that are vying for the same area. I would also call your attention to the fact that two of the five biggest vacuum cleaning outlaws have been put out of business by the Board.

I particularly feel it is unfair to only recommend a temporary one year extension of the Board while the Department of Law looks for problems. Instead of causing the Board trouble, you should be praising them for accomplishing the near-impossible.

As for paragraph 5b of your report to the House Speaker, it appears your committee is suggesting a special class of citizen be created to accommodate rural residents. While I won't attempt to probe the constitutionality of this, I would remind you that the function of the Board is to upgrade the guiding profession. Guides have to handle a lot of correspondence, contracts and other business functions that cannot be neglected in a profession.

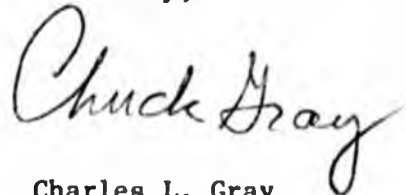
Now having said that, I would point out that the Board bends over backwards to accommodate native people that genuinely want to get into guiding. Examples would be some of the walrus hunters on St. Lawrence Island and muskoxen guides on Nunivak. At the Board's request, I am presently assisting a native guide from Arctic Village to prepare his case for a guiding area. This fellow, whom I helped into the guiding business many years ago, has failed to show up at Board meetings on several occasions when contenders for the area have been greatly inconvenienced by this fact. Still the Board has kept his application open long after it would

Representative Alvin Osterback  
March 21, 1980  
page two

have been closed for any white guide. I don't object to this; I think it is good that the Board goes the extra mile, but I fail to see how you can expect them to do more, by any stretch of the imagination.

I sincerely hope you will take these comments as constructive and informative and see your way clear to give the Board greater assistance, for none of the guides I know want to return to the chaos we had prior to the formation of the Guide Board.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Gray". The signature is written in dark ink and is positioned to the right of the typed name.

Charles L. Gray

cc: Resource Committee Members



*Clark Engle*  
4129 Lana Court  
Anchorage, Alaska 99504  
Phone (907) 333-5214  
March 27, 1980

Rep. Al Osterback, Chairman  
Puooh V  
Juneau, Alaska 99811

Dear Mr. Chairman,

This letter is in regards to the Sunset Review of the Guide License and Control Board. As a member of said board, I feel I must comment on the review and a copy of a letter of a request by Rep. Rick Halford, to attorney general's office about a legal audit.

First, I would like to comment on Rep. Halford. It has come to my attention that certain people have made accusations against him. They say he has a conflict of interest, he is letting his family get in his way of making good judgement, etc. I want you to understand I am not a fan of Rep. Halford's, in fact, we very seldom agree on most facts. However, I do think Rep. Halford is an honest legislator and his integrity, as far as I am concerned, has never been in doubt. To say he has a conflict of interest is ridiculous and the family problem is even more ridiculous.

I feel this attack on him was due to him asking for a legal audit. As one of the board members, I say it is about time and I welcome a legal audit. I cannot understand anyone not wishing to adhere to the constitution, and after all, that is what is expected of us.

Now, I would like to comment on the review finding by the House Resources.

No. 1 I am happy to see you find need for the board, for safety and welfare of the public. I feel you have left out one important thing, that is, the great need by the industry, for a board, to better the guiding industry.

No. 2 I disagree with finding in this case. The board should not be under public safety. A separation of the police and the board should be distinct. The reason given me for putting it under protection is commerce does not do its job. If this is true and I believe it is, the legislator should shape the bureaucracy up, not transfer the problem.

No. 3 The transporter law, like many laws, was designed to correct a problem. And like many other laws, it failed miserably,



in fact it caused more problems. All this law did was to license a \$10.00 guide.

No. 4 This finding has much merit. For years we have been trying to change some simple statutes. I shall list them, these will not be in there order of importance.

(a) Repeal of the guide head tax (Alaska Statute Sec. 16.05.340). This head tax is the most unfair, and I believe, it is a discriminatory tax. It sets the guide aside and taxes him and does not tax any other user of the natural resources, such as resident hunter, timber people, commerical fishermen, sports fishermen, miner, subsistence hunter and fishermen. You must remember, we do not shoot the game, all we do is provide a service for a hurter. The hunter has already paid for the right to hunt by buying a license and tags. I take note of the lack of tax on bird watchers who takes pictures, etc. I encourage you to repeal this law.

(b) In the guide law ( Sec. 08.54.200) grounds for disciplining a licensee. According to this statute, the board must have a hearing, if a licensee has had 3 or more complaint letters from Clients. There is no time element on this, these complaints could be 10 or 15 years apart. I suggest the mandatory section be removed. Leave it up to the board, there are times when one complaint should be heard. All complaints should be investigated and the results should be presented to the board.

(c) Sec. 08.54.200 grounds for disciplining a license Section (C) No. (3) It is mandatory the board revoke a license if a licensee is convicted of two violations. This manadatory section should be removed also. Some convictions do not merit revoking a license. Example ( a guide is convicted of forgetting his license one year, 10 years later he is convicted of not having proper survival gear in the aircraft, the guide claims the gear was stolen. It would be mandatory for the board to revoke his license for 5 years. I say leave this decision to the board, do not make it mandatory.

(d) New sections to be added. The board will advertise to the public for proposals to change guide regulation and will consider them and take action at least once a year. At this time the public has no way to submit a proposed change of regulation unless the board chairman O.K.'s them or one of the board members submit them. This should be set up simular to Game Board.

(e) New section to be added. Annual election of chairman and vice chairman. Chairman and vice chairman will only serve 2 consecutive years. Mark Jenson has been Chairman for 6 years and he has been a very dedicated chairman, however, I think it is healthy for a board to have a new chairman every two years for new thinking, new ideas, a new outlook on matters.

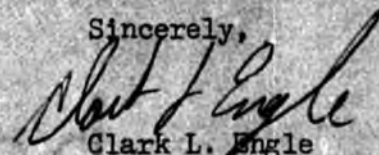
(f) New section. Guide Board members must attend at least 3/4th of the meetings each year, and registered guide members of the board must be active. To prove activity they must have at least 5 financial remuneration statements on file, per year. It does no no good to have a guide on the board that is not active, he is out of the main stream of the industry.

No. 5 I hope the legislators do not hamstring the board by continuing the board for just one year. We are only allowed 3 meetings a year, by the commerce dept. They tell us they have no more funds. There is only a certain amount one can expect from a board that will be in session for 15 days a year. Possibly the answer to that, if you do continue us for just one year is, set asside a special appropriation for more meetings and longer meetings.

(5b) Last but not least this deals with rural resident guides. I am happy to see our rural resident s taken care of. However, let me caution you, make dam sure that all guides, whether they be rural or urban, be treated equal. Do not make the la double standard.

I realize I have been long winded, as I usually am, but I feel you should get as much input from all segment of the guiding industry. Only then can you make workable laws.

Sincerely,



Clark L. Engle

cc:Reps: Pat Carney  
Bill Miles  
Chat Chatterton  
Fred Zharoff  
Jack Fuller  
Sam Cotten  
Rick Halford  
Joe Hayes  
Sens: Brad Bradley  
Ed Dankworth  
Arliss Sturgulewski  
All Guide Board Members  
Bill Bellinger



REPRESENTATIVE PHILLIP GUY

Alaska State Legislature

POUCH V

JUNEAU, ALASKA 99811

COMMITTEES:  
HOUSE FINANCE

DISTRICT 17

A.V.C.P., INC.  
KUSKOKWIM - YUKON

- AKIACHAK
- AKIAK
- ALAKANUK
- ANDREAFSKY
- ANIAK
- ATMAUTLUAK
- BETHEL
- CHEFORNAK
- CHEVAK
- CROOKED CREEK
- E EK
- EMMONAK
- GEORGETOWN (K)
- GODNEWS BAY
- HAMILTON
- HOLITNA
- HOOPER BAY
- KASIGLOOK
- KIPNUK
- KONGIGANAK
- KCTLIK
- KWETHLUK
- KWIGILLINGOK
- LIME VILLAGE
- LOWER KALSKAG
- FORTUNA LEDGE  
(MARSHALL)
- MEKORYUK
- MCOUNTAIN VILLAGE
- NAPAIMUTE
- NAPAKIAK
- NAPASKIAK
- NEWTOK
- NIGHTMUTE
- NUNAPITCHUK
- NYAC
- OHOGAMIUT
- OSCARVILLE
- PILOT STATION
- PITKAS POINT
- PLATINUM
- RUSSIAN MISSION (K)
- RUSSIAN MISSION (Y)
- RED DEVIL
- SCAMMON BAY
- SHELDON'S POINT
- SLEETMUTE
- ST. MARY'S
- STONY RIVER
- TOKSOOK BAY
- TULUKSAK
- TUNTUTULIAK
- TUNUNAK
- UPPER KALSKAG

TO: Senator George Hohman, Chairman  
Legislative Council

FROM: Representative Phillip Guy, Chairman  
Guide Licensing Study

RE: Summary of activities and recommendations  
INTERIM GUIDE LICENSING STUDY

February 6, 1980

In 1979, the legislature appropriated funds to study problems experienced by Native Alaskans in becoming licensed guides. Although I chaired the committee, Representative Fuller took responsibility for carrying out the study and preparing the final report. Rep. Fuller's committee on subsistence was active during the interim, and the activities of the guide licensing committee seemed sufficiently compatible for a concurrent effort.

Representative Fuller and Mr. Marcus Jensen (Chairman of the Guide Licensing and Control Board) traveled to Gambell, Savoonga and Shismaref. Meetings were held in each village to discuss HB 405, a bill which would change the guide licensing requirements in the newly created game management unit #27 (Arctic coast). The state of Alaska renanded management authority for the walrus to the federal government during the summer, and when future walrus hunting may occur under state auspices is uncertain. Representative Fuller met with the Commissioners and staff of the Eskimo Walrus Commission and will be kept current on the changing situation with walrus.

- AKIACHAK
- AKIAK
- ANIAK
- ATMAUTLUAK
- BETHEL
- CHEFORNAK
- E EK
- KALSKAG
- KASIGLU
- KWETHLL
- LOWER KALSKAG
- MEKORYUK
- NAPAKIAK
- NAPASKIAK
- NEWTOK
- NIGHTMUTE
- NUNAPITCHUK
- NYAC
- OSCARVILLE
- TOKSOOK BAY
- TULUKSAK
- TUNTUTULIAK
- TUNUNAK

Memo re: Guide Licensing Study

The committee's efforts then focused on Nunivak and Nelson Islands, to review the effects of the musk ox herds on local residents.

The final report of the Guide Licensing Committee contains a thoroughly documented chronology of events leading to the establishment of a permit hunt for musk ox, and how the residents of Nunivak Island have participated in those hunts. A brief synopsis of significant events is appended to this summary.

The report's findings may be summarized as follows:

- Residents of Nelson Island have been unequivocal in their opposition to the institution of permit hunts for musk ox. Native land ownership patterns on Nelson Island could effectively preclude such a hunt even if one were established, but the management policy adopted by the Board of Game in 1976 does accord village wishes considerable respect. Due to the limited food resources on the island, residents have indicated a desire to harvest musk oxen for food.
- Unlike the residents of Nelson Island, Nunivak Islanders support the permit hunt for musk ox. This support is based on the abundance of alternative subsistence resources available on the island, the economic benefits of the biannual hunt, and a cultural orientation that is more comfortable with the intrusion of non-Natives into the area.

## Memo re: Guide Licensing Study

- Acrimony on the part of Mekoryuk residents towards the guide from Fairbanks who contracts for many of the permit hunts is considerable. The lack of coordination between ADF&G, the U.S. Fish and Wildlife Service, the Game Board and other entities involved prior to the establishment of the hunt is the basis for the ill-feeling. The tension caused by a years'-long chain of misunderstandings and misrepresentations will not abate quickly.
- A system of local control over the permit hunts, coupled with a probationary period before being licensed as a registered guide, would have encouraged higher performance standards by Native guides than have been attained under the present system.
- A separate "special outfitter" guide classification, such as allowed in Montana statutes (RCM 87-4-129), allows the holder to contract for particular services in limited locations. Careful review of Alaska's practice of granting exclusive guiding areas would be necessary to determine the feasibility of this proposal.
- A subsistence hunt for both bulls and cows on Nelson Island would enable residents to obtain a needed supply of fresh meat and would enhance management efforts. The \$500. resident tag fee for either sex is a major impediment to the initiation of a cow hunt. Local residents cannot afford the fee, and sport hunters balk at spending the several thousand dollars in

Memo re: Guide Licensing Study

tage, travel and associated costs to harvest an animal of less than trophy quality.

- Passage of HB 167, which would allow an open season for subsistence hunting of musk ox on the basis of a permit drawing in the local villages, is recommended. The bill also waives the game tag fee for such hunts.

Both Representative Fuller and I have complete copies of the final report and all other documentation regarding the interim study in our files. If you or any members of the Legislative Council would like copies of these materials, please contact one of us.

Thank you.

# INDIAN REORGANIZATION ACT COUNCIL

NUNIVAK ISLAND

MEKORYUK, ALASKA 99630

PAST PRESIDENTS

MOSES NAYIRUK  
PETER L. SMITH  
TOM DOTOMAIN  
JESSE MOSES  
WALTER AMOS

PAST PRESIDENTS

GEORGE K. WHITMAN, SR.  
EDWARD J. SHAVINGS, SR.  
GEORGE KING, SR.  
HENRY J. SHAVINGS, SR.  
JOSEPH DAVID, SR.

RESOLUTION #

79-01

WHEREAS, Village of Mekoryuk has big game hunting (musk-ox, walrus) and

WHEREAS, There are no guides required by law for residents of Alaska to hunt: and

WHEREAS, Only few non-residents come to hunt: and

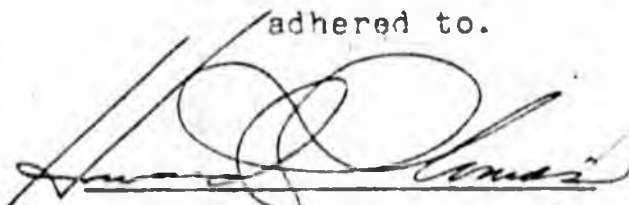
WHEREAS, There is local registered guide that can co-sign contract for non-resident hunters: and

WHEREAS, The master guide working is not keeping his word in spring of 1979, as far as helping assistant guides to obtain credit for their registered guide licenses; and

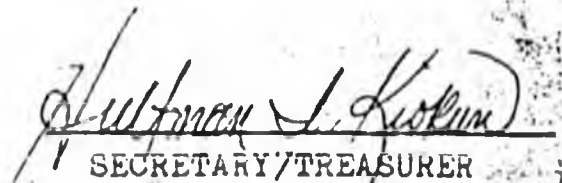
WHEREAS, He has shown disrespect to the native village of Mekoryuk in a public meeting: and

THEREFORE BE IT RESOLVED, that said guide board and involved agencies take necessary action and comply with the request of Native Village of Mekoryuk; and

THEREFORE BE IT FURTHER RESOLVED, That the resolution 79-12-01 submitted by AVCP to the Governor of Alaska, regarding exclusive guiding rights for Nunivak Islanders be adhered to.



CHAIRMAN, IRA



SECRETARY/TREASURER

March 19, 1979

Date

DECISIONS  
3-27-79

...the people of Mekoryuk, petition the State of Alaska, guide board, the legislature and other agencies involved to remove Lynn Castle, master guide, from Nunivak Island and its surrounding waters for being an undesirable in our community. Said person has showed no respect for the citizens of Nunivak Island in the business sense and has created hard feelings among the citizens of Nunivak. Neither does he keep his business promises. We would like to include all of the outsider guides from Alaska, that conduct hunts here on Nunivak Island. The citizens would like to conduct their own hunts. The people are also petitioning the state of Alaska to work out a viable solution to solve existing problem of guiding since it is now an impossibility to obtain a guide license with the present situation. The men were licensed without required apprenticeship time as the animal involved, in this case is the musk-ox and was politically oriented. The people of Nunivak feel that the musk-ox hunts were initiated for the benefits of all not just a couple of persons, and since these licenses were issued for purpose to hunt on Nunivak Only, which is game management unit eighteen (18) with the present law it is required that an assistant guide take out or help with at least two (2) clients per year and some here have not taken anyone out inside the required time. The men are grateful of the guide board to have issued the licenses but are unable to utilize same.

| NAME               | OCCUPATION       | HOME ADDRESS |
|--------------------|------------------|--------------|
| Lee L. Lane        | ---              | 11740        |
| D. D. Dand         | Asst Guide       | Mya          |
| William K.         | Headman          | Mya          |
| Fulton J. Kerkur   | Project Director | Mya          |
| Lane K.            | Asst Guide       | Michayak     |
| Edwin Bluthin      | ---              | Mya          |
| Larry Fleet        | Asst Guide       | Mya          |
| Jack W. Williams   | Asst Guide       | Michayak     |
| Martin C. Kupaatun | Clery Treasurer  | Mekarepak,   |
| Samuel Smith       | Vice Mayor       | Michayak     |
| Paul Don           | Asst Guide       | Michayak,    |

NAME

OCCUPATION

HOME ADDRESS

| NAME                            | OCCUPATION                    | HOME ADDRESS           |
|---------------------------------|-------------------------------|------------------------|
| James Whitman                   | —                             | Mekoryuk               |
| Moses M. Whitman, L.<br>Whitman | —                             | Mekoryuk<br>Mekoryuk   |
| Ed Shavins, L.                  | —                             | Mekoryuk               |
| Alvin Henderson                 | —                             | Mekoryuk               |
| Ismael G. Smith                 | —                             | Myra                   |
| Terry G. Harris                 | (unemployed)<br>Class A Guide | Mekoryuk, Alaska 99630 |
| Richard Davis                   | Class A Guide                 | Mekoryuk Alaska 99630  |
| Jerry Howell                    | Class A Guide                 | Mekoryuk Alaska 99630  |
| John P. Jones                   | —                             | 1777 Mekoryuk 99630    |
| Abe David                       | —                             | Mekoryuk 99630         |
| <sup>Alman</sup> Terry Weston   | —                             | Mekoryuk               |
| Robert Kelenk                   | —                             | 111                    |
| Jack F. Faber                   | —                             | 111                    |
| JOSE WESTON                     | Asst. Guide                   | Mekoryuk               |
| Linda Weston                    | —                             | "                      |
| Don Whitman                     | Asst. Guide                   | "                      |

## STATE OF ALASKA

JAY S. HAMMOGD, GOVERNOR

DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D - BUREAU 2511

October 26, 1979

Mr. Edward J. Shavings, Sr.  
P.O.Box 31  
Mekoryuk, Alaska 99630

Dear Ed:

I just got back to Alaska and have had a chance to read your letter of Sept. 26, addressed to Mr. Bellingar.

I called Mekoryuk Wednesday and talked to a chap by the name of Joe who said that you were not available. I relayed the message to him to have you contact Mr. Bellingar's office if you wanted to be heard on the musk ox hunt at our December 1st meeting in Anchorage.

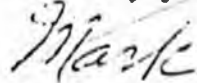
Last winter petition from the village was sent to me in regard to Lynn Castle's guiding on the island. Lynn Castle has a very good reputation as a guide and outfitter and I was sorry to see that a complaint would be filed against him by the village.

The Guide Licensing and Control Board is anxious to hear testimony from both sides when problems arise. If it is impossible to attend the December meeting I might say that we will have a spring meeting, sometime in March, in either Anchorage or Fairbanks.

Mr. Bellingar's phone number in Anchorage is 264-5675, if you would like to call him.

With kindest regards,

Sincerely yours,



Marcus F. Jensen, Chairman  
Guide Licensing and Control Board

cc: Board members  
Lynn Castle  
Wm. Bellingar, F & G.  
Representative Philip Guy

## Chronology of events

### Nunivak Island Musk Oxen Herd

- 1927 The Territorial Legislature asks Congress for funds to re-establish the musk oxen in Alaska.
- 1929 President Hoover withdraws Nunivak Island as a wildlife refuge. No comment or input was sought from the island's residents.
- 1930 Congress appropriates \$40,000 for the musk oxen project. 34 animals were captured in Greenland and brought to Alaska, where they are held in Fairbanks.
- 1935 Two bulls and two cows were moved to Nunivak Island.
- 1936 The other musk oxen in Fairbanks were moved to Nunivak Island.
- 1962 A cooperative management agreement was signed between U.S. Fish and Wildlife Service and the Alaska Department of Fish and Game regarding musk oxen describing herd uses:
- 1) transplant programs
  - 2) domestication programs
  - 3) public permit and/or subsistence hunting to take place when herd size reached 500 animals.
- 1968 ADF&G Commissioner Nelson writes to Governor Hickel "it should also be noted that this hunt could be of important economic benefit to the Eskimo people of Nunivak Island. They could provide housing, food, transportation and guiding services."
- 1968/  
1973 Each year the Board of Game recommends institution of bull musk oxen hunt, but recommendation is vetoed either by the state or federal authorities.
- 1968/  
1971 Date uncertain. First petition from Mekoryuk villagers supporting the establishment of a sport hunt received by the state government.
- 1969 Alaska Legislature enacts AS 16.05.345, authorizing ADF&G to issue big game tags for musk oxen hunts authorized by the Board of Game.
- 1971 ADF&G Commissioner Noerenberg writes to Governor Egan "Natives of Nunivak Island have never voiced any desire to harvest musk oxen, but have petitioned the Board of Game to establish a sport hunting season. Guide fees, and money spent for food, lodging and native crafts by hunters would contribute much more to these peoples economy than just the value of the musk oxen meat, hides and other by-products."

- 1973 ADF&G publishes musk oxen management policy stating recreational use most important and that " the Department does not consider the taking of musk oxen primarily for food a wise use."
- 1973 ADF&G biologist travels to Mekoryuk touting economic benefits to be derived from village participation in sport hunts and encouraging villagers to send another petition. He gave instructions to villagers regarding the particulars of the petition--what to say, where to send, what to include in a cover letter to the Governor
- 1973 September 13, Governor Egan receives a petition signed by 68 Mekoryuk residents asking for the establishment of a sport hunt.
- 1975 The Board of Game passes two resolutions relating to musk oxen management.
- 1) opposing the transplant of 40 head to the Soviet Union, and;
  - 2) establishing a "Provisional Muskox Policy" which included a requirement that management proposals be submitted to affected residents for their input.
- 1975 Fish and Wildlife Service releases environmental impact statement which estimates the population of the Nunivak herd at 600 and promulgates regulations for a permit bull hunt. Regulations required that planes land in the village, but did not require employment of local guides or local purchase of food or lodging.
- 1975 ADF&G regional supervisor travels to Mekoryuk and meets with villagers about the hunt. He gives the impression that all participating hunters will be required to hire a resident to accompany them during the hunt.
- 1975 ADF&G regional supervisor meets with Guide Licensing Board to request special guiding permits under their authority to grant such under AS 8.54.045 for Mekoryuk residents. Guide Board denies request based on rationale that applicants had not been prevented from securing a registered guide license through the normal channels solely because of language difficulties, but rather because they did not have the requisite history as assistant guides.
- 1975 On the eve of the hunt, ADF&G regional supervisor travels to Mekoryuk with non-Native registered guide from Fairbanks who will run the hunt. Villagers are extremely unhappy, as for years state and federal officials and their own regional corporation had been encouraging support of sport musk oxen hunting for the economic and employment opportunities that would accrue to the residents of Nunivak Island.
- 1976 The Chairman of the Guide Licensing and Control Board meets with Mekoryuk villagers and accepts \$10. from each of the 40 men to enroll them as assistant guides, even though he is well aware that for that number to be employed 14 licensed guides would have to be guiding musk oxen hunts.

- 1976 The Mayor of Mekoryuk writes a letter following the fall hunt expressing dissatisfaction that so few residents were being employed as assistant guides, that those who were being employed were causing disruption in the village, and that meat was being wasted by the hunters.
- 1977 Prior to fall 1977 hunt, "without exception the hunters were extremely pleased with their hunting experience," according to the ADF&G biologist responsible for checking permit holders upon their return to Bethel. However, during the fall hunt the biologist noted that considerable dissatisfaction was expressed by hunters concerning the performance of the Native guides in the field. Most of the complaints involved field activities such as judging trophies, boning out meat, etc.
- 1977 FWS and ADF&G sign a new agreement for the management of the musk oxen herd:
- 1) herd to be maintained at 500 animals
  - 2) permit hunts to be reviewed annually by both agencies \*\*
  - 3) permit hunting system to be developed jointly by both agencies
- \*\*Review process has not taken place
- 1979 Only one licensed Native guide in Mekoryuk
- 1979 Musk oxen herd estimated at 572 animals. The cows are not hunted due to unsuitability as trophy animals (small size, small horns). Resident fee for either sex animal is \$500. Sport hunters are not willing to invest large sums of money for a cow hunt. The local residents are unable to afford the tag fee.

Alaska House of Representatives



COMMITTEE ON NATURAL RESOURCES  
POUCH V • JUNEAU, ALASKA 99811

April 28, 1980

*Handwritten signature: Alvin Osterback*

Avrum M. Gross  
Attorney General  
State of Alaska  
Pouch K  
Juneau, AK 99811

Dear Attorney General Gross:

It has come to my attention that there appears to be a serious controversy brewing in the Guide Industry that may well require your attention. According to some registered Guide, the Guide Licensing and Control Board violated the "spirit," if not the intent of the law by granting Board Chairman, Marcus Jensen, exclusive guiding privileges in Southeast Alaska, along the outer coast of Chichagof Island. The action was taken at the February meeting of the Guide Board, held in Fairbanks, and recently reaffirmed by the Board on a 3-1 vote.

Since the Guide Board action, myself and other legislators have received numerous complaints from some Guides insisting that the action was unwarranted, unethical and perhaps illegal. I can readily understand jealousy and competition might be the motivating factor for these complaints, but it would seem that an investigation may well be appropriate to determine if there has been any wrong-doing.

I'm enclosing copies of letters which I have received that pertain to this matter. I feel that an investigation by the properly constituted legal authorities of the State of Alaska is in order. Thank you in advance.

Sincerely,

*Handwritten signature: Alvin Osterback*

Alvin Osterback  
Chairman  
House Resources Committee

Enclosures

AO:SS

CO-CHAIRMEN  
REP. ALVIN OSTERBACK (468-3719) • REP. BILL MILES (468-3779)  
VICE-CHAIRMAN  
REP. FRED ZHAROFF  
REP. PAT CARNEY • REP. C.V. "CHAT" CHATTERTON • REP. SAM COTTEN  
REP. DICK ELIASON • REP. JACK FULLER • REP. RICK HALFORD

MARCUS F. JENSEN  
P. O. BOX 2220  
JUNEAU, ALASKA 99803

April 22, 1980

Representative Alvin Osterback  
Alaska State Legislature  
Resources Committee of the House of Representatives  
Juneau, Alaska

Dear Representative Osterback:

I have just received copy of a letter sent to you by the Alaska Professional Hunters Association. I would be surprised if you would give credence to an unsigned letter. Unsigned letters are often from "mad letter writers".

The contents of the letter surprises me, as it would appear to have been written by someone who is not registered to guide in Unit 4, which is Southeastern Alaska.

Notification of the meeting in Fairbanks was handled the same way every meeting is handled when petitions are to be presented. All guides involved were sent a letter personally. Some of these guides answered by letter, and some testified in person.

I have guided in Unit 4 for over 30 years, and until last year the Southeastern guides honored their word in respect to not guiding in my particular area. The reason for their sudden change is the fact that the Game Board has a closure on what they call the "inside" and left the fringe on the "outside" open ten days longer. I have been very conservative in the number of contracts I take because of the public hunting pressure in the area as well.

No guide in Southeastern Alaska would object to my area if he would agree to an exclusive area for himself which would automatically reduce his number of contracts from eight or ten to three or four at the most. This is really what the controversy is all about. There has been too much guiding pressure on the "inside". Too many guides still have the attitude that they will shoot the last cub bear for a dollar. I am enclosing copy of a letter from the Game Biologist in Unit 4. He estimated at that time only 25 bear should be taken and since the guides and the public split the total take that would mean only 12 bear for the guides and their assistants. He has probably increased that 25 figure to 40 since the letter was written, which would allow in the neighborhood of 20 bear for the guides. The guides' success ratio for the number of contracts is very low - around 50%. If trophy bear were taken the percentage would be considerably lower than 50% because most of the takable bear have been shot.

To give you a better example of what is happening in Unit 4 I refer you to contracts of a guide named John Erickson. He had 10 hunters contracts in spring of 1979. Of those ten, four got no bear, and four took bear under five feet. I am enclosing some of the sealing certificates to give you an idea of what I mean. When the going rate for a hunt is four to five thousand dollars I think it behooves the guiding profession to give the hunter more chance for a trophy bear.

I do not think the action of the Guide Licensing and Control Board should be criticized for trying to save a small area from being totally raped. The petitions that guides from Unit 4 are putting in now will be handled in an orderly manner by the staff and the Board.

Representative Alvin Osterback

Page 2

As chairman of the Guide Licensing and Control Board, and as an Alaska resident for over 50 years, and as a registered guide for some 35 years, I have been criticized by some guides for my strong stand against guides who want to rape the game resources. A stand like this doesn't necessarily make everyone love you. A situation happened last spring where two guides took over 30 grizzlies in Unit 23. I was very upset over this and wanted to bring the guides before our Board for a hearing. I am now in the process of scheduling a meeting with the Kotzebue Native Corporation on this subject of game resource. I have made every effort to work with the Natives and intend to continue to do so in the future. Some guides criticize me for this.

I would hope that the House Resource Committee appreciate what most of our Board members are trying to do for the State of Alaska, and that is weed out the "bandits" who are raping our resource, and develop exclusive guide areas for the protection of the resource and improved game management.

Respectfully yours,


A handwritten signature in cursive script that reads "Mark Jensen".

Marcus F. Jensen, Master Guide



Clark Engle  
4129 Lana Court  
Anchorage, Alaska 99504  
Phone (907) 333-5214

May 2, 1980



Jay S. Hammond, Governor  
Capitol Building  
Juneau, Alaska 99811

Dear Jay,

In reference to the problems of Guide License and Control Board in the last month, I reluctantly feel I must put my thought on paper to you.

It was quite a shock to see the Senate not wish to continue the Guide License and Control Board under the sunset review. I guess it should not have been, politics being politics, but after being on the Board for seven (7) years and attempting to get some sensible regulation through to protect the industry and the people of the state, I find all was for naught. As I said it was quite a shock to find I apparently did everything wrong for seven (7) years or was it that the Board did not bow to political powers in Juneau or was it, we did not bow to native interest over and above the white man's interest or was it internal problems?

I don't know the answers to these questions, possibly it's a combination of all. However, I do know one thing and that is, we must at all cost, continue the guide law, guide area and the guide Board. If any or all three of these are thrown out the chaos will destroy a still viable industry.

I have had twenty or thirty phone calls a day since the Senate took action and all but one was against doing away with the Guide Board. One other point I learned, in the vote of the Senate, four (4) Senators voted negative, because they wished to remove the chairman of the Board, Marc Jensen. I can not buy that Marc is the basic problem. I believe they are using him as an excuse to sunset the Guide Board. You know Marc and I have many scars from the battles on this Board, some still healing from the last meeting. The Board, Marc, myself and every member on the Board have made mistakes, we are not fortunate enough to have a direct line to the Gods as some politication in Juneau apparently have.

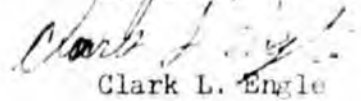
However, the mistakes the Board have made as a whole or individually are not irreversible. The action of the Senate could be irreversible if something isn't done quickly. Certainly the Senate action would abrogate the mistakes but it would also do away with a lot of the sound regulation needed to bring the guiding industry into prospective.

I can not emphasize enough the urgency in acting now on this matter. I suggest you remove all current members of the Board and replace them with new blood. I also encourage you to push as hard as possible to have the House pass legislation to continue the Guide Board.

With this done, the continuation of the Board will allow us to return to our prime concern and this is going hunting.

I appreciate all you have done in the past in backing the Board and its members and can only hope you extend that extra push now, that we all need so much.

Sincerely



Clark L. Engle

cc: Reps. Osterback  
Halford  
Miles  
Chatterton  
Tharoff  
Carney  
Cotton  
Sens. Bradley  
Bennett  
Sumner  
Hackney  
Ray  
Ferguson  
Hohman  
Sackett  
Kerttula  
Fahrenkamp  
All Guide Board Members  
William Billinger  
Liza Fussner  
Avrum M. Gross, Attorney General  
Bandy Smith

BC-GUIDE INVESTIGATION;450  
JUNEAU (AP) - A STATE  
LAWMAKER HAS ASKED THE ATTOR-  
NEY GENERAL TO INVESTIGATE A DE-  
CISION BY THE STATE GUIDE LI-  
CENSING AND CONTROL BOARD TO  
GRANT ITS CHAIRMAN AN EXCLUSIVE  
GUIDING AREA.

REP. ALVIN OSTERBACK, D-SAND  
POINT, WHO IS CO-CHAIRMAN OF  
THE HOUSE RESOURCES COM-  
MITTEE, SENT A LETTER TO ATTORNEY  
GENERAL AVRUM GROSS ON MON-  
DAY REQUESTING AN INVESTIGATION  
TO DETERMINE IF THE BOARD VIO-  
LATED EITHER THE INTENT OR THE  
"SPIRIT" OF STATE LAW.

THE BOARD GRANTED CHAIRMAN  
TARCUS JENSEN EXCLUSIVE GUID-  
ING PRIVILEGES ALONG THE OUTER  
COAST OF CHICHAGOF ISLAND, A  
PRIME HUNTING AREA IN SOUTHEAST  
ALASKA. THE BOARD TOOK THE AC-  
TION AT A FEBRUARY MEETING IN  
FAIRBANKS, AND RECENTLY REAFFIR-  
MED THE DECISION.

IN HIS LETTER TO GROSS, OSTER-  
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COMPLAINTS FROM SOME GUIDES  
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AN INVESTIGATION MAY WELL BE  
APPROPRIATE TO DETERMINE IF  
THERE HAS BEEN ANY WRONG-  
DOING."

OSTERBACK SAID HE RECEIVED A

PHIL DRIVER REQUESTING AN INVESTIGATION.

THE LETTER STATES THAT THE DECISION TO GIVE JENSEN AN EXCLUSIVE GUIDE AREA "COULD JEOPARDIZE A BASICALLY SOUND BOARD AND THE CONCEPT OF EXCLUSIVE GUIDE AREAS DEVELOPED OVER THE LAST SEVERAL YEARS."

DRIVER SAID THE "BOARD AND THE EXCLUSIVE OR JOINT-USE GUIDING AREAS HAS AND IS WORKING TO PROTECT ONE OF ALASKA'S MOST SIGNIFICANT NATURAL RENEWABLE RESOURCES; AND SHOULD BE CONTINUED."

BUT HE QUESTIONED WHETHER THE RIGHTS OF "OTHER JOINT PERMIT HOLDERS IN GAME MANAGEMENT UNIT 4 HAVE BEEN SAFEGUARDED AND CONSIDERED DURING DELIBERATION ON THE JENSEN DECISION."

JENSEN SAID HE HAS GUIDED IN UNIT 4; WHICH INCLUDES CHICAGO ISLAND; FOR MORE THAN 30 YEARS.

"UNTIL LAST YEAR THE SOUTHEASTERN GUIDES HONORED THEIR WORD IN RESPECT TO NOT GUIDING IN MY PARTICULAR AREA," JENSEN SAID IN A LETTER TO USTERBACK. "THE REASON FOR THEIR SUDDEN CHANGE IS THE FACT THAT THE GAME BOARD HAS A CLOSURE ON WHAT THEY CALL THE "INSIDE" AND LEFT THE FRINGE ON THE "OUTSIDE" OPEN 10 DAYS LONGER."

JENSEN SAID HE HAS "BEEN VERY CONSERVATIVE IN THE NUMBER OF CONTRACTS I TAKE BECAUSE OF THE PUBLIC HUNTING PRESSURE IN THE AREA AS WELL."

JENSEN SAID THE EXTENT OF HUNTING PRESSURE IN CERTAIN AREAS IS AT THE CENTER OF THE

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

EASTERN GUIDES HONORED THEIR  
[REDACTED]  
[REDACTED] AREA. JENSEN  
[REDACTED] LETTER TO [REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

CONTROVERSY.

"THERE HAS BEEN TOO MUCH GUIDING PRESSURE ON THE 'INSIDE.' TOO MANY GUIDES STILL HAVE THE ATTITUDE THAT THEY WILL SHOOT THE LAST CUB BEAR FOR A DOLLAR," JENSEN SAID. "I DO NOT THINK THE ACTION OF THE GUIDE LICENSING AND CONTROL BOARD SHOULD BE CRITICIZED FOR TRYING TO SAVE A SMALL AREA FROM BEING TOTALLY RAPED."

--8888888

04-29-80 11.29APR . . .



# Alaska

## Professional Hunters Association, Inc.

P. O. BOX 4-1932  
ANCHORAGE, ALASKA 99509

Phone (907) 243-3977

April 17, 1980

OFFICERS  
PHIL DRIVER  
President

KIRK GAY  
Vice President

VERNON HUMBLE  
Secretary/Treasurer

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EXECUTIVE SECRETARY  
PAMELA R WILSON

Representative Alvin Osterback  
Pouch V  
Juneau, Alaska 99811

Dear Representative Osterback:

We have had a situation that came up during the recent Guide Board meeting that was held in Fairbanks, Alaska that may be worthy of some consideration by your committee in evaluating the conduct of the Board under Sunset review. These tapes and the transcript of the meeting should be available to your committee at the Department of Commerce.

Mark Jensen, the Chairman of the Guide Board, was awarded the only exclusive guide area in Units 1 thru 4 in Southeastern Alaska. The area awarded was the total outside coast of Chichasof Island. This was done over the objections of all Southeastern guides, who testified in person or by letter, who had joint use of this area. Their right to hunt this area has been taken away and given to one man without the consideration of the other twenty guides.

We would like to point out that APHA has no objection to Mr. Jensen having an exclusive guide area but it was the manner in which this was done. This was, in the eyes of the guiding industry, a flagrant abuse of power by the Chairman to serve his own personal financial interests.

APHA believes that this action by the Board should be revoked and an opportunity given to all guides in Southeastern Alaska to apply to the Board for an exclusive area.

The next Guide Board meeting should be held in Juneau, not in Fairbanks, so that all petitions to be considered would allow maximum participation by the Southeastern guides.

Sincerely,

THE BOARD OF APHA

P.S. IT is interesting to note that the only Board Member, who could see how unfair this action was and voted against it was a full-time guide. We believe at least three full-time guides should be on the Board.

cc: TO ALL GUIDE LICENSING AND CONTROL BOARD MEMBERS

PLEGGED FAIR CHASE

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D - JUNEAU 55311

April 28, 1980

TO WHOM IT MAY CONCERN:

Attached hereto you will find a letter from Karl Lane, addressed to the Guide Licensing & Control Board to be used at our February meeting in Juneau, on Unit 4. I regret to say that this letter was misplaced and was not read at that meeting.

I have known Karl Lane for many years, I have worked on his boat and I have a great deal of respect for the man himself, and his operation as a guide. It is unfortunate that open friction developed on my request for a small area.

Karl's letter shows a great deal of understanding and foresight in the changes that are about to occur in this area. The constant change creates problems for the guiding industry. Conditions will not improve - they will gradually deteriorate. The exclusive guide area has been very effective in the Interior of Alaska, where most all guides are satisfied that it is the best approach. I would hope that the Board and the guides will develop some of the thoughts in Karl's letter and bring them to a conclusion.

Sincerely yours,



Marcus F. Jensen, Chairman  
Guide Licensing & Control Board

PS. A REMINDER! September 1 is the deadline for filing applications for areas! MJ.

Karl E. Lane

REGISTERED MASTER GUIDE & OUTFITTER

February 5, 1980

P.O. Box 295  
Juneau, Alaska 99802  
907-586-3822

Guide Licensing and Control Board  
Division of Occupational Licensing  
Pouch D  
Juneau, Alaska 99811

Gentlemen:

Although I will not be present to give oral testimony at the Feb. 13th thru 16th meeting of the Guide Board, I wish to assure you that I am still deeply concerned about the problems and future of brown bear guiding in Southeast Alaska and offer the following written testimony for consideration.

Somehow there must be found a way to reduce the guiding pressure by cutting down the number of active guides and also closing the loopholes that permit guides licensed for the area to sign contracts for guides not licensed for the area. This is being done by a few guides at the present time and it could allow an unlimited number to operate in Unit 4 and defeat any conservation measure you pass.

I would be in favor of exclusive areas if there is a proviso allowing Joint-Use if the individual guides so wish. The reason being that there is no fair way of dividing a country that is already split by different opening and closing dates for conservation reasons. There is also the problem of constant changing development in the logging industry. For example, the northern, eastern and southern coastlines of Chichagof Island will have intensive road building in '81 and full scale logging in '82. This will eliminate most of Chichagof. The northeast portion of Baranof will have the same development.

I would not be in favor of an exclusive area being transferred for any monetary value. If exclusive areas are issued to guides, they should be passed on to next qualified guide when the guide holding the area is not active for more than one season. The price of limited entry fishing permits are unfair.

If you are successful in limiting the guides to around ten or so, I have even been thinking of the possibility of cutting this number in half by guiding alternate years. For example, if you still had eight or ten guides which is still too many in my estimation, four or five guides with their clients would easily take one half of the quota of bears that the Game has set and the other half would surely be taken by the increase of resident hunting effort. A guided hunting trip would again have some quality and the bears would have a better chance of recovering.

Sincerely,  
*Karl Lane*  
Karl Lane

# STATE OF ALASKA

## DEPARTMENT OF FISH & GAME

JAY S. HAMMOND, Governor

P.O. Box 499  
Sitka, AK 99835

April 9, 1979

Mr. Marcus Jensen  
P.O. Box 2220  
Juneau, AK 99803

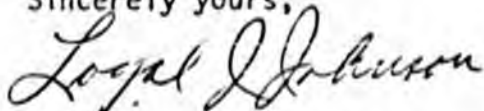
Dear Marc:

The Alaska Board of Game has now met and taken action on the Unit 4 brown bear situation. I am writing you at this earliest possible moment so that you can adjust your schedule to conform to the Board's action.

The Board adopted a substantially shortened season which will go into effect at the start of the new regulatory year, July 1. The season the Board adopted is as follows: September 15-May 20 for Admiralty and the east side of Baranof and Chichagof and September 15-May 31 for the west side of Baranof and Chichagof. The line of division between east and west Baranof and Chichagof is shown on the enclosed map. To eliminate the possibility of an excessive harvest this coming spring season, the Board has directed the Commissioner of the Department of Fish and Game to adopt an Emergency Order, effective immediately, which implements the season outlined above. Therefore, the closing date for this spring season, 1979, will end May 20 for Admiralty and the eastern side of Baranof and Chichagof and May 31 for the western side of Baranof and Chichagof.

The Board has also directed the Department of Fish and Game to closely monitor hunting during the spring 1979 season; and if it appears the kill will exceed 25 bears on Admiralty, east Baranof, and east Chichagof, the Commissioner will close the season in these areas by Field Announcement. The season on west Baranof and west Chichagof will remain open until May 31.

Sincerely yours,



Loyal J. Johnson  
Area Game Biologist

Enclosure

Mr. Marcus F. Jensen  
Registered And Master Guide  
Box 2220  
Juneau, Alaska

15 February 1980  
Juneau, Alaska

Dear Mark:

Sometimes people are apt to forget that when a person takes on a public chore and serves gratis, he doesn't give up his individual rights. Following the action of the Guide Licensing and Control Board this past week while it was reexamining the status of Unit #4 concerning Brown Bear and Exclusive and Joint Usage Guiding Areas, you no doubt are wondering if you'll ever get what you, like other guides, set out to get--an Exclusive Guiding Area, which is what you have wanted all along. I want it to be a matter of record that you put in for an EGA at the onset. Most of the guides in the Panhandle (the preponderance of whom in no way had "rights" that would measure up to yours) opted for joint usage in Units 1-4. You regretfully went along with the rest, at the Board's insistence. Later, long before this recent reexamination, you again requested your EGA. The Board, still trying to make the collective Joint Usage work, felt you should withdraw the second request. It was not accepted.

This past week as the Board learned that there is a growing pressure on a fairly static resource (Brown Bear) but decided to maintain the status quo, it also learned that not all the guides who agreed at the initial meeting on this subject to respect your area of operations were doing so. The Board, therefore, encouraged you to again petition for your EGA, and the guides present pretty well agreed that they would have no objection to your doing so. There was general recognition that your rights, based on the criteria the Board has shaped over time, are on or are very close to the very foundation stone.

Times and circumstances change, as does makeup of various organizations. Memory falters and fades. I feel that because of all these factors I should put together this brief summary inasmuch as I have attended all meetings on this subject as it touches Units 1-4, and wish you well.

Fraternally,  
*Charles J. Keim*  
Charles J. Keim  
Member, GL&CB

(For Stamp Use Only)

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME

Hide 48623 TENAKEE 5-19-79  
(Seal Numbers) (Place of Sealing) (Date of Sealing)  
Skull 48624 CERTIFICATE NUMBER 36105


| SPECIES                  | *SEX                            | SEX IDENTIFIERS                |
|--------------------------|---------------------------------|--------------------------------|
| Brown Grizzly <u>X</u>   | Male <u>X</u>                   | Penis Sheath <u>X</u>          |
| Polar _____              | Female _____                    | Vaginal Orifice _____          |
|                          | Unknown _____                   | Teats: L _____ M _____ S _____ |
|                          |                                 | None _____                     |
| SKULL                    | HIDE                            | SPECIMENS COLLECTED            |
| Length <u>10 1/8</u> in. | Length <u>3</u> ft <u>8</u> in. | Tooth <u>X</u>                 |
| Width <u>5 1/8</u> in.   | Width <u>5</u> ft <u>0</u> in.  | Skull _____                    |
| Total _____ in.          | Total _____ ft _____ in.        | Repro _____                    |
| C.B.L. <u>10 2/8</u> in. | Rubbed _____                    | Cem. Age _____                 |
|                          | Unrubbed <u>X</u>               |                                |

| TRANSPORTATION USED    |   |
|------------------------|---|
| Aircraft _____         | Days Hunted <u>6</u> *Date of Kill <u>5-16-79</u> |
| Off road Vehicle _____ | *Location of Kill: Unit <u>4</u> Sub Unit _____   |
| Boat <u>X</u>          | <u>CHICHAGO OF IS.</u>                            |
| Snowmachine _____      | Mt. Range and Drainage <u>TENAKEE INLET</u>       |
| Dog Team _____         | Specific Location <u>HEAD OF INLET</u>            |
| Horse _____            |   |
| Other _____            |   |

Name of Hunter JOHN W. RINEHART  
P.O. Box 104 HILLSDALE WY 82060  
(Address) (City) (State)

| License No.                | Tag No.    | Guided Hunt                 |
|----------------------------|------------|-----------------------------|
| Resident _____             |            | Yes <u>X</u> No _____       |
| Non-Resident <u>029785</u> | <u>357</u> | Guides Name <u>ERICKSON</u> |

John W. Rinehart (Signature of Hunter) John W. Rinehart (Sealed by)



Remarks \_\_\_\_\_

Code \_\_\_\_\_

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\*MUST BE FILLED OUT

For State Use Only

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME

Hide 35096 (Seal Number) JUNEAU (Place of Sealing) 5/14/79 (Date of Sealing)

Skull 35097 CERTIFICATE NUMBER 40658

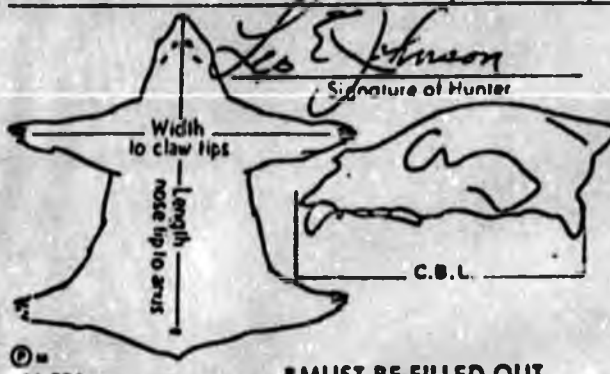
| SPECIES                  | *SEX                              | SEX IDENTIFIERS                |
|--------------------------|-----------------------------------|--------------------------------|
| Brown-Grizzly <u>X</u>   | Male _____                        | Penis Sheath _____             |
| Polar _____              | Female _____                      | Vaginal Orifice _____          |
|                          | Unknown <u>X</u>                  | Teeth: L _____ M _____ S _____ |
|                          |                                   | None _____                     |
| SKULL                    | HIDE                              | SPECIMENS COLLECTED            |
| Length <u>13</u> in.     | Length <u>4</u> ft. <u>11</u> in. | Tooth <u>LOWER LEFT</u>        |
| Width <u>7</u> in.       | Width <u>6</u> ft. <u>11</u> in.  | Skull _____                    |
| Total <u>20</u> in.      | Total <u>11</u> ft. <u>10</u> in. | Repro. _____                   |
| C.B.L. <u>11 1/4</u> in. | Rubbed <u>NONE</u>                | Cem. Age _____                 |
|                          | Unrubbed _____                    |                                |

| TRANSPORTATION USED    | Days Hunted                                     | *Date of Kill  |
|------------------------|---|----------------|
| Aircraft _____         | <u>10</u>                                       | <u>5/10/79</u> |
| Off-road Vehicle _____ |   |                |
| Boat <u>X</u>          | *Location of Kill: Unit <u>4</u> Sub Unit _____ |                |
| Snowmachine _____      | Mr. Range and Drainage <u>HEAD TENNREE</u>      |                |
| Dog Team _____         | Specific Location <u>INLET ON CHILMAGOE</u>     |                |
| Horse _____            |   |                |
| Other _____            |   |                |

Name of Hunter LEO E. JOHNSON  
17508 184TH AVENUE WOODSHVILLE WASH.  
(Address) (City) (State)

| License No.                 | Tag No.      | Guided Hunt*                  |
|-----------------------------|--------------|-------------------------------|
| Resident _____              | <u>79AAA</u> | Yes <u>X</u> No _____         |
| Non-Resident <u>029-116</u> | <u>347</u>   | Guides Name <u>J. ERIKSON</u> |

Signature of Hunter Leo E. Johnson Seal or Bvt M. Fox FWP



Remarks HUNTER SAYS IT WAS DEFINITELY MALE

Code \_\_\_\_\_

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# Outdoors

## Controversy looms for Southeast guides

By CRAIG MEDRED  
Empire Staff Reporter

Like brown bears fighting to the death to protect their territory, Southeast Alaska guides appear headed for a bitter struggle with the chairman of the state's Guide Licensing and Control Board — himself a Southeast guide.

A board decision granting chairman Marcus Jensen of Juneau exclusive guiding rights on the outer coast of Chichagof Island, about 80 miles west of here, has other guides hopping mad.

"We're going to go all the way to the Supreme Court on it if we have to (to take the exclusive privilege away from Jensen)," said Kari Lane, one of the most highly respected guides in Southeast.

"Historically, we've all hunted the outside of Chichagof. I'm going to hunt it this year, regardless...." the Juneau-based guide said. "It's a real rotten thing to do."

"I think it was the crummiest, lousiest thing I ever saw," said John Erikson, a Tok-based guide who hunts Southeast brown bears in the spring.

By granting Jensen an exclusive guiding area, the board effectively closed the outer coast of Chichagof to 17 other Southeast brown bear guides and raised a host of questions as to board conduct.

"In the past, the board has always accommodated the guides," said board member Clark Engle, the only board member to vote against Jensen's special area. "...A majority of the guides in Southeast didn't want it."

"I don't know (why the board did it). I've tried to analyze it myself."

"There's an awful lot of people who are unhappy," he said, including the state's largest guide organization.

### An "abuse of power?"

"This was, in the eyes of the guiding industry, a flagrant abuse of power by the chairman to serve his own personal financial interests," the Alaska Professional Hunters Association, Inc., charged in a letter to state Rep. Al Osterback, D-Sand Point, co-chairman of the House Resources Committee.

"We would like to point out that the APHA has no objection to Mr. Jensen having an exclusive guide area, but it was the manner in which this was done."

"The area awarded was the total outside coast of Chichagof Island. This was done over the objections of all Southeastern guides, who testified in person or by letter, who had joint use of this area. Their right to hunt this area has been taken away and given to one man without the consideration of the other 20 guides," the letter said.

The vote granting Jensen the exclusive area was taken in a public meeting in Fairbanks after considerable discussion, also in a public meeting, about what the board should do.

The action was reaffirmed on a 3-1 vote during a conference call among board members Thursday.

### No earlier action "probably a mistake"

Charles Keim, a member of the board, a guide, a former journalism professor at the University of Alaska and a respected Alaska outdoors writer, defends the board's action, saying there may be too many guides now working in Southeast.

Keim contends the board "probably made a mistake" years ago when it combined all Southeast hunting districts into one exclusive guiding area and gave all guides the right to roam that area.

"Jensen did not go along with that. We probably made a mistake," Keim said. "It might be a good idea to re-examine the whole guiding system in Southeast Alaska."

"What we did for Jensen will probably have to be done for the rest of the guides," Keim said.

### Too many guides and too few bears

He suggested restricting all to separate, small portions of Southeast which would support limited hunting. He also suggested eliminating some guides — comparing the bear-guide problem to the salmon-fishermen crisis which sparked limited entry.

It was for just that reason Jensen says he pushed for his exclusive guiding area, something the guide board refused four times before. "I have been very conservative in the number of contracts I take

because of the public hunting pressure in the area...." Jensen said in a letter to Osterback.

"No guide in Southeast Alaska could object to my area if he would agree to an exclusive area for himself which would automatically reduce his number of contracts from eight to 10, to three or four at most. This is really what the controversy is all about. There has been too much guiding pressure on the 'inside.' Too many guides still have the attitude that they will shoot the last cub bear for a dollar," Jensen said.

Alaska Department of Fish and Game records would tend to support that contention.

### "Quality" of the hunt suffers

Those records show guided hunters shooting increasing numbers of bears under 6 feet from the nose to the tail. A 6-foot brown bear is considered a "respectable" trophy. State law requires all non-resident hunters to hire a guide when hunting brown bear.

Lane, one of the few Southeast guides whose hunters did not take a bear under 6 feet last year, says the quality of guided bear hunting here has definitely been deteriorating.

Lane points no fingers, but Jensen has singled out Erikson. Erikson says he needs guiding to survive, but "to Jensen, it's a game." Jensen works as a lobbyist when he isn't guiding.

Hunters guided by Erikson, according to Fish and Game records, last spring took brown bears 3 feet 8 inches, 4 feet 11 inches and 5 feet 1 inch, in addition to three bears over 6 feet.

### A bear is a bear is a bear

Erikson, who said he guided eight hunters last spring, pointed to a success rate of 75 percent, not counting one missed bear.

"I have no trouble finding bear," he said. "Maybe somebody wants size; somebody else wants quality."

"If you wanted to kill a big brown bear, you wouldn't go Southeast anyway. The whole thing of it is, if the hunter's happy, that's the whole thing."

"Like I said, I don't give a damn about the bear size," Erikson said.

He defends the small bears by adding a silted hide can shrink 2 feet. A 4-foot hide would probably come from a bear about 6 feet, he said.

Lane, one of the main advocates of "quality hunting" over the years, said a 9-foot bear taken on the first day of a 14-day hunt can "shrink over 8 inches."

"There's never been a hide shrank 2 feet," he countered.

### More small bears taken in 1979

Still, Erikson said, "I don't think there's too many bears being taken. I see lot of bear."

To that, Fish and Game biologists have mixed reactions. They say bear numbers appear to be healthy, although nowhere near as high as the mid-1970s, but they note the population does appear to be heavy with young bears.

A comparison between 1975 and 1979, when the brown bear season was drastically shortened, does show a marked difference in the bears taken. In 1975, 83 percent of the bears taken on guided hunts were over 6 feet. They had an average age of 8.3 years.

In contrast, only about 49 percent of the bears taken by guided hunters in 1979 were over 6 feet. Their average age was 7.1 years. Remove Lane — whose hunters took six bears, all over six feet — from the sample and 50 percent of the bears taken on guided hunts were under 6 feet.

That, Keim says, raises serious questions as to the quality of a Southeast hunt.

### Is a 4-foot brown bear a quality hunt?

"I'm absolutely, totally opposed to an assembly-line use of our resource. It's totally demeaning to the hunt," Keim said.

"I think a thorough investigation into this matter will probably disclose some guides are more interested in the money than the resource," he said.

Keim contends something has to be done. "We simply can't have a true wilderness experience if guides are going to have their hunters take home 3-foot-8-inch bears," he said.

Lane said he would like to see the number of Southeast guides

reduced to five or six. "That's not possible," he added. Limited entry is the perfect parallel, "but they won't do it," Lane said.

He said there is too much political pressure.

"There was nobody in favor of it (Jensen's exclusive guide area), because this joint-use thing was working as good as can be expected," Erikson said.

### Residents hunters shoot small bears, too

Half the problem, he added, is an increase in resident hunters. "You're not going to stop the residents," Erikson said. "You're overpopulated with government employees, and the first thing they want to do when they come to Alaska is shoot a bear."

Fish and Game figures show resident hunters, who are not required to have a guide, took 18 brown bears last year, of which five — or about 28 percent — were under 6 feet. Guided hunters in 1979 took 34 bears, of which 14 — or about 41 percent — were under 6 feet.

In fact, figures indicate resident hunters appear to have been getting more selective, while guides have been getting less. In 1975, when resident hunters took 49 bears and guided hunters 41, 83 per-

cent of the bears shot by residents were under 6 feet.

### "Weed out the bandits"

"As chairman of the Guide Licensing and Control board, and as an Alaska resident for over 50 years, and as a registered guide for some 35 years, I have been criticized by some guides for my strong stand against guides who want to rape the game resources," Jensen said in the letter to Osterback.

"I would hope that the House Resource Committee appreciates what most of our board members are trying to do for the state of Alaska, and that is weed out the 'bandit' who are raping our resource and develop exclusive guide areas for the protection of the resource and improved game management."

As it gets harder and harder to find a big bear, though, not even Jensen is immune to the pressure from guided hunters who want a brown bear no matter what size.

A hunter guided by Jensen last year took a 5-foot-6-inch bear, and another hunter, guided by an assistant guide working for Jensen, took a 4-foot-7-inch bear.

"The older bears don't come to the beach anymore," Erikson said. "A bear is a bear whether he's an 8-foot, a 6-foot or a 10-foot."

Juneau Empire Friday 4/25/80

(For State Use Only)

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME

Hide 48621 TENAKEE 5-19-79  
(Seal Numbers) (Place of Sealing) (Date of Sealing)

Skull 48622 CERTIFICATE NUMBER 36104

| SPECIES                  | *SEX                             | SEX IDENTIFIERS                |
|--------------------------|----------------------------------|--------------------------------|
| Brown-Grizzly <u>X</u>   | Male <u>X</u>                    | Penis Sheath <u>X</u>          |
| Polar _____              | Female _____                     | Vaginal Orifice _____          |
|                          | Unknown _____                    | Teats: L _____ M _____ S _____ |
|                          |                                  | None _____                     |
| SKULL                    | HIDE                             | SPECIMENS COLLECTED            |
| Length <u>12 7/8</u> in. | Length <u>5</u> ft. <u>1</u> in. | Tooth <u>X</u>                 |
| Width <u>7</u> in.       | Width <u>6</u> ft. <u>3</u> in.  | Skull _____                    |
| Total _____ in.          | Total _____ ft. _____ in.        | Repro. _____                   |
| C.B.L. <u>11 1/8</u> in. | Rubbed _____                     | Cem. Age _____                 |
|                          | Unrubbed <u>X</u>                |                                |

TRANSPORTATION USED

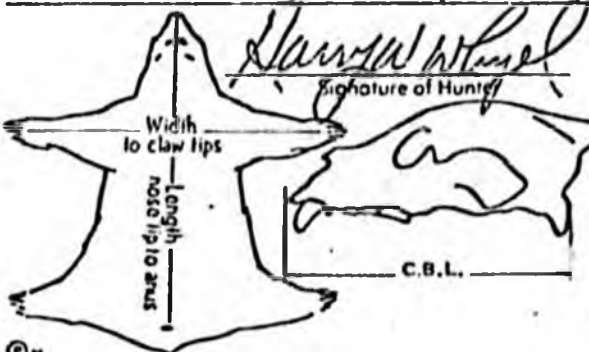
Aircraft \_\_\_\_\_  
Off-road Vehicle \_\_\_\_\_  
Boat X  
Snowmachine \_\_\_\_\_  
Dog Team \_\_\_\_\_  
Horse \_\_\_\_\_  
Other \_\_\_\_\_

Days Hunted 5 \*Date of Kill 5-17-79  
\*Location of Kill: Un. 4 Sub Unit \_\_\_\_\_  
Mt. Range and Drainage CHIGNESS  
Specific Location TENAKEE TULET  
HEAD OF TULET

Name of Hunter HARRY W. WHYEL

Box 805 PINEDALE WY 82941  
(Address) (City) (State)

License No. \_\_\_\_\_ Tag No. \_\_\_\_\_ Guided Hunt \_\_\_\_\_  
Resident \_\_\_\_\_ Yes X No \_\_\_\_\_  
Non-Resident 068170 134 Guides Name ERICKSON



Harry W. Whyel  
Signature of Hunter

Richard Graham  
(Sealed by)

Remarks \_\_\_\_\_  
Code \_\_\_\_\_

\*MUST BE FILLED OUT

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LEGIBLY BECAUSE OF POOR QUALITY OF THE  
ORIGINAL.

# MEMORANDUM

Department of Law  
Juneau, Alaska

State of Alaska

APR 25 1980

AM 7,8,9,10,11,12,3,4,5,6 PM

TO Tom Kooster  
Assistant Attorney General  
Juneau

APR 25, 1980

TELEPHONE NO 276-3550

FROM AVRUM M. GROSS  
ATTORNEY GENERAL

SUBJECT Petition of Marcus Jensen  
For Exclusive Guide Area  
In Southeast Alaska

By:  
Sarah Elizabeth Fuskner  
Assistant Attorney General

At the March 1980 Guide Licensing and Control Board meeting in Fairbanks, the board heard and considered a "petition" from Chairman Mark Jensen requesting that he be granted exclusive use of a portion of Chicagoof Island, in Southeast Alaska. Mr. Jensen did not participate as a board member during the consideration of his petition. The basis for his bringing a petition was 12 AAC 38.056 "Changes to Guiding Area Permit" which authorizes the board to hear petitions for changes that will affect a guiding area and requires that if an area is held in joint use, each holder of the permit for the guiding area must be furnished a copy of the petition and notified of the date and place where he can present testimony on the petition. There are no other regulations that set standards by which a board will decide whether to grant or deny petitions.

The board has a procedure for granting exclusive guide areas. This is set out in regulations 12 AAC 38.051 - .058. In essence, the regulatory scheme provides that the board set a deadline for applications for a given game management unit, it receives applications that indicate a guide's desired exclusive guide area, including a map of proposed geographic boundaries, and the board will in its discretion issue a permit if a guide has demonstrated his "use, occupancy or financial investment" in the area for the requisite number of years as provided in 12 AAC 38.053(d). The board has construed this to mean if a guide can substantiate his use of an area by means of statements of financial remuneration for two years he is entitled to a temporary area.

In considering Mark Jensen's "petition", the board did not follow the normal procedure for granting exclusive guide areas as described above. The board had not set a deadline for applications from all Southeast guides for exclusive guide areas. In fact, when the board initially decided to initiate a program of exclusive guiding areas in

1975-76, the board at the urging of the approximately 20 active guides in Southeast, decided to leave all of game management units 1 - 4 as one large joint use area, so all guides would have an opportunity to hunt the area rather than attempt to carve it into small exclusive guide areas and assign them as has been done in the interior. One reason for this difference is the manner of hunting in Southeast Alaska, primarily by using boats, mooring them in small bays and inlets.

The board's administrative arm, the Guide Investigation Office at Department of Public Safety, Anchorage, complied with the provisions of 12 AAC 38.056 by notifying other Southeast guides that Mr. Jensen intended to seek an exclusive area in the area already assigned to all the guides in joint use. Virtually all the Southeast guides objected to granting Mark Jensen an area. To my knowledge the board has never in the past used the petition mechanism as a vehicle for granting exclusive guide areas, nor ever carved out an exclusive guiding area within an area already assigned in joint use.

It is my opinion that the board's action in granting Mark Jensen an exclusive guide area in unit 4, when the board had not solicited applications from all Southeast guides, was not consistent with statutory or constitutional standards for the following reasons:

1. Granting Mark Jensen an exclusive guide area denied other Southeast guides the Constitutional right of equal protection, since other Southeast guides are similarly situated in joint use of the entire Southeast panhandle, and were not provided an equal opportunity to come before the board with their own petitions or applications for exclusive guiding areas.
2. The board's action violated principles of due process notice, in that the board had not taken action to set a deadline for applications from all guides in joint use for them to seek exclusive guide areas, and therefore had not given adequate notice to all guides that they could submit similar petitions or applications for an exclusive guide area.
3. The board's action does not comply with AS 08.54.040 which allows the board to "establish a quota of license operating guides who may operate within designated geographical units or subunits of the state and provide for equitable and reasonable procedure

Tom Koester  
Assistant Attorney General

April 25, 1980

-3-

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 unit or subunit." The board had not established a procedure for limiting the number of guides to the quota under the mechanism of the petition procedure. The petition procedure in essence singled out one guide for consideration for an exclusive guide area without considering other guides who may wish to have exclusive guiding areas in Southeast.

To my knowledge, the board has never granted an exclusive guide area within a joint use area by means of a petition. It had been my advice to the board that such action should not be taken until sufficient criteria are established for this procedure by regulation. The board had rejected the petition initially during the board meeting, but reconsidered it late in the afternoon on Friday after I had had to leave the meeting in order to attend to another matter in Anchorage. At my request the board convened a conference call on April 24 to consider a telegram from F. W. Ingelous, an affected guide, who objected to the board's action and requested reconsideration; I again reiterated that it was my opinion that the board's action was not legally defensible, was not based on sufficient standards for handling petitions, and should be rescinded.

In retrospect, I think that probably where a petition such as the one Mr. Jensen brought before the board is contested by other affected guides, the matter should be heard as a formal APA hearing, with a hearing officer appointed, rather than treated as day to day business of the board and not as a formal hearing. You may wish to consult with Bruce Botelho, with whom I have already spoken about this problem. Thank you for your assistance.

SEP:ln

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# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL  
JUNEAU, ALASKA 99811

April 29, 1980

465-3600

Guide Licensing and Control Board  
Department of Commerce and  
Economic Development  
Pouch D  
Juneau, Alaska 99811



Gentlemen:

At the April 1980 Guide Board meeting in Fairbanks, the board granted a petition from Chairman Mark Jensen requesting he be granted exclusive use of a portion of Chicagof Island. At the time the board action occurred, Assistant Attorney General Liza Fussner advised you that the board's action was illegal. The board nonetheless granted the petition.

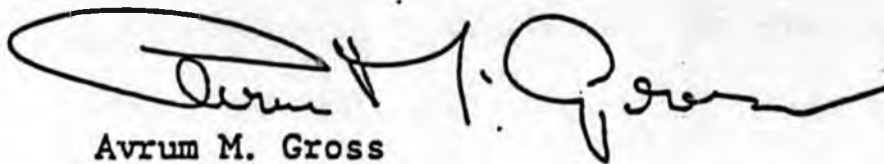
I have enclosed a copy of a memorandum from Ms. Fussner to Tom Koester, head of the Resources Division in my office. Because of the sensitive nature of this action involving as it does the Chairman of the Guide Board, I reviewed the matter personally and I believe that Ms. Fussner's advice to you is sound. The action of the board cannot be supported by law.

I have been advised that litigation will be commenced immediately to contest the board's action. Since we have already advised you the action is illegal, we will be forced to concede that illegality in court. Moreover, since we have advised you of the impropriety of your action and the board has nonetheless taken the action, there is a very real possibility that individual members of the board may be liable for damages, court costs, and possible attorney fees of any successful litigant.

I realize this is a difficult situation, but it is only going to get more difficult if nothing is done promptly. I strongly urge the board to immediately convene, by phone if necessary, to reconsider its action and rescind the decision. Full notice should be given to Mr. Jensen who will be free to contest the matter if he so chooses.

I would be happy to discuss this with you by phone or in person at your earliest convenience. Obviously, it is not pleasant for me to suggest this type of action to a state board, but my responsibilities under the laws of the state simply afford me no room for latitude.

Yours very truly,

A handwritten signature in black ink, appearing to read "Avrum M. Gross". The signature is fluid and cursive, with a large initial "A" and "G".

Avrum M. Gross  
Attorney General

AMG:chw

Enclosure

cc: Bill Bellingar  
% Liza Fussner

## PRESS RELEASE

Fill

Representative Osterback, Chairman of the House Resources Committee has been requested by the Alaska Professional Hunters Assn. Inc. to investigate actions of the Guide Licensing and Control Board which gives an exclusive guide area to Mr. Marcus Jensen, Chairman of the Board. The letter was signed by Mr. Phil Driver, President of the Hunter's Assn. This letter further alleges that the action (giving Jensen an exclusive guide area) could bring about unfavorable reactions from the reviewing committee which might jeopardize a basically sound board and the concept of exclusive guide areas developed over the last several years. The Alaska Professional Hunters Assn., Inc. further questions -- "have the rights of other joint permit holders in Game Management Unit Four been safe guarded and considered during deliberation on the Jensen decision"?

file

Representative Osterback today further stated, that the entire controversy which has surrounded the Guide Licensing and Control Board causes a serious credibility gap. I, personally, do not want to be involved with this controversy. However, since the issue of exclusive guide areas came to the attention of the Legislature by Senator Frank Ferguson in 1977 much controversy has existed.

I have by letter today, requested the Attorney General to investigate the complaints I have received from guides insisting that the action was unwarranted, unethical and perhaps illegal.

"Personally", Osterback further contended, "I do not want to be involved, but since 1977 nothing has emerged but problems, accusations and serious credibility

has shaded the Guide Licensing and Control Board.

"I'm personally sick and tired of it and plan on getting to the root problem of this entire controversy before I leave Juneau this session."



# Alaska

## Professional Hunters Association, Inc.

P. O. BOX 4-1832  
ANCHORAGE, ALASKA 99509

Phone (907) 243-3977

April 28, 1980

### OFFICERS

PHIL DRIVER  
President

KIRK GAY  
Vice President

VERNON HUMBLE  
Secretary/Treasurer

The Honorable Jay S. Hammond  
Governor of Alaska  
Pouch A  
Juneau, Alaska 99811

Dear Governor Hammond:

### BOARD OF DIRECTORS

LYNN CASTLE  
PHIL DRIVER  
STAN FROST  
KIRK GAY  
HANK HANKARD  
VERNON HUMBLE

A certain decision during the last meeting of the Guide Licensing and Control Board has caused a not insignificant consternation among the active licensed game guides of our industry. On a 3-1 vote of the four Board members present, an exclusive guide area was permitted to Mr. Marcus Jensen, Chairman of this board.

### EXECUTIVE SECRETARY

PAMELA R WILSON

This questionable decision comes at a time when this very Board and the policies adopted to administer the professional game guiding industry are being reviewed by this legislature. One of our concerns is that this action could bring about unfavorable reaction from the reviewing committee, which might jeopardize a basically sound Board and the concept of exclusive guide areas developed over the last several years. To negate the compromise, made by some 253 permit holders, who gave rather than gained, in order to allow a maximum number of licensed guides to participate in the limited game resources of Alaska would be disastrous. The Board and the exclusive or joint-use guiding areas has and is working to protect one of Alaska's most significant natural renewable resources, and should be continued.

Equally important, have the rights of other joint permit holders in Game Management Unit Four been safe guarded and considered during deliberation on the Jensen decision?

A closer look and re-evaluation would be in order. Of course, all interested parties should be allowed to participate so the facts can be aired and evaluated.

Sincerely,

ALASKA PROFESSIONAL HUNTERS ASSOCIATION, INC.

Phil Driver  
President

PD/sgn

# TELEGRAM

ALASCOM, INC.  
PHONE: 581-8442  
JUNEAU, AK 99801

02217 NL ANCHORAGE AK 50 05-02 400P ADT

PMS REP ALVIN OSTER BACK

JUNEAU 0272

RESPECTFULLY REQUEST THAT THE GUIDE LAW, EXCLUSIVE GUIDE AREAS,  
AND GUIDE BOARD BE CONTINUED. IF IT IS NECESSARY TO REPLACE ONE  
OR ALL GUIDE BOARD MEMBERS, PLEASE DO SO, BUT DO NOT ALLOW THE  
GUIDE BOARD CONCEPT TO BE ELIMINATED.

DARRELL FARMEN SRA BOX 1592 ANCHORAGE 99507

780 MAY 2 9 39 PM '83

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K—STATE CAPITOL  
JUNEAU, ALASKA 99811

April 30, 1980

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

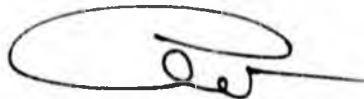
Re: Guide Licensing and Control Board

Dear Al:

Thank you for your letter of April 28th. Without commenting in detail on your letter, I am enclosing a copy of a letter sent yesterday to all the members of the Guide Board. It addresses itself to the concerns you raised in your letter.

If you would like to discuss this further, please don't hesitate to contact me.

Yours very truly,



Avrum M. Gross  
Attorney General

AMG:chw

Enclosure

April 29, 1980

465-3600

Guide Licensing and Control Board  
Department of Commerce and  
Economic Development  
Pouch D  
Juneau, Alaska 99811

Gentlemen:

At the April 1980 Guide Board meeting in Fairbanks, the board granted a petition from Chairman Mark Jensen requesting he be granted exclusive use of a portion of Chicagof Island. At the time the board action occurred, Assistant Attorney General Liza Fussner advised you that the board's action was illegal. The board nonetheless granted the petition.

I have enclosed a copy of a memorandum from Ms. Fussner to Tom Koester, head of the Resources Division in my office. Because of the sensitive nature of this action involving as it does the Chairman of the Guide Board, I reviewed the matter personally and I believe that Ms. Fussner's advice to you is sound. The action of the board cannot be supported by law.

I have been advised that litigation will be commenced immediately to contest the board's action. Since we have already advised you the action is illegal, we will be forced to concede that illegality in court. Moreover, since we have advised you of the impropriety of your action and the board has nonetheless taken the action, there is a very real possibility that individual members of the board may be liable for damages, court costs, and possible attorney fees of any successful litigant.

I realize this is a difficult situation, but it is only going to get more difficult if nothing is done promptly. I strongly urge the board to immediately convene, by phone if necessary, to reconsider its action and rescind the decision. Full notice should be given to Mr. Jensen who will be free to contest the matter if he so chooses.

Guide Licensing and Control Board  
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I would be happy to discuss this with you by phone or in person at your earliest convenience. Obviously, it is not pleasant for me to suggest this type of action to a state board, but my responsibilities under the laws of the state simply afford me no room for latitude.

Yours very truly,

Avrum M. Gross  
Attorney General

AMG:chw

Enclosure

cc: Bill Bellingar  
% Liza Fussner