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422

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 Bill/Resolution History 05:15 PM 05/16/90 Page 1

BILL: SB 422
 NAME: CSSB 422(RLS) AM
 TITLE: "An Act relating to guide-outfitter use area permits, the Big Game Commercial Services Board, guide-outfitters, transporters and air carriers, and providers of other big game commercial services, and commercial use permits; relating to hunting for mountain goat by nonresident hunters; and providing for an effective date."

PRIME SPONSOR: RULES
 BY REQUEST

FUNDING : \$72,000 GENERAL(FNOTE) \$139,300 OTHER(FNOTE)
 CURRENT STATUS: (H) FIN STATUS DATE: 04/30/90

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SB 422

The Resources Committee considered SENATE BILL NO. 422 (An Act relating to guide-outfitter use area permits, the Big Game Commercial Services Board, and guide-outfitters, transporters, and providers of other big game commercial services) and recommended it be replaced with

CS FOR SENATE BILL NO. 422 (Resources), entitled:
 "An Act relating to guide-outfitter use area permits, the Big Game Commercial Services Board, guide-outfitters, transporters and air carriers, and providers of other big game commercial services, and commercial use permits; and providing for an effective date."

Senator Fahrenkamp, Chair, and Senators Frank and Sturgulewski signed "do pass." Senator Halford signed "do

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not pass unless non-severable." Senator Eliason signed "no recommendation."

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March 27, 1990

SENATE JOURNAL

3059

SB 422 cont'd

Fiscal notes for SENATE BILL NO. 422 and the Committee Substitute published today from Department of Commerce and Economic Development and Department of Fish and Game.

SENATE BILL NO. 422 was referred to the Finance Committee.

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STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX 3-2000
JUNEAU, ALASKA 99802-2000
PHONE: (907) 465-4100

March 23, 1990

The Honorable Bettye Fahrenkamp
Chair
Senate Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Fahrenkamp:

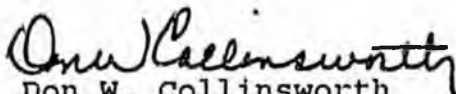
We appreciate your efforts toward accommodating concerns regarding Senate Bill 422 to enable its passage out of the Senate Resources Committee. Toward that end, we would like to clarify our intent regarding the reporting requirement for air taxi operators who commercially transport big game hunters, their equipment, or harvested big game animals to, from, or in the field (CS for Senate Bill 422, Section 16, work draft of March 21, 1990).

We support the intent of language in Section 16 that all air carriers subject to AS 42.30.200 shall annually submit an activity report regarding the commercial transport of big game hunters, related gear, and harvested animals. This would include licensed transporters as required under AS 08.54.400, as well as those air taxi operators who transport hunters but are not required to obtain a transporter license.

The department needs the information that would be provided in the activity reports to help assess the effort and resulting harvest of big game animals associated with commercial transportation services, versus other modes of access. The information we desire are such items as the number of big game hunters, their destination by game management unit or subunit, and the species and number of harvested big game animals that were transported.

We appreciate the opportunity to comment, and commend the committee for its thorough analysis and consideration of SB 422. Please do not hesitate to contact Molly McCammon of my office if we can be of further assistance.

Sincerely,


Don W. Collinsworth
Commissioner

cc: Lew Pamplin, Director, Division of Wildlife Conservation

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

P.O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 585-2534

March 26, 1990

Honorable Bettye Fahrenkamp
Chairman
Senate Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Fahrenkamp:

I have met with the Alaska Air Carriers Association regarding the future implementation of the reporting requirements contained in Section 15 of the proposed committee substitute for SB 422, which the commercial air carriers have agreed to support for the purposes of assisting the Department of Fish and Game in obtaining information which may be helpful in future harvest decisions and the Commercial Services Board in the regulation of the commercial big game hunting industry.

The report required of this section will be a one-page form which will ask for the number of hunters flown to, from, or in the "field," as defined in current law; the type of transportation provided; the big game harvested; and the area in which the hunt was conducted. It will be designed to be as simple as possible, to avoid putting undue administrative burden on air carrier employees and their customers (i.e., big game hunters). Data will not be requested from carriers for hunters flown between federal, state, and municipal airports or air strips. The report will be filed once a year (by January 31) for the previous year's activity.

Transporters are being defined in Section 16 of the bill as those air carriers which advertise to attract big game hunters and those which charge more than customary charter rates to hunters. The amendment in Section 16 of SB 422 removes the controversial "incidental" standard in present law. The new standard will be easier to enforce than the existing vague language.

The term "advertise" will require definition through regulation. Advertising in newspapers and brochures, on television and radio, and through participation at hunting shows and expositions exemplifies the kind of advertising on which the Commercial Services Board will focus.

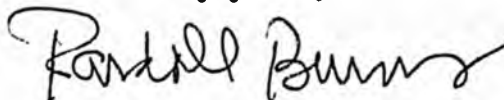
Honorable Bettye Fahrenkamp

-2-

March 26, 1990

I am pleased that we have been able to reach agreement on this matter with the air carriers. I also want to take the opportunity to thank you, the members of the Senate Resources Committee, and your staff assistant, Nancy Peterson, for the time and work the committee has put in again this year on big game commercial services legislation.

Sincerely yours,

A handwritten signature in cursive script that reads "Randall Burns".

Randall P. Burns
Director

RPB/wfd
LGJOBS
32690a

cc: All Members, Big Game Commercial Services Board

Also of interest is the fact that 113 guides currently have special use permits to operate on refuges. Those refuges with the most demand, Alaska Peninsula/Becharof, Kodiak, and Arctic National Wildlife Refuges indicated the most potential resource problems (with the exception of Kodiak National Wildlife Refuge, where the harvest is regulated by state permits).

Based on this information, we recommend the highest priority be given to developing guide/outfitter resource maps and implementing the proposed guide/outfitter allocation system for the following refuge areas:

1. Alaska Peninsula/Becharof, Izembek National Wildlife Refuges GMU 9
2. Arctic National Wildlife Refuge GMU 26B, 26C, 25A
3. Kodiak National Wildlife Refuge GMU 8

The second highest priority should be given to:

4. Kenai National Wildlife Refuge GMU 15, 7
5. Togiak National Wildlife Refuge GMU 17

The remaining refuge areas are listed in order of priority:

6. Koyukuk National Wildlife Refuge GMU 21
7. Innoko National Wildlife Refuge GMU 21
8. Selawik National Wildlife Refuge GMU 23
9. Tetlin National Wildlife Refuge GMU 12
10. Nowitna National Wildlife Refuge GMU 21
11. Yukon Flats National Wildlife Refuge GMU 25
12. Yukon Delta National Wildlife Refuge GMU 18
13. Alaska Maritime National Wildlife Refuge GMU 10
14. Kanuti National Wildlife Refuge GMU 24

If you have any questions regarding the guide/outfitter issue, please contact John Kurtz at 786-3355.

Sincerely,

Walt Stigley

Regional Director

Enclosure

POTENTIAL PROBLEMS

ESTIMATED AVERAGE ANNUAL HARVEST

| Wildlife Refuges | NUMBERS OF GUIDES UNDER PERMIT 1989 | POTENTIAL PROBLEMS | | | | | | ESTIMATED AVERAGE ANNUAL HARVEST | | | | | | | | | | | | |
|-------------------------------|-------------------------------------|--------------------|------------|---------|-------|------|----------------|----------------------------------|----------------|------------------|----------------|------------------|----------------|------------------|----------------|------------------|----------------|------------------|----------------|------------------|
| | | Brown Bear | Black Bear | Caribou | Sheep | Deer | Moose | Brown Bear | | Black Bear | | Caribou | | Sheep | | Deer | | Moose | | |
| | | | | | | | Guided Hunters | Unguided Hunters | Guided Hunters | Unguided Hunters | Guided Hunters | Unguided Hunters | Guided Hunters | Unguided Hunters | Guided Hunters | Unguided Hunters | Guided Hunters | Unguided Hunters | Guided Hunters | Unguided Hunters |
| Alaska Maritime | 1 | -- | -- | -- | -- | -- | 2 | 1 | 0 | 0 | 6 | 30 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Arctic | 17 | C | -- | -- | A | -- | 15 | 15 | 1 | 5 | 30 | 170 | 90 | 110 | 0 | 0 | 18 | | | |
| Alaska Peninsula/ Becharof | 45 | A | -- | C | -- | -- | 75 | 270 | 0 | 0 | 225 | 750 | 0 | 0 | 0 | 0 | 57 | 105 | | |
| Innoko | 2 | -- | -- | -- | -- | -- | 0 | 0 | 2 | ? | 0 | ? | 0 | 0 | 0 | 0 | 10 | 30 | | |
| Izenbek | 8 | A | -- | A | -- | -- | 50 | 15 | 0 | 0 | 25 | 300 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | |
| Kanuti | 0 | -- | -- | -- | -- | -- | 0 | 2 | 0 | 6 | 0 | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 35 | |
| Kenai | 6 | C | -- | -- | C | -- | 2 | 9 | 6 | 88 | 1 | 16 | 4 | 30 | 0 | 0 | 11 | 450 | | |
| Kodiak | 18 | C | -- | -- | -- | C | 63 | 52 | 0 | 0 | 0 | 0 | 0 | 0 | 250 | 4750 | 0 | 0 | | |
| Koyukuk | 1 | -- | -- | -- | -- | -- | 0 | 1 | 1 | 75 | 0 | 25 | 0 | 0 | 0 | 0 | 4 | 270 | | |
| Nowitna | 0 | -- | -- | -- | -- | -- | 0 | 0 | 0 | ? | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 55 | |
| Selavik | 2 | B | -- | -- | -- | -- | 0 | 10 | 2 | 7 | 5 | 1500 | 0 | 0 | 0 | 0 | 5 | 85 | | |
| Tetlin | 2 | -- | -- | -- | -- | -- | 2 | 2 | 0 | 4 | 0 | 2 | 3 | 5 | 0 | 0 | 2 | 12 | | |
| Togiak | 5 | B | -- | B | -- | -- | 8 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | ? | ? | | |
| Yukon Delta | 3 | B | -- | B | -- | -- | 5 | 5 | 0 | 40 | 0 | 25 | 0 | 0 | 0 | 0 | 0 | 100 | | |
| Yukon Flats | 3 | -- | -- | -- | C | -- | 2 | 10 | 4 | 40 | 1 | 150 | 0 | 1 | 0 | 0 | 4 | 240 | | |
| TOTAL | 113 | | | | | | 224 | 394 | 16 | 265 | 293 | 2973 | 97 | 146 | 250 | 4750 | 111 | 1443 | | |
| | | | | | | | 36.2 | | 5.7 | | 8.9 | | 39.9 | | 5.0 | | 7.1 | | | |

A - Potential Impact To Wildlife Resources

B - Potential Impact To Subsistence Users

C - Other Potential Impact (Quality, Limited Access, Unguided Hunters etc.)

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July 19, 1989

TO: All Members, Legislative Task Force on Guiding and Big Game
From: William P. Horn and Steven Pradell, Retained Counsel
File No. 100,700.1
Re: Options to the Owsichek decision.

I. INTRODUCTION

To assist the Task Force in developing recommendations regarding a new area management system for allocating guide access to big game, this memorandum sets forth criteria stated by the Court in Owsichek under which leases and exclusive concessions on State lands can be granted. Additionally, an analysis is made of existing State and Federal statutes and regulations concerning leases and exclusive concessions.

II. THE OWSICHEK DECISION: CRITERIA WHICH COULD BE USED
TO CREATE A PROGRAM OF LEASES OR EXCLUSIVE CONCESSIONS.

In Owsichек v. State, 763 P.2d 488 (Alaska 1988), the Alaska Supreme Court held that AS 08.54.040 (a)(7), and AS.08.54.195, which gave exclusive guide areas and use areas to hunting guides, was unconstitutional under the common use clause of the Alaska Constitution. The common use clause provides:

Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

Alaska Const., art. VIII, §3.

The Court found that the common use clause contained trust principals which guaranteed access to Alaska's fish, wildlife, and water resources, and prohibited against monopolistic grants or special privileges. The Court held that statutes authorizing exclusive guide areas and joint use areas fell within the category of grants prohibited by the common use clause.

However, the Court clearly recognized the constitutionality of leases and exclusive concessions on state lands. The Owsichек opinion outlines the following criteria which could be used to create a program of leases or exclusive concessions which would survive constitutional attack:

1. A lease or concession should not be granted primarily on the basis of seniority. A competitive process should be created to prohibit the favoring of established guides.
2. The grants must be of finite duration.
3. The grant must not be freely transferable without some

form of consent from the State. Grants should not be administered in such a way that guides may transfer them for a profit.

4. A grant of exclusivity must have a nexus to a bonafide wildlife objective. The regulation should make it clear that this is a primary consideration.
5. The State must be paid valuable consideration for providing such a grant.
6. The court recognized the validity of leases and exclusive concessions on State lands.

In light of these criteria, an examination of existing statutes and regulations granting leases and exclusive concessions has been provided to serve as a model for a task force recommendation.

III. SUMMARY OF EXISTING OPTIONS

The Owsichek Court cited specific statutes and regulations authorizing leases and exclusive concessions on State lands. The Court may uphold a statutory scheme which more closely resembles those procedures.¹

The Court recognized statutes and regulations of the Department of Natural Resources which authorize leases and exclusive concessions on state lands of limited duration, subject to competitive bidding procedures and valuable consideration. For example, under AS.38.05.070, land may be leased for a period of up to 55 years if the commissioner determines that is in the best

¹In a letter of February 14, 1989, to Senator Fahrenkamp, Assistant Attorney General Stephen M. White concluded that any statutory land based system that remotely resembles the EGA scheme would be declared unconstitutional without the adoption of a constitutional amendment. While a constitutional amendment would most easily solve the problem, the Owsichek decision does not require that alternative.

interest of the State. The commissioner may void a lease if he determines that the land is not being used for the purpose issued. AS.38.05.075 provides for public auctions of leases to the highest qualified bidder. The commissioner may prequalify bidders and aggrieved persons may appeal to the superior court. The commissioner may grant a lessee an exclusive right to use and access tide and submerged land. See AS.38.05.075(d).

The Court also recognized AS.41.21.027, which authorizes concession contracts in State parks. Before a concession contract may be issued, the commissioner must make numerous findings. For example, he must identify community concerns, assess existing visitor uses, and assess the effect of the contract on park wildlife, water, scenic values or other uses. For certain concession contracts, a commissioner must find that the proposed contract is based on public need, will implement the purpose of the park unit, will enhance public use and enjoyment of the park, and will not create an unacceptable adverse environmental effect. The State must receive a fair portion of the contractor's receipts and public review and comment is required before concession contracts may be granted, renewed or extended.

Fees for competitive and exclusive commercial use permits are authorized by AS.41.21.026. Before setting fees, the Department of Natural Resources must consider at public hearings the State's operating costs, the normal fees charged for similar

facilities, administration costs and the public interest.²

The Owsichek decision also recognized the constitutionality of Alaska's Shore Fisheries Leasing Program. Successful applicants are entitled to lease fishing sites and up to three ~~tracts~~ ^{tracts} of tide land for a renewal period not exceeding ten years. Lessees pay an annual rental to the State based upon the costs of administering the program, and all leases are subject to cancellation upon the lessee's failure to regularly fish the leased tract.³

Federal statutes regulate the granting of leases and concession contracts in National Parks. Although these regulations probably would not survive a constitutional challenge under Alaska's common use clause, the task force may incorporate some of these provisions in its recommendations. The National Park Service may grant privileges, leases and permits for the use of land under 16 USC §3. See also 16 USC §20 et seq. Grants are based on resource concerns, which include the appropriate number of grants to meet visitors' needs. Competitive bidding is not required, and assignments or transfers of grants require written approval of the Secretary of the Interior. Permits are granted to hunting guides

²The Owsichek decision also referred to the provisions of 11 A.A.C Chapter 14, which establishes procedures for awarding concession contracts. Chapter 14, Repealed July 1, 1989, has been superseded by AS.41.21.026, AS.41.21.127, and AS.36.

³See 11 A.A.C. 64.080-.391, C.W.C. Fisheries, Inc. v. Bunker, 755 P.2d 1115, 1120 (Alaska 1988). See also letter of Assistant Attorney General, supra, fn 1 at p.4 [Opinion that concession based on Shore Fisheries Lease Program would be found unconstitutional].

under two circumstances. First, if there are a limited number of guide positions available, a competitive offering is made based upon the qualifications of the applicants. Concessionaires may be granted a preferential right to provide new or additional accommodations under 16 USC §20c. To promote continuity in operation of facilities and services, preference may be given to concessionaires who have satisfactorily performed to renew contracts or permits. 16 USC §20d. Although concessions may be granted for periods up to 30 years under 16 USC §3, generally concessions are granted for periods of up to 10 years.

Concessionaires have a possessory interest in their structures, which does not end at the expiration of their term. That interest may be assigned and transferred under 16 USC §20e. Franchise fees are determined upon consideration of the probable value to the concessioner of the privileges granted. Protecting the park and providing adequate visitor services at reasonable rates are the primary concerns of the franchise fee agreement, over and above the consideration of revenue to the United States. Concessions exist in approximately 45 states.

In compliance with the National Park Service's Concessions Act, limited entry programs have been established which regulate the number of commercial guides at Mt. McKinley, the number of cruise ships at Glacier Bay, and the number of jetboats at American Creek. In 1986, the American Creek Sportsfishing Guide Service and Jetboat Permit System was adopted in response to excessive numbers of jetboats on the river. Seven permits are

issued for two year periods and give owners the right to store jetboats on the creek. Guides must attend a park service course. The National Park Service, in compliance with ANILCA, must consider the existence of historical operators and allow them to continue. Information regarding concessions in Alaska's National Parks may be found in publication NPS 48. After Owsichek, special permits have been granted to guides hunting in national parks in Alaska. Under an Interim Emergency Act, these permits expire after two years and are not renewable or transferable. The Park Service would like to interface with Alaska law and create a cooperative agreement for regulating guides, but will issue its own permits if a suitable game management plan is not adopted by the state.

The second method of providing permits to hunting guides is through a commercial use license.⁴ Licenses are generally granted if the Secretary of the Interior does not wish to limit the number of guides in a certain area, and are issued to guides who use the park only as a resource.

IV. CONCLUSION

The Owsichek opinion suggests that a resource-based management system for allocating access to big game hunting opportunities among guide outfitters may be developed through the use of leases and exclusive concessions. By incorporating criteria outlined in Owsichek and applicable provisions found in existing statutes and regulations, the task force may propose a system which

⁴See 16 USC §3.

would survive constitutional challenge.

**MANAGING ALASKA'S
COMMERCIAL USERS OF BIG GAME**

A Report on a Proposed New Management System

A Final Report to
the 16th Legislature

Legislative Task Force on
Guiding and Game

January 1990

PREFACE

In the Letters of Intent from the Alaska House, dated April 6, 1989 and the Senate dated April 25, 1989, the Task Force was directed to forge a new resource-based management system for allocating big game hunting opportunities among guide-outfitters.

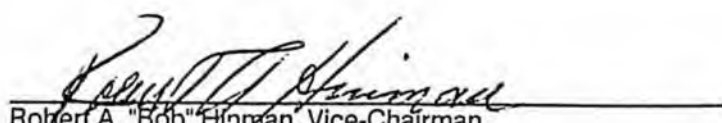
The Legislature stressed that conservation and management of big game resources is the foremost purpose of the management system. The system must provide broad access to game resources as guaranteed under the common use clause of Alaska's state constitution. This system, developed with input from public and private landowners, must be applicable throughout the state to help ensure a more standardized system of managing commercial use of wildlife. The state must receive compensation for commercial use. The new system must also ensure a viable industry, clearly basing any free market restrictions on wildlife management concerns.

The Task Force has addressed the constitutional questions raised by the Alaska Supreme Court decision in the Owsichuk case of October 21, 1988 which declared the former guide management system unconstitutional. That decision has been closely examined so that the proposed new system will be consistent with constitutional provisions.

The 15 member task force believes that the proposed system meets the legislative directives, and therefore we fully support the draft legislation included with this report. We urge the Legislature to swiftly implement the draft legislation to bring much-needed stability to the industry and enable greater cooperation among the state, federal and private landowners in Alaska.



Janice O. Faiks, Chairman



Robert A. "Bob" Finman, Vice-Chairman

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BACKGROUND

The Legislative Task Force on Guiding and Game was formed in May 1988 to find a legislative solution to a growing conflict between licensed big game guides and unlicensed "outfitters". The panel recommended sweeping changes incorporated in House Bill 112 which was signed into law in May 1989. During the time that the Task Force was working on these issues, the Alaska Supreme Court released its decision in the Owsichek case (October 22, 1988) and declared the exclusive guide area system unconstitutional. Legislation was subsequently passed to extend the life of the Task Force to January 15, 1990 so that a new management system for big game guide-outfitters could be formulated.

What the Owsichek Decision Meant

The Alaska Supreme Court in Owsichek reviewed the background of the common use clause in Alaska's constitution, and the state's obligation and options to manage the use of wildlife resources. The Court stated:

"Thus, common law principles incorporated in the common use clause impose upon the state a trust duty to manage the fish, wildlife and water resources of the state for the benefit of all the people. ... We observe initially that, in guaranteeing people 'common use' of fish, wildlife and water resources, the framers of the constitution clearly did not intend to prohibit all regulation of the use of these resources. Licensing requirements, bag limits, and seasonal restrictions, for example, are time-honored methods of conserving the resources that were respected by delegates to the constitutional convention. Questions presented by this case concern the type and extent of permissible regulation consistent with common use."

In examining the former guide system, including the Exclusive Guide Areas or EGAs, the Court concluded that it was seriously flawed because it was not based upon wildlife resource concerns:

"Although the Board justified the program to the legislature as a means of improving wildlife management...it is apparent that area assignments are not based primarily on wildlife management concerns. Rather, ...the Board bases its decisions on use, occupancy and investment. ... Thus, the EGA program cannot be justified as a wildlife management tool like other restrictions on common use, such as hunting seasons and bag limits."

The Court clearly stated that there are other types of programs that legitimately authorize and thereby limit access to state resources:

"Nothing in this opinion is intended to suggest that leases and exclusive concessions on state lands are unconstitutional. The statutes and regulations of the Department of Natural Resources authorize leases and concession contracts of limited duration, subject to competitive bidding procedures and valuable consideration."

However, the Court did not consider that the former guide system met these requirements and they went on to say that:

"...EGAs are not subject to competitive bidding, provide no remuneration to the state, are of unlimited duration, and are not subject to any other contractual terms or restrictions. Rather, as discussed above, they are granted essentially on the basis of seniority, with no rental or usage fee, for an unlimited duration, and are administered in such a way that guides may transfer them for a profit as if they owned them. In these respects the EGAs

resemble the types of royal grants the common use clause expressly intended to prohibit. Leases and concession contracts do not share these characteristics."

What the Legislature has Directed the Task Force to Accomplish

In its directive to the Task Force, the Legislature stressed that conservation of Alaska's wildlife resources must be the foremost purpose of the new management system. The system must provide broad access as guaranteed by the common use clause of the Alaska constitution. It should have statewide applicability to allow for a more standardized system among state, federal, and private landowners. These directives also were discussed in the Task Force report "Alaska's Big Game: A Report on the Commercial Aspects of its Uses and Users", January 1989.

The Task Force has made every effort to ensure that its recommendations address the State Supreme Court decision in the Owsichek case. The following elements specifically address the court's findings:

1. Commercial opportunities to use wildlife resources will be based upon wildlife management objectives.
2. The authorization process treats all applicants fairly and does not automatically favor applicants on the basis of seniority in industry. ←
3. The authorization for commercial use is of finite duration.
4. The state receives compensation for use authorizations.
5. The transfer (assignment) of use areas is without financial profit to individual guide-outfitters and is subject to review and approval by the regulatory board.

TASK FORCE ACTIVITY SUMMARY

The Task Force on Guiding and Game was extended from January 1989 to January 15, 1990 by SB 139, which also expanded the group from 13 to 15 members. Most meetings and work sessions were chaired at the Legislative Information Office, 3111 "C" Street, and teleconferenced to other locations. The August 16th work session was held at the Anchorage offices of Birch, Horton, Bittner and Cherot, and the January 22nd meeting was chaired from Juneau.

June 29, 1989 - Organizational meeting; chairman elected
July 19, 1989 - Work session
August 16, 1989 - Work session
October 5-6, 1989 - Regular meeting with public comment
November 8, 1989 - Regular meeting with public comment
November 20, 1989 - Regular meeting with public comment
December 11-12, 1989 - Regular meeting with public comment
January 4-5, 1990 - Work session with public comment
January 22, 1990 - Final meeting to approve final report
and draft legislation

The meetings were open to the public and allowed access through the communications network of the Legislative Information Office plus toll free numbers for persons in remote locations. Public hearings were well attended and were scheduled at regular meetings and one work session.

Because of the limited time frame for the Task Force to complete its work, it retained a law firm to assist in developing its recommendations. The firm of Birch, Horton, Bittner, and Cherot was selected for its expertise in several pertinent areas, including recreational services franchising and licensing programs. Their staff included individuals experienced in fish and wildlife use allocation programs, Alaska fish and wildlife laws, and state administrative statutes (see also "Birch Horton Contract" in Appendices, Vol. II). These consultants provided information on the array of viable constitutional options for a big game guide-outfitting industry management system.

The Task Force also examined management systems for guide-outfitting that are used in other western states and Canadian provinces (see also ADF&G report in Appendices, Vol. I).

The Task Force acknowledges the many individuals and organizations providing testimony and other assistance during the meetings. We particularly want to extend our appreciation to Stephen White of the Alaska Department of Law; Heinrich Springer, Chairman of the Alaska Board of Game; SuzAnne Miller and Marianne See of the Alaska Department of Fish and Game; and Mark Riehle of Senator Faiks' staff.

We also appreciate the input of the federal and state land management agencies including the Alaska Department of Natural Resources, U.S. Fish and Wildlife Service, National Park Service, U.S. Forest Service, and the Bureau of Land Management. In addition, federal land management staff in Washington D.C. met with Chairman Faiks on November 1, 1989 to hear a progress report and to offer their support and cooperation toward a new state management system for big game guide-outfitting.

SUMMARY OF PUBLIC HEARINGS

The Task Force welcomed public testimony, and provided opportunities at regular meetings to receive written and verbal comments. Over the course of the meetings, approximately 100 people testified, with over 500 additional people present as observers. Verbal testimony was recorded, although it was not possible to transcribe all the recordings due to limited staff time. Written testimony, letters, and transcriptions of some verbal testimony are included in the Appendices.

The public expressed considerable interest in Task Force proceedings, and was well aware of the inherently conflicting interests that the Task Force was addressing. For example, the Chairman of the Board of Game testified that big game management concerns would be best served by terms for guide-outfitter use area permits that would be as long as 20 or 30 years. He substantiated this point with historical data from other states and countries. However, he acknowledged that too long a term for permits could be inconsistent with the state's constitutional mandate for a high degree of access to wildlife resources (Appendices, Vol. I).

Other competing interests were brought out in public testimony. Some guide-outfitters who did not have restricted guide areas under the former system have testified in favor of a selection process that does not favor prior area holders. However, several of those who had former areas supported a selection preference favoring former area holders. They wanted to increase the chance of re-acquiring those areas in which they had a substantial financial investment, and thus continue their business operations. Two of the federal land management agencies indicated a strong preference for sole use authorizations, while two others favored a system that allows joint use of permit areas.

Resident hunters testified that during this interim period between systems, the number of guide-outfitters increased in some areas and interfered with the quality of their hunting experiences. Testimony also indicated that the large and growing number of transporters are contributing to concentrations of hunters in some areas, thereby affecting wildlife availability as well as other commercial opportunities.

Many of those offering public testimony expressed their concerns that the new guide-outfitter management system provide opportunities for commercially viable operations, while at the same time protecting and conserving the wildlife resource that supports this industry. The industry would not remain internationally competitive without trophy animals. Those individuals hoping to be involved with this industry testified that they feared that a new system might include considerable administrative work, high fees, incompatibility with federal programs, short permit terms, or automatic lotteries for all applicants seeking use areas permits. Most individuals who testified favored a minimum of additional bureaucratic requirements and fees for guide-outfitters.

Private landowners and federal land managers offered their concerns that their management objectives and procedures be respected by provisions of the new system for designating guide-outfitter resource areas, and for subsequently allocating these areas. Separate meetings were held with some of these groups to help identify and address their concerns (see Appendices, Vol. II).

The Task Force considered all ideas proposed during public testimony, and incorporated some of them into the design of the proposed management system. However, there were no comprehensive solutions presented in public testimony which the Task Force felt could be adopted that would meet the objectives identified in Owsichek.

FINDINGS

The Task Force finds that:

- * the big game guide-outfitting industry should be promptly regulated in a manner that conserves the wildlife resource, is consistent with the constitutional common use clause, and provides economic viability to the industry;
- * an area-based system for guide-outfitting is necessary for managing commercial use opportunities to prevent damage to some big game resources from overharvest of populations or species that have a low recovery capacity or that exist in low abundance;
- * there are competing and conflicting interests that must be considered in developing a new administrative management system, and that any proposal therefore will represent a compromise among those interests;
- * if to protect big game populations from unregulated access by guide-outfitting, the state has to resort to management tools like shorter seasons, lower bag limits, or more permits, the result will be further restriction in hunting opportunities for resident and nonresident hunters.
- * guide-outfitting and related commercial uses of the big game resource can contribute significantly to the state's economy by increasing tourism and supporting a variety of related businesses, particularly in the rural regions of the state;
- * uncertainty about how and when a new system might operate is causing the guide-outfitting industry to lose clients to other international competitors, thus losing revenues that would otherwise come into the state;
- * federal land managers, while willing to cooperate to consolidate interagency administrative requirements, are developing plans to manage guide-outfitting on public lands if the state fails to promptly adopt a new system;
- * fees associated with commercially using wildlife resources need to be proportional to the use of the resource, yet be simple to calculate and not an additional burden to the increasing costs associated with guide-outfitting;
- * the recent decision by the Alaska Supreme Court regarding the state's subsistence law (in McDowell et al, December 22, 1989) does not affect the proposed legislation submitted with this report.

RECOMMENDATIONS

Certain basic findings and features of the management system developed as the draft legislation evolved, which the Task Force recommends to the Legislature as follows:

1. Guide-Outfitter Use Areas. To provide a resource-based management system that will benefit wildlife resources and promote a stable and successful guide-outfitting industry, guide-outfitter use areas must be established.

The areas should be based primarily on wildlife management considerations; that is, reflect the diversity of species, population levels of wildlife, and the demands on the resource by other users. They must be large enough to provide a reasonable opportunity for a viable guide-outfitting enterprise.

The Alaska Department of Fish and Game (ADF&G) will have responsibility for recommending boundaries of the use areas to the Big Game Commercial Services Board (Board). The Board shall adopt these areas as recommended, unless ADF&G approves proposed amendments (see also Appendix for description of ADF&G mapping project).
2. Schedule of Offerings of Use Areas. To provide an orderly entry by guide-outfitters into the new system, the Board should stagger the offerings of use areas to qualified guide-outfitters. In the first five years of the program, all areas of the state should be offered.
3. Pre-application Filing Period. Prior to the first offering of use areas, the Board should establish a pre-application filing period by game management units or subunits. Such a procedure will expedite the initial offering of areas and allow the Board and ADF&G to concentrate initial efforts in areas most in demand and where wildlife and conservation concerns are greatest.
4. Application Procedures. Application procedures must be established that are fair to all applicants and provide sufficient information to allow the Board to determine the most qualified applicant for each area. Applications will include appropriate forms, application fee, and proposed operational plans that will include locations of base camps, the number of clients, and the big game species to be hunted.
5. Evaluation of Applications and Permit Issuance. The Board must adopt procedures which provide equal opportunity to all qualified applicants. Evaluation of the applicants' qualifications must be objective and use specific criteria which include: experience in the area; operations plan; economic feasibility; safety record; record of compliance with fish and game laws and with trespass statutes; landowner permission; and necessary licenses and permits. The Board shall issue guide-outfitter use area permits to the most qualified applicant(s).
6. Conditional Permits. To provide time for a successful applicant to obtain all the necessary licenses, permit, or landowner's permission, the Board shall issue a conditional use area permit that is valid for 120 days. This conditional permit does not allow guide-outfitting, and expires if the applicant does not obtain the necessary authorizations within 120 days. If the permit expires, the Board offers the use area permit to the next best qualified applicant for that area.
7. Unawarded Areas. Use areas that are available but not awarded will be open to use by guide-outfitters who are certified to guide-outfit hunts in the game management unit and

who obtain a registration permit for the area. This permit would be valid for one regulatory year.

8. Terms of Use Permits. Guide-outfitter use area permits shall be of limited duration, and provide to the permittee the privilege to guide-outfit hunts for big game. The term of each permit may be established by the Board, to a maximum of 10 years, unless the Board determines after consultation with ADF&G that a longer term would better promote wildlife management and conservation in that area. In no case will the permit term exceed 15 years. Use permits may be limited in the number of clients and the species to be hunted. The Board must consider ADF&G's recommendations regarding sole or joint use for each area.
9. Assignment of Use Areas. Within its issued term, a use area permit may be assigned (transferred) by the Board if the assignment is for good cause, as defined by the Board. A permit may not be assigned if the permittee's license or the use area permit is under review for suspension or revocation, or if the permit or license has been suspended.

Because no property right accrues to the permittee with the issuance of an area use permit, such permits may not be sold. Any sale of improvements or facilities should be based on replacement value, and subject to review and approval of the Board.

10. Revocation of Permits. The Board may suspend or revoke use area permits after a hearing for specific causes that include: violation of permit terms, nonuse, unauthorized deviation from operations plan (either underuse or overuse), and fraud. The board may suspend or revoke a use area permit for violation of disciplinary sanction, and will automatically suspend a permit if the wildlife conservation fee is not paid when due or if the permittee's guide-outfitter license is revoked. Permits may also be revoked, terms of the permit changed, or the operations plan amended for wildlife conservation and management considerations.
11. Wildlife Conservation Fee. The Alaska Department of Commerce and Economic Development will charge a wildlife conservation fee that ensures a fair return to the people of the state for the commercial use of the big game resources. Each guide-outfitter and transporter who holds a use area permit, registration permit, or transporter license will pay this fee annually. The fee will equal \$25.00 for each big game animal taken by a client or customer, except that Sitka black-tailed deer will be \$5.00 per animal. The wildlife conservation fee is charged to transporters as well as guide-outfitters, because both groups are commercially using the wildlife resource. The Task Force considers that such costs should be borne by all providers of commercial hunting services.

The wildlife conservation fee will be charged to commercial service providers for both resident and nonresident hunters. Nonresident hunters already pay 75% of the total license and tag fees collected by the state while taking less than 10% of the big game animals harvested. Applying the conservation fee to commercial users only when nonresident clients are involved would be inconsistent with the concept of commercial users compensating the state for the monetary benefits they receive from public wildlife resources.

The commissioner of the Alaska Department of Administration shall separately account for wildlife conservation fees deposited into the General Fund. The annual estimated balance in the account may be used by the Legislature to make appropriations to ADF&G and the Alaska Department of Public Safety to carry out their respective responsibilities for management of game resources and enforcement of game laws.

12. Transporters Advertising Hunting Services. Transporters advertising big game hunting services will be required to have a commercial use permit in addition to a transporter's license, regardless of whether such services are considered incidental to their business.
13. Public Information. The Board shall maintain a centralized information center for information about big game commercial services and guide-outfitter use areas.

ANALYSIS OF PROPOSED LEGISLATION

This section explains how the proposed legislation addresses the main constitutional issues, as stated in the Owsichuk case, regarding a new management system for big game guide-outfitting. Specific sections of the draft are cited and explained under each issue.

A. The proposed management system for guide-outfitting must provide for the conservation of big game wildlife resources.

Rationale:

Specific language is included in several sections to make clear that the primary basis of the proposed guide-outfitter management system is wildlife conservation and management. Moreover, the proposed system is state-driven rather than industry-driven as in the past. For example, areas were formerly proposed by guides to meet their economic needs, whereas new areas will be proposed by ADF&G based primarily upon wildlife management concerns. Former exclusive guide areas were based upon excluding economic competition, in comparison to the proposed system of joint use areas, with sole use areas if based upon wildlife conservation needs.

The time-honored methods of managing and conserving wildlife, such as licensing requirements, bag limits, and seasonal restrictions (Owsichuk p. 10) affect all users. However, these methods are not sufficiently flexible to effectively manage commercial users of wildlife. The proposed land-based system does not restrict other users of the state's wildlife resource, and therefore offers the state additional measures to address wildlife management concerns.

Authorization for guide-outfitters to operate only in specific areas, and then only in compliance with approved operations plans, will help ensure that wildlife is not locally overharvested by commercial users.

Applicable Sections of Proposed Legislation

1. Findings and Purpose: subsections (a) (1) (A), (4-6); (b) (1-2), (c).
The allocation of access to big game hunting opportunities among guide-outfitters will help prevent overharvest of wildlife in those areas, and will allow continued open access to the big game resource by all users. This proposed system does not affect subsistence and resident sport hunters.
2. Article 5. Guide-Outfitter Use Areas. Sec. 08.54.610 (a); (b) (1); Sec. 08.54.620 (c)(1-2).
The ADF&G will propose boundaries that are based upon wildlife conservation and management considerations. The Board will designate sole or joint use for an area based upon wildlife resource information as well as other factors.

3. Sec. 08.54.660. Term and Suspension or Revocation of Guide-Outfitter Use Area Permit; Operations Plan (a); (h).

The usual term of a use permit can be extended to a maximum of 15 years if ADF&G substantiates that a longer term will further promote the wildlife conservation and management objectives of the use areas. The Board may modify or revoke a permit, or change the operations plan for wildlife conservation or management considerations.

4. Section 8. Identification of Proposed Guided-Outfitter Use Areas (a); (d) (1).
ADF&G will use wildlife management concerns as the basis for delineating the proposed use areas, and will evaluate public input and review comments in light of these considerations.

B. The system must provide for equal opportunity to all qualified guide-outfitters when access to commercial hunting privileges are allocated. Applicants should not be favored on the basis of seniority in the industry.

Rationale: The draft legislation specifies certain criteria that the Board must use to evaluate the qualifications of guide-outfitters applying for use area permits. These criteria have been developed to ensure that applicants will have an equal opportunity to obtain a permit, without a bias for seniority. In cases where an applicant does not have all the necessary authorizations or licenses, a conditional use area permit provides 120 days to obtain them.

In addition, areas will be offered on a staggered schedule with all being available in the first five years of the new program. Areas will continually become available, thus ensuring that new opportunities continue into the future.

Applicable Sections of Proposed Legislation

1. Section 1. Findings and Purpose (b) (1).
The allocation system will be fully consistent with common use principles of the state constitution.
2. Sec. 08.54.650. Procedures for Granting Guide-Outfitter Use Area Permits (a-e).
The Board is directed to adopt procedures for evaluating permit applications, by balancing specified criteria to provide equal opportunity for all applicants. The Board shall grant permits only to those guide-outfitters who are qualified under the criteria in this section. If an applicant does not have all the necessary licenses or authorizations when applying, a conditional use area permit is issued for 120 days to provide time to obtain them.
3. Sec. 08.54.660. Guide-Outfitter Use Area Permit (c)
A use area that is open for use but is not awarded is available under a registration permit system to any guide-outfitter certified in that game management unit.
4. Sec. 10
All guide-outfitter use areas shall be offered by the Board within the first five years that area permits are available.

C. The authorization to use the resource must be limited in duration. It should be comparable to existing state resource use authorizations that require contractual terms or restrictions, and not grant exclusive privileges to resource use.

Rationale: The draft legislation specifies that the duration of use area permits is limited, and specifies contractual terms and restrictions on the amount of commercial use. The proposed permit term of 10 years is relatively short in relation to the life expectancy of many big game species. For example, brown bears may take 12-20 years to mature to trophy quality, while sheep may take 9-11 years and moose 8-12 years respectively. If the duration of the permit were solely based on wildlife management concerns, it could be readily argued that a longer term would provide a permittee with more incentive to practice responsible wildlife conservation and harvest practices (see also testimony of the Chairman, Board of Game, in Appendices). However, a shorter period promotes more turnover of permits and broader public access to commercial wildlife harvest opportunities, as is required by the common use clause of the state constitution.

For each use area or registration permit, the Board may specify the species to be taken and may limit the number of clients who may be guide-outfitted each year in each area. These provisions provide the Board with flexibility to ensure that guide-outfitting will not adversely affect the resource in any area.

Use area permits are based on joint use that is managed by the Board through the contractual terms of operations plans. These plans are submitted and kept current by the guide-outfitters. Amendments must be approved by the Board, whether they propose increased or decreased commercial use. Where wildlife management concerns justify sole use of a specific area, the Board may authorize a single permit rather than joint use.

Applicable Sections of Proposed Legislation

1. Sec. 1. (6)
Wildlife conservation is promoted by fostering a long term interest in the wildlife resource, its management, and human uses.
2. Sec. 08.54.630 Guide-Outfitter Use Area Permit; Registration Permit (a-d)
The use area permit or registration permit specifies the big game species to be hunted, and may limit the number of clients that may be guide-outfitted. Guide-outfitters must have the appropriate use area permit or registration permit if they wish to guide-outfit for a big game hunt in a specific use area.
3. Sec. 08.54.660 Term and Suspension or Revocation of Guide-Outfitter Use Area Permit; Operations Plan (a-b) (d) (h-i)
The basic term of a use permit would not exceed 10 years, except in cases where the board has consulted with ADF&G and determined that a term up to 15 years would further the wildlife conservation and management objectives for the area. The use area permit may be suspended or revoked for failure to comply with the terms of the operations plan, fee requirements, or other administrative provisions. An operations plan is required, and must be amended and subsequently approved by the Board if the guide-outfitter intends to change his/her operation.

D. The state of Alaska must receive compensation for commercial harvest of big game resources.

Rationale: Of the several different fee systems evaluated by the Task Force, the draft legislation proposes a wildlife conservation fee as the most equitable option. This would be based on a nominal cost per animal harvested by clients or customers of commercial operators. Therefore the total cost would be proportional to the scale of each commercial operation, but would not require additional bookkeeping. Big game guide-outfitters and transporters would be required to pay these annual fees.

Transporters who advertise hunting services would be required to obtain a transporter's license and commercial use permit, and pay the associated permit fee. The fee would help provide compensation to the state for commercial use of big game.

Applicable Sections of Proposed Legislation

1. Sec. 6 that amends Sec. 08.54.480 Wildlife Conservation Fee (a-d)
An annual wildlife conservation fee will be paid by guide-outfitters and transporters. It is the sum of \$25 for each big game animal taken, except that the fee for Sitka black-tailed deer is \$5 each. The funds collected under this program would be separately accounted so that legislative appropriations could be made to ADF&G, and the Department of Public Safety for their respective wildlife management and law enforcement programs.

2. Sec. 7 that amends AS.54.590 (13)
The definition of "transportation services" includes any air taxi operators or air carriers advertising big game hunting services to the public, thereby requiring them to obtain a transporter's license and pay a commercial use permit fee under existing provisions of HB 112.

E. The use authorization must not be transferable for a profit to individual guide-outfitters. Any transfer must be subject to review and approval by the board.

Rationale: The proposed legislation includes a provision for the Board to reassign a use area permit within its original term of years, under specific conditions. This would not change the fact that the permit would still terminate on the original expiration date, at which time any guide-outfitter could apply for it. Any associated improvements could be sold only for replacement value, so that no "property value" is associated with the use area permit. In other words, if no cabin, lodge, or other real property existed in the use area, then no costs would be associated with an assignment of the permit.

Applicable Section of Proposed Legislation

1. Sec. 08.54.670 Assignment of Guide-Outfitter Use Area Permits. (a-e)
A use area permit may be assigned only within the original period of issue if the assignment would be consistent with the objectives of this system, and approved by the Board. No permit could be assigned if any proceedings were pending against the permittee to suspend or revoke the license or use area permit, or if either were suspended. If properties in the permit area are sold for more than replacement value, the permit assignment is cancelled.

COMPARISON OF PROPOSED SYSTEM WITH FORMER SYSTEM

The Task Force wants to emphasize that the proposed new system is differs significantly from the former administrative system of managing big game guide-outfitting. The proposed system specifically differs from the former system in that it:

- * has as a basis wildlife conservation and management concerns, rather than being based upon economic factors such as use, occupancy and investment;
- * offers a permit-based system for allocating opportunity to commercially use big game resources, and thus provides additional and necessary techniques for wildlife conservation and management;
- * provides specific criteria and directives to the board to provide equal opportunity to applicants for use areas, and to ensure that seniority in the industry is not used as the determining factor to select permittees and thereby exclude new entrants to the industry;
- * provides annual compensation (wildlife conservation fees) to the people of the state, based upon actual use of the resource;
- * precludes any "property value" accruing to the permittee for the use of a public resource held in common use;
- * is based upon joint use rather than exclusive use. All use is managed through contractual terms as specified in an operations plan, approved by the Board, and subject to their modification if necessary for wildlife management and conservation. The former system was not subject to any contractual terms or restrictions. The board may determine, based upon wildlife management concerns, that an area should be authorized for sole use;
- * is not based on long-term or permanent duration, but is based on a system that provides for short-term authorizations, shorter in term than if based solely upon wildlife management considerations;
- * all available areas will be offered in the first five years and again become available on a staggered basis thus providing continuing access to these commercial use opportunities.

ADDITIONAL RECOMMENDATIONS

The Task Force also recommends unanimously that:

1. The legislature maintain adequate funding for the Department of Fish and Game's Division of Wildlife Conservation, and the Department of Public Safety's Division of Fish and Wildlife Protection. The success of the proposed management system for guide-outfitting depends heavily upon the ability of these state agencies to gather biological data, monitor wildlife use, and enforce laws and regulations.
2. Increased fiscal support for the Board be approved and provided through the Department of Commerce and Economic Development, Division of Occupational Licensing. The Board's workload will be extremely heavy especially during the first five years of the new program, if the system is to be implemented successfully.
3. Letters should be solicited from the federal land management agencies indicating their support for the provisions of the draft legislation proposing an area-based management system for big game guide-outfitting, and expressing their intention to cooperate with the state in implementing this system.

While the following recommendations are not unanimously endorsed, it is the consensus of the Task Force that they merit future consideration by the legislature or another task force.

1. Immediate attention should be given to further managing transporters who provide unguided hunting services. We are aware that the state must not interfere unnecessarily with air or water commerce; on the other hand, transporters can directly contribute to overharvest in some areas and then readily shift into other areas. Those who provide commercial services for hunting must participate with the big-game guide-outfitting industry in reimbursing the state for commercial use of the public wildlife resource.

Regulatory action by the new Big Game Commercial Services Board will be necessary, and enabling legislation may be required by the legislature. The legislature may wish to consider establishing another task force to further explore this problem and recommend solutions.

2. The Board should consider increasing the commercial use permit fee from that temporarily established in 1989. While we wish to leave to the Board the final decision on what the charge should be, we believe the present fee of \$100 does not sufficiently reimburse the state for the commercial use of the public wildlife resource.

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to guide-outfitter use area permits,
7 the Big Game Commercial Services Board, and guide-
8 outfitters, transporters, and providers of other big
9 game commercial services."

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

11 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

12 (1) unregulated access to game management units by guide-out-
13 fitters

14 (A) can potentially harm the state's valuable big game
15 resources by allowing overharvest of big game species or populations
16 that have a low recovery capacity or that exist in low abundance; and

17 (B) has hindered management of hunters guide-outfitted by
18 guide-outfitters, led to conflicts among guide-outfitters, and de-
19 creased the quality of the hunting experience for clients of guide-
20 outfitters and other hunters;

21 (2) an economically viable guide-outfitter industry can offer a
22 quality hunting experience to hunters from throughout the world who seek a
23 unique opportunity to pursue and take trophy big game animals in the state
24 and can contribute significantly to the state's economy by increasing
25 tourism and supporting a variety of businesses associated with the guide-
26 outfitter industry;

27 (3) the guide-outfitter industry provides an opportunity for
28 enhancing the state's economy, particularly the underdeveloped economies of
29 the rural regions of the state;

1 (4) intense competition exists for big game in many parts of the
2 state and the allocation of access to big game hunting opportunities among
3 guide-outfitters will prevent overharvest of big game in those areas and
4 will provide continued open access to the big game resource by all users;

5 (5) a resource-based management system for allocating access to
6 big game hunting opportunities among guide-outfitters will alleviate con-
7 flicts among guide-outfitters, will provide an effective basis for regulat-
8 ing guide-outfitters, and will enhance conservation and management of big
9 game;

10 (6) a long-term interest in the conservation of wildlife encour-
11 ages sound management practices among users of wildlife and fosters a
12 mutually beneficial relationship between wildlife and the users of wildlife
13 because the user understands that the user's own future well-being is
14 dependent upon wise use of the resource in the present.

15 (b) The purpose of this Act is to

16 (1) establish a resource-based system of allocating access to
17 big game hunting opportunities among guide-outfitters that is fully con-
18 sistent with common use principles of the Constitution of the State of
19 Alaska; and

20 (2) support the conservation and management of the state's
21 wildlife, provide economic and noneconomic benefits to the state and to the
22 citizens of the state, and generate revenue for the state from the wise use
23 of wildlife for commercial purposes.

24 (c) This Act does not affect the existing rights and privileges of
25 subsistence and resident sport hunters to take game in the state.

26 * Sec. 2. AS 08.54 is amended by adding new sections to read:

27 ARTICLE 5. GUIDE-OUTFITTER USE AREAS.

28 Sec. 08.54.610. GUIDE-OUTFITTER USE AREAS. (a) The board shall
29 establish guide-outfitter use areas throughout the state. The board

1 shall consider the recommendations of the Department of Fish and Game
2 in identifying the boundaries of the use areas. The board shall adopt
3 the recommendations of the Department of Fish and Game for each use
4 area unless the board obtains a finding from the Department of Fish
5 and Game that an amended use area boundary as proposed by the board
6 will not adversely affect wildlife conservation and management.

7 (b) The board may amend the boundaries of use areas adopted
8 under (a) of this section if

9 (1) the Department of Fish and Game finds that the proposed
10 amendment will not adversely affect wildlife conservation and manage-
11 ment; and

12 (2) the board notifies all guide-outfitters who hold use
13 area permits for the affected use areas of the proposed amendment and
14 provides those guide-outfitters with an opportunity to comment on the
15 proposed amendment.

16 Sec. 08.54.620. OFFERINGS OF GUIDE-OUTFITTER USE AREAS
17 The board shall annually offer available use areas to qualified
18 outfitters. The board shall stagger the offering of use areas.

19 (b) The board may request recommendations from the public for
20 use areas to be offered at the next offering of use areas.

21 (c) The board shall decide whether a use area will be offered
22 for sole or joint use before offering the use area. In making its
23 decision, the board shall consider for each use area

24 (1) information provided by the Department of Fish and Game
25 on the status of big game populations, historical harvests of big
26 game, and uses of wildlife in the use area;

27 (2) information gathered from previous use by guide-outfit-
28 ters that would facilitate big game management and planning;

29 (3) requirements for economically viable guide-outfitter

1 operations;

2 (4) the number of economically viable guide-outfitter
3 operations that the use area could support;

4 (5) the effect of guide-outfitting activities on resident
5 hunters; and

6 (6) other relevant factors, including land ownership
7 concerns, land management concerns, and law enforcement concerns.

8 (d) Use areas for which use area permits have expired or been
9 relinquished by the permittee or revoked by the board may be offered
10 at the next offering of use areas.

11 (e) The notice of the offering of use areas must include for
12 each use area

13 (1) the location and a brief description of the use area;

14 (2) whether the use area is available for sole or joint
15 use.

16 Sec. 08.54.630. GUIDE-OUTFITTER USE AREA PERMIT; REGISTRATION
17 PERMIT. (a) A guide-outfitter use area permit or registration permit
18 authorizes a guide-outfitter to guide-outfit hunts in the use area for
19 those big game species specified by the permit and may limit the
20 number of clients that may be guide-outfitted in the use area each
21 year.

22 (b) A sole use area permit grants to the permittee the sole
23 privilege to guide-outfit hunts for all big game species that occur
24 within the use area. A joint use area permit grants to the permittee
25 the privilege to guide-outfit hunts in the use area for the big game
26 species specified in the permit; however, all joint use area permits
27 for a use area, when considered together, must grant privileges to
28 guide-outfit hunts for all big game species that occur within the use
29 area.

1 (c) A use area that is not awarded to a guide-outfitter under
2 AS 08.54.650 is open to use by guide-outfitters who are certified to
3 guide-outfit hunts in the game management unit in which the use area
4 is located and who obtain a registration permit for the use area. The
5 board may establish the number of registration permits that will be
6 issued for each use area. Registration permits are valid for the
7 calendar year in which they are issued. A registration permit must
8 specify the big game species for which hunts may be guide-outfitted
9 under the authority of the permit.

10 (d) A guide-outfitter may not guide-outfit a hunt for a big game
11 species in a use area, unless the guide-outfitter has a use area
12 permit or registration permit that entitles the guide-outfitter to
13 guide-outfit hunts for that species in that use area.

14 (e) A guide-outfitter shall physically participate in field
15 operations while guide-outfitted hunts are conducted under the author-
16 ity of a use area permit or registration permit held by the guide-
17 outfitter.

18 Sec. 08.54.640. APPLICATION FOR A GUIDE-OUTFITTER USE AREA
19 PERMIT. (a) A guide-outfitter who is licensed under AS 08.54.350 and
20 is certified by the board to guide-outfit hunts in the game management
21 unit in which the use area is located may apply for a guide-outfitter
22 use area permit.

23 (b) A guide-outfitter shall submit a separate application for
24 each use area permit sought. The application shall be made on a form
25 provided by the board and shall be accompanied by the application fee
26 and a proposed operations plan for the conduct of guide-outfitted
27 hunts under the use area permit, including locations of base camps,
28 the number of clients, and the big game species to be hunted.

29 (c) The department shall set the application fee for a guide-

1 outfitter use area permit under AS 08.01.065.

2 Sec. 08.54.650. PROCEDURES FOR AWARDING GUIDE-OUTFITTER USE AREA
3 PERMIT. (a) The board shall adopt procedures for evaluating the
4 qualifications of applicants for guide-outfitter use area permits.
5 The procedures must appropriately balance the criteria included under
6 (b) of this section to ensure that new guide-outfitter licensees under
7 this chapter are not unfairly disadvantaged or denied an opportunity
8 to obtain a use area permit in those game management units for which
9 the licensee is certified by the board.

10 (b) The board shall evaluate each application and determine
11 whether the applicant is qualified for a guide-outfitter use area per-
12 mit under criteria adopted by the board, including

13 (1) the applicant's ability and means to provide the type
14 and quality of guide-outfitting services proposed by the applicant, as
15 demonstrated by the applicant's proposed operations plan;

16 (2) whether the applicant has propose~~d~~ a guide-outfitting
17 operation in the use area that is economically feasible given the
18 economic resources of the applicant;

19 (3) the applicant's history of safety in guide-outfitting
20 hunts or demonstrated ability to guide-outfit hunts safely;

21 (4) the applicant's history of compliance with state and
22 federal fish and game and guide-outfitting statutes and regulations;

23 (5) the applicant's experience in or knowledge of the use
24 area;

25 (6) the applicant's history of compliance with AS 08.54.-
26 520(a) in regard to prior authorization to enter or remain on state,
27 federal, or private land;

28 (7) whether the applicant has obtained those prior autho-
29 rizations to guide-outfit hunts on state, federal, or private land in

1 the use area from the significant or major landowners in the use area
2 or has demonstrated the ability to acquire those authorizations;

3 (8) whether the applicant holds all permits and licenses
4 necessary to guide-outfit hunts in the use area or has demonstrated
5 the ability to obtain the necessary permits and licenses.

6 (c) If the board determines that more applicants are qualified
7 to receive a use area permit for a use area than there are use area
8 permits available, then the board shall reevaluate the applications of
9 the qualified applicants and, with or without requesting additional
10 documentation, shall select the best qualified applicant's to receive
11 the available permits. The board may request the qualified applicants
12 to appear before the board to discuss the applicant's application in
13 regard to the criteria in (b) of this section.

14 (d) The board shall award a use area permit only to a qualified
15 applicant.

16 (e) If a successful applicant does not provide, at the time the
17 board awards the use area permit, proof of the permits and licenses
18 necessary to guide-outfit hunts in the use area or the authorizations
19 to guide-outfit hunts on state, federal, or private land in the use
20 area from the significant or major landowners in the use area, the
21 board shall issue a conditional use area permit that is valid for 120
22 days. A conditional use area permit does not entitle the permittee to
23 guide-outfit hunts within the use area. If the successful applicant
24 provides proof satisfactory to the board within 120 days after issu-
25 ance of the conditional use area permit that the applicant has re-
26 ceived the necessary permits and licenses and land use authorizations,
27 the applicant shall be awarded a use area permit. If the successful
28 applicant does not provide the required proof within 120 days after
29 issuance of the conditional use area permit, the conditional use area

1 permit is void. If a conditional use area permit is voided under this
2 subsection, the board shall offer the use area permit to the next best
3 qualified applicant for the use area.

4 Sec. 08.54.660. TERM AND SUSPENSION OR REVOCATION OF GUIDE-
5 OUTFITTER USE AREA PERMIT; OPERATIONS PLAN. (a) The board shall
6 grant guide-outfitter use area permits for a term not to exceed 10
7 years, unless the board determines, after consultation with the De-
8 partment of Fish and Game, that a longer term will further promote the
9 wildlife conservation and management objectives of the use areas. The
10 term of a use area permit may not in any instance exceed 15 years.

11 (b) The board may after a hearing suspend or revoke a use area
12 permit for

13 (1) violation of the conditions of the use area permit;

14 (2) failure to exercise the privileges conferred by the use
15 area permit for one year;

16 (3) a significant unauthorized deviation, as defined by the
17 board, from an operations plan;

18 (4) fraud in applying for a use area permit or assignment
19 of a use areapermit; or

20 (5) other good cause, as defined by the board.

21 (c) The board may suspend or revoke a use area permit upon
22 conviction of the permittee of an unlawful act under AS 08.54.520.

23 (d) A use area permit is suspended automatically if the permit-
24 tee fails to pay the wildlife conservation fee when due. The suspen-
25 sion remains in effect until the wildlife conservation fee is paid.

26 (e) A use area permit is revoked automatically upon revocation
27 of the permittee's guide-outfitter license. A use area permit is
28 suspended automatically upon suspension of the permittee's guida-
29 outfitter license.

1 (f) If the license of a guide-outfitter is summarily suspended
2 under AS 08.01.075(c), the use area permits held by the guide-out-
3 fitter are suspended automatically until after the final disposition
4 of the disciplinary proceeding by the board.

5 (g) A hearing to suspend or revoke a use area permit may be
6 combined with a disciplinary proceeding under AS 08.01.075 or AS 08.-
7 54.500 involving the use area permittee.

8 (h) A use area permit may be revoked or the terms of the use
9 area permit or an operations plan may be altered by the board for
10 wildlife conservation and management considerations.

11 (i) A use area permittee shall submit an amended operations plan
12 if the permittee intends to vary the permittee's guide-outfitting
13 operation from that stated in the plan. An amended operations plan is
14 not effective until approved by the board. A permittee may not con-
15 duct a guide-outfitting operation outside of the terms of an approved
16 operations plan.

17 Sec. 08.54.670. ASSIGNMENT OF GUIDE-OUTFITTER USE AREA PERMIT.

18 (a) A use area permit may be assigned by the board under regulations
19 of the board if the assignment is

20 (1) consistent with the purposes of AS 08.54.610 - 08.-
21 54.690;

22 (2) not for consideration to the former permittee;

23 (3) to a guide-outfitter qualified to receive the use area
24 permit; and

25 (4) due to the death or disability of the former permittee
26 or for other good cause, as defined by the board.

27 (b) The sale of guide-outfitter facilities and equipment between
28 the former permittee and the assignee of a use area permit may not be
29 for an amount that exceeds the replacement value of the property. The

1 sale of property between the former permittee and the assignee of a
2 use area permit for an amount in excess of the replacement value of
3 the property voids the assignment of the use area permit.

4 (c) An assigned use area permit is valid only for the period for
5 which the use area permit was originally issued.

6 (d) If proceedings in which a guide-outfitter license may be
7 revoked or suspended under this chapter are pending against a guide-
8 outfitter, the guide-outfitter's use area permits may not be assigned
9 unless allowed for good cause by the board. During the period for
10 which a guide-outfitter's license is suspended under this chapter, use
11 area permits held by the guide-outfitter may not be assigned.

12 (e) If proceedings in which a guide-outfitter use area permit
13 may be revoked or suspended under AS 08.54.660 are pending against a
14 guide-outfitter, the use area permits that are the subject of the
15 pending proceedings may not be assigned. During the period for which
16 a use area permit is suspended under AS 08.54.660, the use area permit
17 may not be assigned.

18 Sec. 08.54.680. INFORMATION ON GUIDE-OUTFITTER USE AREAS. (a)
19 The board shall maintain and publish on a regular basis a comprehen-
20 sive list of all unawarded guide-outfitter use areas that are open to
21 application for use by qualified guide-outfitters.

22 (b) The board shall maintain a centralized information center
23 where information on guide-outfitter use areas and all commercial use
24 permittees can be readily obtained by guide-outfitters, government
25 agencies, and the public.

26 Sec. 08.54.690. DEFINITIONS. In AS 08.54.610 - 08.54.690

27 (1) "joint use" means the utilization of a guide-outfitter
28 use area by more than one use area permittee;

29 (2) "sole use" means the utilization of a guide-outfitter

1 use area by one use area permittee.

2 * Sec. 3. AS 08.54.310(a) is amended by adding new paragraphs to read:

3 (11) certify guide-outfitters to conduct guide-outfitting
4 activities within a game management unit;

5 (12) establish by regulation a system of guide-outfitter use
6 areas for allocating access to big game hunting opportunities among
7 guide-outfitters.

8 * Sec. 4. AS 08.54 is amended by adding a new section to read:

9 Sec. 08.54.355. GAME MANAGEMENT UNIT CERTIFICATION. (a) The
10 board shall certify guide-outfitters licensed under AS 08.54.350 to
11 guide-outfit hunts within a game management unit.

12 (b) A guide-outfitter may not guide-outfit hunts in a game
13 management unit unless the guide-outfitter is certified by the board
14 to guide-outfit hunts in the game management unit.

15 (c) The board shall allow a guide-outfitter to prequalify for
16 certification for each game management unit in which the guide-out-
17 fitter is competent to guide-outfit hunts. The board shall allow a
18 guide-outfitter to transfer a certification between game management
19 units.

20 * Sec. 5. AS 08.54.370(a) is amended to read:

21 (a) An applicant for renewal of a guide-outfitter license or a
22 marine mammal guide-outfitter license shall submit with the applica-
23 tion for renewal

24 (1) the hunt record required under AS 08.54.550 for the
25 period covered by the current license;

26 (2) the license fee for the next licensing period; [AND]

27 (3) the commercial use permit fee for the next licensing
28 period;

29 (4) an amended guide-outfitter use area permit operations

1 plans, if appropriate; and

2 (5) the wildlife conservation fee for the period covered by
3 the current license.

4 * Sec. 6. AS 08.54 is amended by adding a new section to article 2 to
5 read:

6 Sec. 08.54.480. WILDLIFE CONSERVATION FEE. (a) Each guide-
7 outfitter licensed under AS 08.54.350 and transporter shall pay annu-
8 ally a wildlife conservation fee.

9 (b) The wildlife conservation fee paid by a guide-outfitter is
10 the sum of \$25 for each big game animal other than deer and \$5 for
11 each deer taken by a client during the year. A guide-outfitter shall
12 pay the fee at the time for renewal of guide-outfitters' licenses.
13 Failure to renew a guide-outfitter's license does not excuse payment
14 of the fee.

15 (c) The wildlife conservation fee paid by a transporter is the
16 sum of \$25 for each big game animal other than deer and \$5 for each
17 deer that is (1) taken on a non-guide-outfitted hunt by a customer of
18 the transporter, and (2) transported by the transporter. Transporters
19 shall pay the fee at the time set by the department.

20 (d) The commissioner of administration shall separately account
21 for wildlife conservation fees deposited in the general fund by the
22 department. The annual estimated balance in the account may be used
23 by the legislature to make appropriations to the Department of Fish
24 and Game and the Department of Public Safety to carry out their re-
25 spective responsibilities for management of game resources and en-
26 forcement of game laws.

27 * Sec. 7. AS 08.54.590(13) is amended to read:

28 (13) "transportation services" means the carriage for
29 compensation of big game hunters, their equipment, or big game animals

1 harvested by hunters to, from, or in the field; "transportation ser-
2 vices" does not include the carriage by aircraft of big game hunters,
3 their equipment, or big game animals harvested by hunters

4 (A) on nonstop flights between state or federally
5 maintained airports; or

6 (B) by an air taxi operator or air carrier for which
7 the carriage of big game hunters, their equipment, or big game
8 animals harvested by hunters is only an incidental, as defined by
9 the board, portion of its business unless the air taxi operator
10 or air carrier advertises hunting services to the public;

11 * Sec. 8. IDENTIFICATION OF PROPOSED GUIDE-OUTFITTER USE AREAS. (a)

12 The Department of Fish and Game shall propose guide-outfitter use areas for
13 use by the Big Game Commercial Services Board in establishing a resource-
14 based management system for allocating access to big game hunting oppor-
15 tunities among guide-outfitters. The department shall identify proposed
16 guide-outfitter use areas for appropriate regions and areas of the state.
17 The department may set priorities for identifying use areas and may deter-
18 mine the extent and number of use areas to be identified at one time. The
19 department shall complete the identification of proposed use areas within
20 two years after the close of the first public comment period prescribed
21 under (e) of this section. The department shall complete the identifica-
22 tion of proposed use areas for a significant portion of the state within
23 nine months after the close of the first public comment period prescribed
24 under (e) of this section.

25 (b) The Big Game Commercial Services Board may recommend to the
26 department those areas of the state that should receive priority in identi-
27 fying use areas.

28 (c) The department shall publish a public notice that it is accepting
29 public comment for identification of areas as proposed guide-outfitter use

1 areas. The department shall accept public comment for 60 days after the
2 notice is first published.

3 (d) The department shall propose use areas in light of the following
4 considerations:

5 (1) wildlife management concerns, including abundance and diver-
6 sity of wildlife, historical harvest of wildlife from the area, and exist-
7 ing administrative boundaries established for wildlife management purposes;

8 (2) wildlife law enforcement concerns;

9 (3) public comment received under (c) of this section;

10 (4) land ownership in the area;

11 (5) administrative restrictions;

12 (6) existence of boundaries that can be readily identified in
13 the field;

14 (7) accessibility of the area and other transportation consid-
15 erations;

16 (8) existence of complementary and noncomplementary land uses
17 within the area;

18 (9) existing facilities within the area; and

19 (10) other considerations relevant to the purposes of this sec-
20 tion.

21 (e) The department shall provide maps or descriptions to the public
22 of the use areas proposed under (d) of this section and shall solicit
23 public comment on the proposed use areas. The public shall have 45 days
24 after the maps or descriptions are distributed to comment on the use areas
25 proposed by the department. At the close of the comment period, the de-
26 partment shall review the proposed use areas in light of the public comment
27 received and shall then recommend boundaries for the proposed use areas.
28 The department shall transmit its boundary recommendations to the Big Game
29 Commercial Services Board as the recommendations are made final.

1 (f) The actions of the department under this section are exempt from
2 the Administrative Procedure Act (AS 44.62).

3 (g) In this section

4 (1) "department" means the Department of Fish and Game;

5 (2) "public" includes a natural person, corporation, associa-
6 tion, organization, society, company, partnership, or state, federal, or
7 local government agency.

8 * Sec. 9. PRELIMINARY DETERMINATION OF ELIGIBILITY FOR GUIDE-OUTFITTER
9 USE AREA PERMIT. (a) In order to facilitate and expedite the process for
10 issuing guide-outfitter use area permits during the first five years that
11 offerings of guide-outfitter use areas are made under AS 08.54.610 - 08.-
12 54.690, enacted by sec. 2 of this Act, the Big Game Commercial Services
13 Board shall make preliminary determinations of the eligibility of a guide-
14 outfitter to receive use area permits.

15 (b) A guide-outfitter may apply, at times set by the board, for a
16 preliminary determination of eligibility for a use area permit for each
17 game management unit in which the guide-outfitter is certified or prequal-
18 ified for certification to guide-outfit hunts under AS 08.54.355, enacted
19 by sec. 4 of this Act.

20 (c) A guide-outfitter is qualified for a preliminary determination of
21 eligibility to receive a use area permit if the board finds that the guide-
22 outfitter satisfies the criteria of AS 08.54.650(b), enacted by sec. 2 of
23 this Act, that can be satisfied without reference to the characteristics of
24 a specific use area.

25 (d) A preliminary determination of eligibility to receive a use area
26 permit does not vest a right in the guide-outfitter to receive a use area
27 permit when use areas are offered under AS 08.54.650, enacted by sec. 2 of
28 this Act.

29 * Sec. 10. During the first five years that offerings of use areas are

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made under AS 08.54.610 - 08.54.690, enacted by sec. 2 of this Act, the Big Game Commercial Services Board shall offer all guide-outfitter use areas.

* Sec. 11. SEVERABILITY. If a provision of this Act or the application of this Act to a person or circumstance is held invalid, the remainder of this Act and the application of this Act to other persons or circumstances are not affected by the invalidity.

* Sec. 12. AS 08.54.310(b)(1) is repealed.

Letter of Intent
For
SCS for CS HB 112 (Fin)

It is the intent of the legislature that the Big Game Commercial Services Board, with recommendations from the Task Force on Guiding and Game, established under provisions of CS HB 112 (Finance) am shall consider the implications of the Owaichek decision issued by the Alaska Supreme Court on October 21, 1988, when establishing the resource-based management system for allocating big game hunting opportunities among guide-outfitters.

It is the intent of the legislature that any management system should:

1. Provide for the conservation of the game resources.
2. Provide for equal opportunity to all qualified guide-outfitters when access to hunting rights are assigned or reassigned.
3. Provide financial compensation to the state for the commercial harvest of Alaska's big game resources to be used for game management purposes.
4. Designate the Alaska Department of Fish and Game as the lead agency to formulate management areas.
5. Provide for long-term stability and economic health of any commercial industry utilizing big game resources.
6. Include recommendations from private and public land owners in order to ensure statewide applicability.

BY THE SENATE FINANCE COMMITTEE

Senate Adopted 4/25

LETTER OF INTENT
FOR
CS HB 112 (FINANCE)

It is the intent of the legislature that the Big Game Commercial Services Board established under the provisions of CS HB 112 (Finance) shall consider the implications of the Owsichuk decision issued by the Alaska Supreme Court on October 21, 1988 when establishing the resource-based management system for allocating big game hunting opportunities among guide-outfitters.

It is the intent of the legislature that the foremost purpose of any management system should be the conservation of game resources. Any system that places restrictions on free market competition between guides must be based on clear findings that such restrictions are needed to prevent harmful impacts on game populations that cannot be prevented through licensing requirements, bag limits, seasonal restrictions, or other traditional game management tools that are now available to the state.

Without a constitution^y amendment, a system would have to provide the broad access guaranteed by the "common use" clause of the constitution. The system would have to have access rights that are limited in duration, and the system would have to provide equal opportunity to all qualified guide-outfitters when these rights are reassigned. In order to prevent the development of non-uniform policies by various federal, state and private landowners, the system should have statewide applicability.

ADOPTED BY
The House
4-6-89

Adopted 35-2.

Original sponsor: Resources Committee

IN THE SENATE BY THE RESOURCES COMMITTEE
HOUSE CS FOR CS FOR SENATE BILL NO. 139 (Resources)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act providing for retroactive extension of the termination date of the Task Force on Guiding and Game; increasing the membership of the Task Force on Guiding and Game; authorizing certain agencies to assist the Task Force on Guiding and Game; and providing for an effective date."

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

* Section 1. Section 14(d), ch. 160, SLA 1988, is repealed and re-enacted to read:

(d) The task force terminates on the earlier of

(1) January 15, 1990; or

(2) the date of enactment into law of

(A) a licensing system for hunting guides and other persons who provide services to hunters for the purpose of facilitating the harvest of big game; and

(B) a management system for allocating rights of access to big game to licensed guides.

* Sec. 2. Notwithstanding the qualifications for members of the Task Force on Guiding and Game set out in sec. 14(a), ch. 160, SLA 1988, the members of the task force on January 8, 1989, shall continue to serve until they resign or the task force is terminated.

* Sec. 3. Notwithstanding the number and composition of the Task Force on Guiding and Game set out in sec. 14(a), ch. 160, SLA 1988, the membership of the task force is increased by two additional members appointed by

the governor. Of the two persons appointed to the task force under this section, one person shall have expertise in research and analysis and, if possible, particular knowledge in resource management or allocation systems and may not have a financial interest in a business involving or related to the commercial taking of game and one person shall represent Native village landholders.

* Sec. 4. The Office of the Governor, office of management and budget, division of policy and the legislature's House Research Agency and Senate Advisory Council shall provide information, data, research, analysis, and technical assistance to the task force, as requested by the task force, for the purpose of developing a management system for allocating rights of access to big game to licensed guides.

* Sec. 5. Sections 1 - 2 of this Act are retroactive to January 8, 1989.

* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).



Alaska State Legislature

HOUSE OF REPRESENTATIVES/
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 468-3715

Letter of Intent For .

HCS CS SB 139 (Res)

It is the intent of the legislature that the task force established under the provisions of SB 139 shall consider the implications of the Owsichek decision issued by the Alaska Supreme Court on October 21, 1988 when developing the resource-based management system for allocating big game hunting opportunities among guide-outfitters.

It is the intent of the legislature that the foremost purpose of any management system should be the conservation of game resources. Any system that places restrictions on free market competition between guides must be based on clear findings that such restrictions are needed to prevent harmful impacts on game populations that cannot be prevented through licensing requirements, bag limits, seasonal restrictions, or other traditional game management tools that are now available to the state.

Without a constitutional amendment, a system would have to provide the broad access guaranteed by the common use clause of the constitution. The system would have to have access rights that are limited in duration, and the system would have to provide equal opportunity to all qualified guides when these rights are reassigned. In order to prevent the development of non-uniform policies by various federal, state, and private landowners, the system should have statewide applicability.

Alaska State Legislature

RECEIVED

JUDICIARY
CHAIRMAN
907-465-4523



JAN 15 1990

JAN FAIKS
SENATE OFFICE

JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

January 11, 1989

RECEIVED
JAN 12 1990

The Honorable Tim Kelly
President
Alaska Senate
Post Office Box V
Juneau, Alaska 99811

Dear Senator Kelly:

The Legislative Task Force on Guiding and Game is scheduled to release its final report and recommendations to the Alaska Legislature by January 15, 1990.

In spite of the panel's best efforts, the task force will need additional time to complete its work. As you are aware, problems associated with both the weather and volcanic eruptions caused numerous travel delays for many of the task force members in mid to late December. This forced postponement of a scheduled pre-holiday meeting and resulted in our falling behind.

With your approval of the necessary time extension, the task force will present its findings and recommendations to the Legislature on January 25, 1990. Please notify me at your earliest convenience if the extension is acceptable.

Sincerely,

Senator Jan Faiks, Chairman
Legislative Task Force on
Guiding and Game

JF:mr

*Delay approved
S. Kelly
1/15/90*

OUT OF SESSION

Kenneth D. OWSICHEK, Appellant,

v.

STATE of Alaska, GUIDE LICENSING
AND CONTROL BOARD, Appellee.

No. S-1650.

Supreme Court of Alaska.

Oct. 21, 1988.

Rehearing Denied Dec. 5, 1988.

Hunting guide brought an action for a declaration that the Guide Licensing and Control Board's assigning of exclusive guide areas in which only the designated guide could lead hunts was unconstitutional. Guide also sought damages. Upon remand from the Supreme Court, 627 P.2d 616, the Superior Court, Third Judicial District, Anchorage, Milton Souter, J., upheld the Board's actions, and guide appealed. The Supreme Court, Rabinowitz, C.J., held that: (1) the statutes which allowed such licensing violated the Constitution's public use clause; (2) guide could not recover damages against the State; and (3) guide was not a public interest litigant.

Reversed and remanded.

1. Fish \Leftrightarrow 10(1)

Game \Leftrightarrow 5

Grants of exclusive rights to harvest natural resources listed in common use clause of Constitution (fish, wildlife, and waters) should be subjected to close scrutiny. Const. Art. 8, § 3.

2. Game \Leftrightarrow 5

Constitutional clause reserving fish, wildlife, and waters to people for common use prohibited grant of "exclusive guide areas" to hunting guides in which only the designated guide may lead hunts and from which all other guides are excluded, as such areas were granted essentially on basis of seniority, with no rental or usage fee to State, for unlimited duration, and were administered in such way that guides could transfer them for profit as if they owned them, and statutes and regulations permitting assignment of such areas were uncon-

stitutional. AS 08.54.040(a)(7), 08.54.195; Const. Art. 8, §§ 3, 17.

3. United States \Leftrightarrow 78(12)

Even if Guide Licensing and Control Board, in granting "exclusive guide areas," in which only designated guide could lead hunts, acted in excess of its authority or failed to comply with requirements of licensing statutes, discretionary function exception to Tort Claims Act prohibited guide from recovering damages which allegedly resulted from such conduct, as licensing program in question was major policy initiative of Board, and there was no evidence that Board acted in bad faith. AS 09.50-250.

4. Costs \Leftrightarrow 194.42

Hunting guide was not "public interest litigant" in his challenge to statutes which authorized Guide Licensing and Control Board to grant exclusive guide areas to hunting guides in which only the designated guide could lead hunts and from which all other guides were excluded, as guide, who claimed that statute jeopardized \$450,000 he had invested in his guiding operation, and that he suffered over \$100,000 in damages, had sufficient economic incentive to bring lawsuit without regard to public interest.

See publication Words and Phrases for other judicial constructions and definitions.

Charles E. Tulin, Anchorage, for appellant.

Michael G. Hotchkin and Sarah E. McCracken, Asst. Attys. Gen., Anchorage, Ronald W. Lorensen, Acting Atty. Gen., Juneau, for appellee.

OPINION

Before RABINOWITZ, C.J., and
BURKE, MATTHEWS, COMPTON and
MOORE, JJ.

RABINOWITZ, Chief Justice.

We are called upon to decide whether two statutes, AS 08.54.040(a)(7) & .195, comport with article VIII, section 3 of the Alaska Constitution. These statutes autho-

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rize the Guide Licensing and Control Board to grant hunting guides "exclusive guide areas," geographic areas in which only the designated guide may lead hunts and from which all other guides are excluded. Licensed hunters, including other guides, may hunt recreationally in these areas, but only the holder of the exclusive guide area may lead hunts professionally.

I.

In 1973 the legislature created the Guide Licensing and Control Board ("GLCB" or "the Board"). Ch. 17, § 1, SLA 1973. This act set forth the composition, powers and duties of the Board, established guidelines for different classes of guide licenses, defined unlawful acts, and provided for the disciplining of guides. *Id.* It also authorized the Board generally to "regulate activity" of guides, AS 08.54.040(a)(3), and to adopt regulations "required by this chapter or reasonably necessary for its administration." *Id.* at 08.54.050. The legislative history reveals that the purposes of the act were "to protect fish and game management" and "to get competent people as guides in Alaska." Alaska Legislative Committee Minutes Microfiche No. 37, House Judiciary Committee, H.B. 1, at 20 (Feb. 2, 1973).

One of the first activities of the Board was to establish a scheme of "exclusive guide areas" (EGAs) and "joint use areas." Under this system, a guide would be able to register his camp and be entitled to exclusive guiding privileges in a designated area surrounding it. "Joint use areas" would be assigned where the areas used by two or more guides overlapped.¹ The Board first voted in April 1974 to implement this scheme for Game Management Units 16 and 20.² Shortly thereafter, in

1. EGAs and joint use areas will be referred to collectively as EGAs.

2. The Board of Game has divided the state into twenty-six Game Management Units, primarily for purposes of establishing hunting seasons and bag limits for different species. For these purposes, many Units are divided into several subunits with different applicable regulations. See AS 16.05.255; 5 AAC 78.001-.600, 80.001-.600, 83.001-.600, 86.001-.910, 88.001-.910.

July 1974, the Board voted to extend the program to Unit 8 (Kodiak Island).

For the following year, the Board considered applications for EGAs but took no action. In July 1975, the Board granted dozens of exclusive and joint use areas in the three Units for which the regulation was passed. The Board further resolved at that time to extend the program to eleven more Units, including Unit 19. In January 1976, the Board voted to grant EGAs to qualified guides anywhere in the state. Applications were to be based on "occupancy, use, financial value, and such other qualifications as the Board may prescribe." The Board set a deadline of November 1, 1976, for receipt of applications for EGAs. The Board began granting EGAs in Units other than 8, 16 and 20 in December 1976, starting with Units 23-26. EGAs for other Units were granted gradually over the following months.

The Board conducted all of this activity without specific statutory authorization, relying only on the general grant of regulatory power in the 1973 legislation. In 1976 the legislature enacted AS 08.54.040(a)(8) (now AS 08.54.040(a)(7)), which authorized the Board to:

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.

Ch. 133, § 1, SLA 1976. This provision took effect January 1, 1977. *Id.* at § 5. The legislative history reveals that the intent of this section was to ratify the

The Guide Licensing and Control Board has adopted these Units for purposes of licensing hunting guides. 12 AAC 38.200(b) (Eff. 6/28/74). Each licensed guide may be certified to practice in up to three Units. 12 AAC 38.200(d) (Eff. 6/28/74). Unit 16 is in South Central Alaska, near Anchorage, and Unit 20 occupies a large part of Interior Alaska, including Fairbanks.

Board's EGA program. Transcript of Senate Resources Committee Hearing on S.B. 661, at 1, 14-15 (March 12, 1976); Transcript of House Resource Committee Hearing on S.B. 661, at 33-34 (April 27, 1976).

Finally, in 1986 the legislature enacted AS 08.54.195.³ This statute for the first time imposed procedures and criteria on the Board with respect to the EGA program. This reform was enacted in response to a "sunset report" on the GLCB by the Division of Legislative Audit, which was harshly critical of the Board's implementation of the EGA program.⁴ See Division of Legislative Audit, *A Performance Report on the Department of Commerce and Economic Development Guide Licensing and Control Board*, Audit Control No. 08.01253-86-R (Nov. 21, 1985).

II.

Kenneth D. Owsichek is a registered guide who was licensed to lead hunts in

3. Alaska Statute 08.54.195 provides:

Restricted guide areas. (a) Under AS 08.54.040(a)(7), the board may establish and assign restricted guide areas for master guides or registered guides. The board shall adopt regulations that establish uniform and consistent criteria, including a point system, to be used by the board when it establishes and assigns a restricted guide area.

(b) The board shall consider the following factors before it assigns a restricted guide area:

(1) the extent to which the guide who has applied for the area has guided in the game management unit in which the area is located;

(2) the extent to which the guide occupied and invested in the area;

(3) the effects, including the economic effect, on other guides that would result from creation of the area;

(4) big game populations in the area;

(5) the land ownership status of the area; and

(6) other relevant facts or circumstances.

(c) The board may adopt regulations limiting the number of clients with which a guide may contract for hunts in a restricted guide area used by more than one guide.

(d) Unless the board determines after a public hearing that it is not in the public interest to do so, the board may transfer a restricted guide area to a person qualified for assignment who has been recommended by the guide to whom the area is assigned, or by a person authorized to represent the guide, if the recommendation is made

Game Management Units 17, 18 and 19 in February 1976.⁵ He alleges that he had worked as an assistant guide in this area from 1972 to 1976. He claims that in January 1976, upon passing his guide license examination, he invested \$300,000 to build a lodge and several cabins together with other facilities for a full-scale guiding operation on Lake Clark. He also claims to have spent \$150,000 on four aircraft to fly in clients.

Owsichek's licensing and concurrent investments occurred at approximately the same time the GLCB decided to extend the EGA program on a statewide basis.⁶ Accordingly, Owsichek submitted an application for EGAs in Units 17 and 19 before the November 1, 1976, deadline established by the Board. The Board considered applications for EGAs in Units 17 and 19 in its December 1977 meeting. Owsichek's application was denied on the ground that he had not submitted "evidence of contracts

(1) after five years have elapsed from the date of the assignment of the guide area; or

(2) during the first five years after the date of assignment and the guide has died or suffered a major disability, as defined by the board.

(e) A guide may not sell or lease a restricted guide area. A guide may sell or otherwise transfer a lodge, camp, or other lawful improvement to property located in a restricted guide area. Sales price may not exceed fair market value.

4. The 1986 legislation also modified AS 08.54.040(a)(8) in response to the sunset report. Specifically, the legislation (1) renumbered it subsection .040(a)(7), (2) required "an equitable, reasonable, and consistent procedure" (emphasized language added in 1986), and (3) provided that "preference may be given" to local resident guides (instead of *shall*). Ch. 71, § 6, SLA 1986.

5. Units 17, 18 and 19 occupy a large area overlapping parts of Southwest, Western and Interior Alaska. See 5 AAC 83.005(d) (Eff. 7/5/85), 86.005(a) (Eff. 7/5/85), 88.005(b) (Eff. 7/5/85).

6. As discussed above, the Board had decided to grant EGAs in Unit 19 in July 1975, but did not vote to extend the program to the remainder of the state, including Units 17 and 18, until January 1976, the month Owsichek passed his guide licensing exam and allegedly began building his improvements.

for guided hunts in the area for two of the five years preceding the application."

Owsicheck petitioned for review of this decision. In November 1978, the Attorney General's office found that, based on contracts submitted for hunts in 1976, 1977 and 1978, he was qualified to receive an EGA in Units 17 and 19, and recommended that the Board adopt this decision. In its December 1978 meeting, the Board resolved "that the portion of Mr. Owsicheck's application that is not in conflict with presently granted guide [sic] areas be allowed. That no portion of the application that overlaps or is presently in joint use be granted." By letter dated February 5, 1979, the Board informed Owsicheck of its decision and assigned him area 19:33, in Unit 19. Owsicheck objected to this decision because he was unable to land his planes within the areas granted to him, rendering them "un-hunttable."

On April 6, 1979, Owsicheck filed a complaint in superior court challenging the Board's actions. His amended complaint alleged that: (1) prior to January 1, 1977, the Board lacked authority to promulgate regulations creating EGAs; (2) the actions of the Board violated due process and equal protection under the federal and state constitutions; (3) the actions of the Board were an unconstitutional taking of property; (4) AS 08.54.040(a)(8) was an unconstitutional delegation of authority because of the lack of standards; (5) the statutes and regulations constituted an unlawful impairment of contracts under the

7. Before considering the case on the merits, the superior court had dismissed the action as an untimely appeal. This court reversed and remanded, holding that the claim for declaratory relief should have been treated as an independent action rather than an appeal, and that due to surprise and excusable neglect the time limit for appeals should have been relaxed as to the claims for damages and an injunction. *Owsicheck v. State, Guide Licensing and Control Board*, 627 P.2d 616 (Alaska 1981).

8. After the parties filed their initial briefs, we requested supplemental briefing on the question of whether AS 08.54.040(a)(7) and AS 08.54.195 violated article VIII, section 3, of the Alaska Constitution.

Alaska Constitution; (6) the regulations did not comply with what standards existed in the statute; and (7) he suffered damages. By way of relief Owsicheck sought a declaration that the Board's assigning of EGAs is unconstitutional and that he is entitled to recover damages against the state in an amount in excess of \$100,000 as a consequence of the state's illegal and unconstitutional actions.

After considering the briefs and hearing oral arguments,⁷ the superior court affirmed the actions of the Board, holding "that the Board did not commit any error or abuse of discretion, that its regulations comport with the governing statutes, and that no constitutional infirmity exists in the statutes, regulations or Board decision."

This appeal followed.⁸

III.

A.

Owsicheck argues that the EGA statutes and regulations violate the common use clause of the Alaska Constitution, which provides:

Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use. Alaska Const., art. VIII, § 3. The state argues that this clause is a broad grant of authority to the state to manage these resources, and that it places no limitations on this authority greater than those contained in other constitutional provisions, such as equal protection.⁹

9. The state also argues that Owsicheck has no standing to challenge the system as it existed before January 1, 1977, when AS 08.54.040(a)(1)(7) went into effect, because the Board did not establish any EGAs in Owsicheck's Units before that date. In light of our holding that Owsicheck is not entitled to damages, *see infra* Part IV, we need not address this issue. The declaratory relief to which he is currently entitled is unaffected by the date on which he attained standing.

The state does not argue that Owsicheck lacks standing under the common use clause. We note that we would reject such an argument. We believe that a professional hunting guide's "use" of the wildlife resource is sufficiently direct that he falls within the protection of the common use clause. *See infra* note 15.

We observe initially that, in guaranteeing people "common use" of fish, wildlife and water resources, the framers of the constitution clearly did not intend to prohibit all regulation of the use of these resources. Licensing requirements, bag limits, and seasonal restrictions, for example, are time-honored methods of conserving the resources that were respected by delegates to the constitutional convention. Questions presented by this case concern the type and extent of permissible regulation consistent with common use.

This court has never considered these questions before. However, in four cases, we have indicated an intent to apply the common use clause in a way that strongly protects public access to natural resources. First, with respect to article VIII generally, we have written, "A careful reading of the constitutional minutes establishes that the provisions in article VIII were intended to permit the broadest possible access to and use of state waters by the general public."¹⁰ *Wernberg v. State*, 516 P.2d 1191, 1198-99 (Alaska 1973). Given the text of the common use clause, the same policy should apply to wildlife as well.

In *CWC Fisheries v. Bunker*, 755 P.2d 1115 (Alaska 1988), we addressed the question of whether a state tidelands grant included an exclusive right of fishery, or whether it was subject to a public trust easement. In holding the latter, we relied in part on the common use clause. While specifically declining to determine whether this clause imposed a higher duty than that imposed by common law public trust principles, *id.* at 1120 n. 10, we stated, "At least in the absence of some clear evidence to the contrary, we will not presume that the legislature intended to take an action which would, on its face, appear inconsistent with the plain wording of this constitutional mandate." *Id.* at 1120.

In *State v. Ostrosky*, 667 P.2d 1184 (Alaska 1983), *appeal dismissed*, 467 U.S. 1201, 104 S.Ct. 2379, 81 L.Ed.2d 339 (1984),

10. Similarly, it has been stated:

The common use clause necessarily contemplates that resources will remain in the public domain, and will not be ceded to private ownership. Since the right of common use is

we addressed the constitutionality of limited entry fishing. Limited entry fishing bears an obvious similarity to the EGA scheme in that both place restrictions on the commercial harvesting of a natural resource by giving a special status to a limited number of licensees. In *Ostrosky* we stated:

[W]e have difficulty squaring the section 3 reservation of fish to the people for common use with a system which grants an exclusive right to fish to a select few who may continue to exercise that right season after season. We accept, therefore, at least for the purposes of this case, the proposition that limited entry is inconsistent with the command of article VIII, section 3.

Id. at 1189. In *Ostrosky* we held that the Limited Entry Act was not unconstitutional because of a 1972 constitutional amendment explicitly permitting limited entry to fisheries, notwithstanding section 3. *Id.* at 1190.

In a subsequent limited entry fishing case, *Johns v. Commercial Fisheries Entry Comm'n*, 758 P.2d 1256 (Alaska 1988), we stated:

In *State v. Ostrosky*, 667 P.2d 1184 (Alaska 1983), we noted that there is a tension between the limited entry clause of the state constitution and the clauses of the constitution which guaranty open fisheries. [Citing sections 3 and 15 of article VIII] We suggested that to be constitutional, a limited entry system should impinge as little as possible on the open fishery clauses consistent with the constitutional purposes of limited entry, namely, prevention of economic distress to fishermen and resource conservation.

Id. at 1266.

Since there is no constitutional amendment authorizing EGAs, we must in this case address a common use question similar to that which was not addressed in *Ostrosky*. We do so, however, in light of

guaranteed expressly by the constitution, it must be viewed as a highly important interest running to each person within the state.

State v. Ostrosky, 667 P.2d 1184, 1196 (Alaska 1983) (Rabinowitz, J., dissenting).

our observations in *Wernberg*, *CWC Fisheries*, *Ostrosky*, and *Johrs* that the common use clause was intended to guarantee broad public access to natural resources.

B.

We begin by examining constitutional history to determine the framers' intent in enacting the common use clause. This was a unique provision, not modeled on any other state constitution. Its purpose was anti-monopoly. This purpose was achieved by constitutionalizing common law principles imposing upon the state a public trust duty with regard to the management of fish, wildlife and waters.¹¹

The framers' reliance on historic principles regarding state management of wildlife and water resources is evident from a written explanation in the committee materials for the term "reserved to the people for common use." This discussion also highlights an intent to prohibit "exclusive grants or special privilege[s]."

Ancient traditions in property rights have never recognized that a private right and title can be acquired by a private person to wildlife in their natural state or to water in general. The title remained with the sovereign, and in the American system of government with its concept of popular sovereignty this title is reserved to the people or the state on behalf of the people. *The expression "for common use" implies that these resources are not to be subject to exclusive grants or special privilege as was so frequently the case in ancient royal tradition.* Rather rights to use are secured by the general laws of the state. In all English and American legal systems ownership of water cannot be asserted, rights acquire only to the use of water. Once wildlife is captured and removed from their natural state possessory right accrues to the captor, provided that the wildlife was captured in conformity with provisions of law.

11. Responding to a question about this provision on the floor of the convention, a member of the Resources Committee explained, "The language here has a lot of history behind it. . . . The language in this section harks back to the

Alaska Constitutional Convention Papers, Folder 210, paper prepared by Committee on Resources entitled "Terms" (emphasis added, except to "use"). Because an EGA is clearly a type of monopoly, "exclusive grant," or at least a "special privilege," this history strongly suggests that the statutes at issue here are unconstitutional. However, this history also states that "rights to use are secured by the general laws of the state," clearly giving the legislature some leeway in regulating use of the resources.

The state finds support for its position in a debate that occurred at the convention over registered trap lines. This debate is significant because, like EGAs, registered trap lines would allow a prior existing user to exclude newcomers from the privilege of harvesting the wildlife resource. On the floor of the convention, a delegate asked whether the common use clause would prohibit registered trap lines, and the spokesman for the Resources Committee responded that it would be "arguable." 4 Proceedings of the Alaska Constitutional Convention 2462-63 (Jan. 17, 1956). In response to this concern, the Resources Committee inserted language in the commentary to the common use clause authorizing registered trap lines: "This provision does not apply to the domestication of fur-bearing animals or other animals subject to intensive culture, to fish in private ponds, or to registered trap lines if authorized by law." 6 Proceedings of the Alaska Constitutional Convention app. V, at 98 (Commentary on Article on State Lands and Natural Resources, Jan. 16, 1956) (emphasized language added after first draft; *cf. id.* at 83 (Dec. 16, 1955)).

Resolution of the trap line issue begs the question in the instant case. One might argue that addition of the language excluding registered trap lines from the effect of the common use clause was intended to authorize the legislature to enact this type

old tradition whereby wildlife in its natural state was in the presumed ownership of the sovereign until reduced to possession." 4 Proceedings of the Alaska Constitutional Convention 2492 (Jan. 18, 1956).

of regulation generally, and that the reasoning should extend to EGAs. However, the language in the commentary is highly specific, which more likely suggests that the common use clause would prohibit all similar regulation, with registered trap lines as a narrow exception in response to the political pressures of the moment.

[1] In a discussion about fishing in lakes, the Constitutional Convention underscored its intent that the public retain broad access to fish, wildlife and water resources, and that these resources not be the subject of private grants. In floor debates, a question arose about the status of a natural lake falling within the boundaries of someone's private property. The delegates agreed that the common use clause guaranteed the public's right to use the lake for fishing, although it did not authorize a trespass across the landowner's property to get to the lake. 4 Proceedings of the Alaska Constitutional Convention 2460 (Jan. 17, 1956). The Convention made it clear that only fish in small private ponds may be owned free of the public's right of access. See *id.* at 2460-61; 6 Proceedings of the Alaska Constitutional Convention app. V, at 98 (Commentary on Article on State Lands and Natural Resources, Jan. 16, 1956). This confirms the view of the common use clause and the public trust expressed in *CWC Fisheries v. Bunker*, 755 P.2d 1115 (Alaska 1988), holding that a grant of a fee interest in tidelands remains impressed with a public trust easement. It also reinforces our conclusion that grants of exclusive rights to harvest natural resources listed in the common use clause should be subjected to close scrutiny.

C.

[2] As we have noted, the drafters of the common use clause apparently intended to constitutionalize historic common law principles governing the sovereign's authority over management of fish, wildlife and water resources. A review of the history of wildlife law will therefore shed further light on the central issue in this case.

The Supreme Court traced the history of wildlife law from its roots in ancient Rome through its English common law development and transfer to this country in *Geer v. Connecticut*, 161 U.S. 519, 522-29, 16 S.Ct. 600, 601-04, 40 L.Ed. 793, 794-97 (1896). In that case, the Court affirmed the defendant's conviction, upholding a state statute forbidding transportation of certain game birds killed in Connecticut across state lines. The Court noted that in England, the right to hunt and fish "[was] vested in the King alone and from him derived to such of his subjects as [had] received the grants of a chase, a park, a free warren, or free fishery." *Id.* at 527, 16 S.Ct. at 603, 40 L.Ed. at 796 (quoting 2 W. Blackstone, *Commentaries* * 410). As a recent authority explains:

Stripped of its many formalities, the essential core of English wildlife law on the eve of the American Revolution was the complete authority of the king and Parliament to determine what rights others might have with respect to the taking of wildlife.

M. Bean, *The Evolution of National Wildlife Law* 12 (rev. ed. 1983).

The *Geer* court asserted that this authority to regulate taking of wildlife passed to the states upon separation from England. 161 U.S. at 528, 16 S.Ct. at 604, 40 L.Ed. at 796. However, unlike the authority vested in the King, the authority of the states, with their guarantees of democratic government, was not plenary.

Whilst the fundamental principles upon which the common property in game rests have undergone no change, the development of free institutions has led to the recognition of the fact that the power or control lodged in the state, resulting from this common ownership, is to be exercised like all other powers of government as a trust for the benefit of the people, and not as a prerogative for the advantage of the government as distinct from the people, or for the benefit of private individuals as distinguished from the public good.

Id. at 529, 16 S.Ct. at 604, 40 L.Ed. at 797 (emphasis added). The Court held that the

Cite as 763 P.2d 488 (Alaska 1988)

state's "ownership" of wildlife, in trust for the people, authorized the statute at issue in that case. *Id.*

The framers of the common use clause probably relied heavily on *Geer*. The following statement from the constitutional papers, as quoted above, closely tracks the reasoning of *Geer*:

The title remained with the sovereign, and in the American system of government with its concept of popular sovereignty this title is reserved to the people or the state on behalf of the people. The expression "for common use" implies that these resources are not to be subject to exclusive grants or special privilege as was so frequently the case in ancient royal tradition.

Alaska Constitutional Convention Papers, Folder 210, paper prepared by Committee on Resources entitled "Terms."

Thus, common law principles incorporated in the common use clause impose upon the state a trust duty to manage the fish, wildlife and water resources of the state for the benefit of all the people.¹² We have twice recognized this duty in our prior decisions. In *Mettlakatla Indian Community, Annette Island Reserve v. Egan*, 362 P.2d 901, 915 (Alaska 1961), *aff'd*, 369 U.S. 45, 82 S.Ct. 552, 7 L.Ed.2d 562 (1962), we stated:

These migrating schools of fish, while in inland waters, are the property of the state, held in trust for the benefit of all

the people of the state, and the obligation and authority to equitably and wisely regulate the harvest is that of the state.

(Emphasis added.) Similarly, in *Herscher v. State, Department of Commerce*, 568 P.2d 996, 1003 (Alaska 1977), we noted that the state acts "as trustee of the natural resources for the benefit of its citizens."

The extent to which this public trust duty, as constitutionalized by the common use clause, limits a state's discretion in managing its resources is not clearly defined. The state argues that it imposes no limit at all. While acknowledging that the common use clause constitutionalizes the state's trust duty, the state asserts, "The sovereign's power to allow and control use of the resources is broad, and restricted only by other constitutional limitations such as equal protection." This assertion clearly overstates the extent of the state's authority under the public trust duty and the common use clause.

First, as noted above, this court has stated in at least four cases that the common use clause is intended to provide independent protection of the public's access to natural resources. See *Johns v. Commercial Fisheries Entry Comm'n*, 758 P.2d 1256, 1266 & n. 12 (Alaska 1988); *CWIC Fisheries v. Bunker*, 755 P.2d 1115, 1120 (Alaska 1988); *State v. Ostrosky*, 667 P.2d 1184, 1189, 1191 (Alaska 1983), *appeal dismissed*, 467 U.S. 1201, 104 S.Ct. 2379, 81

12. The Court overruled *Geer's* state ownership doctrine in *Hughes v. Oklahoma*, 441 U.S. 322, 99 S.Ct. 1727, 60 L.Ed.2d 250 (1979). That case involved facts almost identical to *Geer*: the Oklahoma statute at issue forbade the export of minnows taken from the waters of the state. See *id.* at 323, 99 S.Ct. at 1729, 60 L.Ed.2d at 254. The Court struck down the statute as violative of the commerce clause. *Id.* at 338, 99 S.Ct. at 1737, 60 L.Ed.2d at 263. The Court found the state ownership doctrine to be a legal fiction that created anomalies and did not conform to "practical realities." *Id.* at 335, 99 S.Ct. at 1735, 60 L.Ed.2d at 261. Nothing in the opinion, however, indicated any retreat from the state's public trust duty discussed in *Geer*. Indeed, the Court stated, "[T]he general rule we adopt in this case makes ample allowance for preserving, in ways not inconsistent with the Commerce Clause, the legitimate state concerns for conservation and protection of wild animals

underlying the 19th century legal fiction of state ownership." *Id.* at 335-36, 99 S.Ct. at 1735-36, 60 L.Ed.2d at 261. As one U.S. District Court noted in a post-*Hughes* case:

Under the public trust doctrine, the State of Virginia and the United States have the right and the duty to protect and preserve the public's interest in natural wildlife resources. Such right does not derive from ownership of the resources but from a duty owing to the people.

In re Steuert Transp. Co., 495 F.Supp. 38, 40 (E.D.Va.1980) (allowing federal and state governments to recover damages for migratory waterfowl killed in oil spill).

After *Hughes*, the statements in the Alaska Constitutional Convention regarding sovereign ownership, quoted *supra*, are technically incorrect. Nevertheless, the trust responsibility that accompanied state ownership remains.

L.Ed.2d 339 (1984); *Werberg v. State*, 516 P.2d 1191, 1198-99 (Alaska 1973); see also *Ostrosky*, 667 P.2d at 1196 (Rabinowitz, J., dissenting).

Second, under the state's interpretation, the common use clause would be a nullity. "It is a well accepted principle of judicial construction that, whenever reasonably possible, every provision of the Constitution should be given meaning and effect, and related provisions should be harmonized." *Park v. State*, 528 P.2d 785, 786-87 (Alaska 1974). To give meaning and effect to the common use clause, it must provide protection of the public's use of natural resources distinct from that provided by other constitutional provisions.

Third, the history of the common use clause, as noted above, reveals an anti-monopoly intent to prohibit "exclusive grants" and "special privilege[s]," wholly apart from the limits imposed by other constitutional provisions.

Finally, cases applying the public trust doctrine in navigable waters have frequently struck down state actions in violation of the trust without any reference to either federal or state constitutions. A good example is the lodestar of American public trust law, *Illinois Central Railroad Co. v. Illinois*, 146 U.S. 387, 13 S.Ct. 110, 36 L.Ed. 1018 (1892). In that case, the Illinois legislature purported to grant to a railroad more than 1,000 acres of land underlying Lake Michigan in the harbor of Chicago. The Court applied the doctrine of the public trust in navigable waters to uphold the legislature's later revocation of the grant:

A grant of all the lands under the navigable waters of a State has never been adjudged to be within the legislative power; and any attempted grant of the kind would be held, if not absolutely void on its face, as subject to revocation. The State can no more abdicate its trust over property in which the whole people are interested ... than it can abdicate its police powers in the administration of government and the preservation of the peace.

Id. at 453, 13 S.Ct. at 118, 36 L.Ed. at 1043.

In light of this historical review we conclude that the common use clause was in-

tended to engraft in our constitution certain trust principles guaranteeing access to the fish, wildlife and water resources of the state. The proceedings of the Constitutional Convention, together with the common law tradition on which the delegates built, convince us that a minimum requirement of this duty is a prohibition against any monopolistic grants or special privileges. Accordingly, we are compelled to strike down any statutes or regulations that violate this principle.

D.

We conclude that exclusive guide areas and joint use areas fall within the category of grants prohibited by the common use clause. These areas allow one guide to exclude all other guides from leading hunts professionally in "his" area. These grants are based primarily on use, occupancy and investment, favoring established guides at the expense of new entrants in the market, such as Owsichek. To grant such a special privilege based primarily on seniority runs counter to the notion of "common use."

Moreover, the grants are not limited in duration. The statutes allow holders of EGAs to sell their "improvements," and the GLCB routinely transfers the EGA to the purchaser of the improvements or to the guide's designated successor. This practice allows a guide to effectively sell his EGA as if it were a property interest. See Division of Legislative Audit, *A Performance Report on the Department of Commerce and Economic Development Guide Board* 10-11, Audit Control No. 08-1305-88-R (Dec. 11, 1987) [hereinafter "1987 Report"].

Although the Board justified the program to the legislature as a means of improving wildlife management, see Transcript of Senate Resources Committee Hearing on S.B. 661 (March 12, 1976); Transcript of House Resource Committee Hearing on S.B. 661 (April 27, 1976), it is apparent that area assignments are not based primarily on wildlife management concerns. Rather, as authorized by AS 08.564.195(b) and 12 AAC 38.220(c) & (d)

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(eff. 5/12/78, am. 10/15/82), the Board bases its decisions on use, occupancy and investment.¹³ See 1987 Report at 9-10. Thus, the EGA program cannot be justified as a wildlife management tool like other restrictions on common use, such as hunting seasons and bag limits.¹⁴

The state argues that EGAs do not deny Owsichek common use of the wildlife resources because he, like any other member of the public, may hunt recreationally in these areas. We reject this argument. In *CWC Fisheries v. Bunker*, 755 P.2d 1115, 1121 n. 14 (Alaska 1988), we noted that the public trust doctrine guaranteed fishermen access to public resources for "private commercial purposes" as well as for recreation. The same rationale applies to professional hunting guides under the common use clause.¹⁵ The common use clause makes no distinction between use for personal purposes and use for professional purposes.¹⁶

Nothing in this opinion is intended to suggest that leases and exclusive concessions on state lands are unconstitutional. The statutes and regulations of the Department of Natural Resources authorize leases and concession contracts of limited dura-

13. Both the statute and the regulations require the Board also to consider "big game populations in the area." AS 08.54.195(b)(4); see 12 AAC 38.220(d)(1). The regulations make it clear that this is a secondary consideration. *Id.* Moreover, the context of this requirement in both the statute and the regulation suggests that it was enacted only to determine how many guides the game would support economically, not to benefit the game resource directly. Finally, it is clear that the Board simply does not pay much attention to this criterion. A recent legislative report concluded, "Use of independent game information for specific regions of the State no longer appears to be a significant factor in the Board's decision-making process." 1987 Report at 10.

14. We acknowledge that the EGA program may facilitate wildlife management by giving each guide having an EGA an incentive to conserve wildlife. However, without a specific constitutional provision allowing EGAs, mere usefulness in wildlife management does not suffice to save the EGA program from unconstitutionality under the anti-monopolistic common use clause. In the analogous area of limited entry in commercial fisheries, one purpose of limited entry has always been conservation related. However, this was not sufficient to save precursors

tion, subject to competitive bidding procedures and valuable consideration. See AS 38.05.070-.075 (authorizing leases and setting forth procedures); AS 41.21.027 (authorizing concession contracts in state parks); 11 AAC 14.200-.260, 14.010-.130 (establishing procedures for awarding concession contracts); see also *Alyeska Ski Corp. v. Holdsworth*, 426 P.2d 1006, 1009-11 (Alaska 1967) (discussing procedures required by law for leasing of state lands); *CWC Fisheries v. Bunker*, 755 P.2d 1115, 1120-21 (Alaska 1988) (stating in dictum that shore fisheries leasing program would not violate public trust, in part because leases were of finite duration and required annual rental). In contrast, EGAs are not subject to competitive bidding, provide no remuneration to the state, are of unlimited duration, and are not subject to any other contractual terms or restrictions. Rather, as discussed above, they are granted essentially on the basis of seniority, with no rental or usage fee, for an unlimited duration, and are administered in such a way that guides may transfer them for a profit as if they owned them. In these respects the EGAs resemble the types of royal

to the present limited entry system from findings of unconstitutionality prior to the constitutional amendment allowing limited entry. This history is detailed in *State v. Ostrosky*, 667 P.2d 1184, 1188, 1189 (Alaska 1983).

15. Admittedly, there is a difference between commercial fishermen and professional guides: a commercial fisherman takes his catch himself before selling it to others for consumption, while a hunting guide does not actually take the game, a privilege reserved for the client. We view this as an insignificant distinction that does not remove professional hunting guides from protection under the common use clause. The work of a guide is so closely tied to hunting and taking wildlife that there is no meaningful basis for distinguishing between the rights of a guide and the rights of a hunter under the common use clause.

16. The right to lead hunts professionally is a significant one. Nonresidents of Alaska are required to hire a guide in order to hunt brown bear, polar bear, and sheep, AS 16.05.407, and nonresident aliens must hire a guide to hunt any big game. AS 16.05.408. Thus, the holder of an EGA has a monopoly over this market, which is a substantial one in Alaska, for his geographic area.

grants the common use clause expressly intended to prohibit. Leases and concession contracts do not share these characteristics.

For these reasons, we hold that AS 08.54.040(a)(7), AS 08.54.195, and the regulations of the Board permitting the assignment of exclusive guide areas are in contravention of article VIII, section 3 of the Alaska Constitution.¹⁷ Accordingly, Owsichuk is entitled to relief declaring the EGAs that have been granted by the Board to be without legal force.¹⁸

IV.

[3] In addition to declaratory relief, Owsichuk seeks damages against the state. Because the superior court did not reach this issue, we would ordinarily remand for further proceedings. However, when an issue is raised in the trial court and is adequately briefed by all concerned parties on appeal, this court may consider it. *Mullen v. Christiansen*, 642 P.2d 1345, 1350-51 (Alaska 1982).

Owsichuk bases his claim for damages on allegations that the Board acted without authority in enacting the EGA regulations initially and that the regulations failed to comply with the legislation that was later

17. We note that EGAs may also violate article VIII, section 17. This section of Alaska's constitution provides:

Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

In *Gilman v. Martin*, 662 P.2d 120, 126 (Alaska 1983), we noted that this provision may require "more stringent review" of a statute than does the equal protection clause in cases involving natural resources. There is much less constitutional history of this clause than of the common use clause. The commentary states in full, "This section is intended to exclude any especially privileged status for any person in the use of natural resources subject to disposition by the state." 6 Proceedings of the Alaska Constitutional Convention app. V, at 99 (Commentary on Article on State Lands and Natural Resources, Jan. 16, 1956) (emphasis added). Because the parties have not briefed the issue and since we are able to decide the case on other grounds, we need not decide this question.

18. Our resolution of this issue makes it unnecessary for us to decide Owsichuk's other chal-

passed.¹⁹ We need not decide whether these allegations are true. Even if the Board acted without authority or failed to comply with statutory standards, it is immune from suit under the discretionary function exception provided for in the Tort Claims Act,²⁰ as interpreted by our prior decisions.

In at least two cases, we have held that acts of public officials who in good faith misinterpret the law and act in excess of their authority are immune from suit. *Earth Movers of Fairbanks, Inc. v. State*, 691 P.2d 281, 283-84 (Alaska 1984) (police officer lacked authority to temporarily reduce speed limit); *Bridges v. Alaska Housing Authority*, 375 P.2d 696, 698, 702 (Alaska 1962) (housing authority lacked power to use declaration of taking). We have also held that decisions involving the formulation of basic policy are entitled to immunity. See *Industrial Indemnity Co. v. State*, 669 P.2d 561, 563 (Alaska 1983).

The EGA program was a major policy initiative of the GLCB. Therefore, even if the Board acted in excess of its authority or failed to comply with the requirements of the statute, it is immune from suit under the discretionary function exception provid-

enges to the statutes and to the actions of the Board.

19. Owsichuk does not base his claim for damages on the legislature's enactment of an unconstitutional statute. We note that such a claim would fail under our holding in *Vest v. Schafer*, 757 P.2d 588, 598 (Alaska 1988), where we wrote, "[W]e do not believe it proper for the judiciary to assess damages against the State on the ground that the legislature enacted a law later held unconstitutional, in the absence of a statute allowing or requiring such damages."

20. Alaska Statute 09.50.250 provides in part:

A person or corporation having a contract, quasi-contract, or tort claim against the state may bring an action against the state in the superior court.... However, no action may be brought under this section if the claim (1) ... is an action for tort, and based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion involved is abused....

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ed for in AS 09.50.250. Furthermore, there is no evidence that the Board acted in bad faith.

v.

[4] Owsichek argues that it was improper for the superior court to assess attorney's fees against him, on the ground that he is a public interest litigant. See *Southeast Alaska Conservation Council v. State*, 665 P.2d 544, 553-54 (Alaska 1983). Because the state is no longer the prevailing party, the fee award must be vacated and remanded for redetermination.

We note, however, that successful public interest litigants may be entitled to full attorney's fees. *City of Anchorage v. McCabe*, 568 P.2d 986, 993-94 (Alaska 1977). Thus, the question of whether Owsichek is a public interest litigant may be relevant on remand. Since the parties have fully briefed the issue, we will address it here.²¹

We have consistently held that a party will not be deemed a public interest litigant where the party had sufficient economic incentive to bring the lawsuit without regard to the public interest. *E.g.*, *Rosen v. State Board of Public Accountancy*, 689 P.2d 478, 480 (Alaska 1984). As discussed above, Owsichek claims that the EGAs in his Units jeopardized the \$450,000 he had invested in his guiding operation, and that he suffered over \$100,000 in damages. This was clearly sufficient economic incentive to bring the suit. Therefore, we conclude that he is not a public interest litigant.

REVERSED AND REMANDED.



21. The parties' briefing assumes that the state was the prevailing party, which is no longer true. However, we have never distinguished between successful and unsuccessful parties in applying our standards for determining whether

KOEHRING MANUFACTURING COMPANY, Appellant and Cross-Appellee.

v.

EARTHMOVERS OF FAIRBANKS, INC., Appellee and Cross-Appellant.

Nos. S-1910, S-1921 and S-1946.

Supreme Court of Alaska.

Oct. 21, 1988.

Rehearing Denied Nov. 16, 1988.

Action was brought against owner/lessor of crane under strict products liability theory, and owner filed third-party complaint against manufacturer for indemnity. The Superior Court, Fourth Judicial District, Fairbanks, Mary E. Greene, J., found owner entitled to indemnification, and parties appealed. The Supreme Court, Compton, J., held that: (1) manufacturer was required to indemnify owner; (2) trial court did not abuse its discretion in refusing to permit manufacturer to amend pleading to assert affirmative defense of owner's independent negligence; (3) trial court did not abuse its discretion in limiting sanction imposed against manufacturer for discovery violations; and (4) trial court did not err in its award of attorney fees.

Affirmed.

Matthews, C.J., dissented and filed opinion, in which Rabinowitz, J., joined.

1. Indemnity ⇐15(9)

Whether manufacturer was obligated to indemnify owner/lessor of product for strict products liability judgment against it was question of law.

2. Indemnity ⇐13.1(3)

Retailer or lessor found liable on strict products liability theory may obtain indemnity from manufacturer, provided that re-

a party is a public interest litigant, and we see no reason to make such a distinction. Thus, the public interest analysis does not change if Owsichek, rather than the state, is viewed as the prevailing party.

January 12, 1990

Statement before the task force by Henry Springer - Chairman of the Guide Board - 12-12-89

During the introduction of Mr. Springer, acting Chairman of the task force, Bob Hinman explained that the length of time of a guide-outfitter area use permit is of considerable interest to the Board of Game in their allocation system.

"That specific subject is of quite a bit of concern to the Game Board members and to the Board of Game as a regulatory body. The reason for that is, unlike some of the legal and commercial implications which we have heard about, which are very necessary...I'm trying to direct my comments on the game management aspect of the time element.

There are no real easy answers. The testimony I want to give is basically help this task force to build a case for later for maybe legal review why the time element of 10 years maybe, which has been declared as a maximum defensible period from an economic and a commercial and a legal aspect, why that probably is too short and not acceptable from a game management stand point.

The trick under the Owsichuk decision for the Board is trying to decide where the weight is. I thought first maybe the attorneys did a poor job in regards to the Supreme Court to feed them data that made them say what they said. But, I don't think so. I think the judges are pretty cagey people and I think they understood the implication, too. And I take what Steve White says as <fair coin ?>and I think that Owsichuk simply said the common use clause is of more importance in the relationship to the original functions of area and time concepts in regards to commercial guiding areas. I think that's what the judges really thought. That puts us in the dilemma of trying to decide what is more important then in relation of the constitutional demand of the common use clause versus the sustained yield clause of game management. Even so, they are not part of the task for this task force. But, nevertheless that's an important element in the game management concept. There's no use in coming up with a really elaborate system if you aint got any game. So that aspect all of a sudden takes on a different connotation.

The tricky part I think, is to find out what would be the maximum acceptable from a game management aspect and what is the minimum acceptable from a legal and commercial aspect, and those are two different things. Coming up to the question here about how does time relate to a population of management of game in general or game species, specific. Ah, there's several elements involved in it. One of them is just simply the population structure of a specific game species, by itself. If you want to extract it out like that. And, then within that concept the percentage of each classification within the population, the sex composition, the dynamics of a given species or a given population. They all enter into it and that what makes that whole thing complex. Because it's not a stationary thing, it's not something you can just like a car or something, you can say it runs so long on so much gas and stuff like that. There are so many variables in it. That is exactly the Board function, is trying to determine that type of aspect which enters into what you are doing.

Im homing in, even tho there are several elements in that management aspect. The species, the area that we're talking about, the __specific relationship from one species to another within an ecosystem. Last not least, some of the cyclical aspects which are poorly understood at that point for a lot of species, especially in Alaska. They all enter into it, but I want to home in on the time element, because that is something we are considering right now under that specific paragraph.

You gotta decide what the management goals are. And, for some areas that is pretty simple. And, I get into some examples. But, let it suffice at this point to say that Alaska is probably one of the most complex areas in the world for two reasons. One of them, because of the constitutional demands in regards to sustained yield and common use clause, but also and that shouldn't be overlooked because of the uniqueness of the subsistence priority loss to a resource. You take those two things as basic parameters and you immediately have as a chain reaction a whole bunch of real complex consequences.

Trying to extract out what would be reasonable from a strictly professional scientific I have looked at what different areas in the world that have very valuable game resources. How they're doing it in order <for them to come up?> have say extracted out some kind of principles in relationship to time elements that we could use as a guidance.

Let it just be stated from the start that the question that come up is it more important for some species than for others is absolutely valid. There are factors like the longevity of the species, obviously a species like a small deer, roe deer, a black tail deer and so on, react completely different in relationship to population dynamics and structures than for example, a animal with high longevity like a brown bear, or something like that. If the reproductive cycles are different

the composition of the populations are different, the reactions within the ecosystem are different, therefore different time elements are in. Also, up here and in those areas of the world where predators are present, they create a specific problem because you interject a predator/prey relationship which has distinct influences on the game population.

So, realizing that not all the factors are the same because Alaska has some unique factors, there are some things we can extract out for time elements. The best managed resource right now, game resource was worldwide, I would say from a overall standpoint, both from effectiveness and the yield that it produces in the highest return to the owners, are in the socialist countries, primarily the east bloc countries of Siberia, Mongolia and so on. They have that honed down to a science where the population produce the highest yield and return in both monetary and biomass. The reason is very simple. That is a totalitarian system and there is a specific body which is charged with nothing else but doing that. And that is a fairly simple and basically what they have done, they created game management areas which are managed in perpetuity without changing owners or managers. Therefore, there's first a very high degree of knowledge for a specific area there because that guy basically gets put there until he dies. So that knowledge level stays with a specific manager unless he makes a bad word during peristroika or something like that (laughter). He stays there til he dies. That is an important aspect of it. Tho that time element is basically without any limit. The other thing that is unique for that type of thing is that the government personnel is doing all not only all the managing but goes to the point that the guiding services and the exact animal that a client will shoot is pointed out by that person, government employee. He's attached there all the time. They are so good, they will tell you for example, on the red deer, within three points on the wild animal how high it will score. That's how familiar and how close they have.

They have also taken over the genetic breeding pattern that was developed during Nazi Germany and have <kept stock books so to speak ???> where they know exactly which trend of genetics they want to continue strictly from a trophy management standpoint. Im just pointing it out how fine tuned the management system in those areas is and they include some pretty large scale wild area like we have in Alaska and Siberia. It's just developed right down.

The next thing, tho they, the co-ops for example, most of it is done direct. Some of them are done through co-ops. They develop 10 year plans that get submitted to the higher management in the government and its set up on 10 year cycles."

END of Side B, TAPE 6 - 12-12-89

BEGINNING OF SIDE TAPE 7 - 12-12-89

(in progress) "used as a good example, they have political subdivisions. In other words, an area of a township that's controlled by villagers and so on, becomes a hunting territory. And the hunting rights are detached from land ownership. What happens there is, they have a common use clause per say, but it's separated from land mass, and they auction that off. It's a first you gotta pre-qualify as a hunter, then if you do that then you have the right to bid. They have two types of territories set up by predominant game species. One is called "low game". Those are small game species, the biggest one being wild boar and roe deer. They come up on 7 year cycles. Every 7 years they've got to re-bid, without any preference rights to previous owners. It's strictly a monetary deal. In other areas that contain species like red stag, and high backs and chemy and so on they're called "high game" territories. They are bid in some areas on a 12 year cycle and in some areas on a 15 year cycle.

Those cycles were determined for three basic reasons. One of them, administrative, managerial reason from a governmental standpoint. They tie into their budget and political cycles. Because it comes up so and so often, it is connected with that. The second thing is an historic connection. Before the Weimar Republic all game in Germany belonged to the nobility and they handed out rights to certain species to be hunted on those type of cycles, so there's some historic aspect to it. And the third one, and that is the overriding one is the game managerial aspect of it. There we see they're looking depending on the species, between 7 and 15 year cycles.

The third system that's widely used, especially in Africa, is a concession-type system. A concession type deal is basically done in two different connections. One of them being like the old British colonial base where the professional hunter or a qualified person picked up a concession and basically has it in perpetuity as long as there are no wild (unk) it can be indefinite. When the colonialism was on the way out and some of the countries, especially the socialist countries, took over, they have come up with a modified concession system where they determine, re-determine how many animals and which classes can be harvested. On that basis they put it out to public tender and then the successful bidder will have the right for a specific area, to fulfill that harvest. It's practiced right now in countries like Tanzania, Zymbabwe, Botswana, Nabibia and so on. There are several unique features with that. One, there is absolutely no interference from other hunters after the prevailing party has received the concession for that area. Nobody else is allowed in that area to hunt. The second thing is of course, in specifically those

areas is poaching is a big problem and that has very defined consequences, and that is that the cooperation between the hunting firm or the hunter who has the concession and the military is a very close cooperation.

The time element there differ, depending on the species. In areas for example in the Zambezi Valley, they can go 10-15 years with their elephants or some of the larger species present. It can go down to 5 years in low velt or high velt areas where you have the more pronounced step animals. It's a unique system. Another thing that is very unique is that the government will post a game warden with each bidder that stays during all hunting operations right in a pre-determined camp so they can do it on their own as a check and balance system. ("Great idea" -comment from task force member - Springer responded: "Great idea, yeah, we get all the unemployed people out in the woods..")

Then you got ..all those systems have two elements which are pronounced, and that is an area concept and a time element involved with it.

In the United States you have a mixture. Typically, game in the lower 48 is managed in the statistical probability basis without area or time element other than from a managerial standpoint. The managers say "we want so many white tail deer and statistically over Thanksgiving weekend, following Thanksgiving, we're going to kill 22,000 deer of various classes, and we want so many bucks out of there, therefore we're going to make a 2 day buck season and a one day doe season, and statistically that is going to produce that much of a kill which fulfills our management requirements" and if it doesnt fulfill it then they may make another one day special doe season or something. If the weather was bad or everybody got drunk and went off the highway and didn't make it out in the woods. All those type of deals.

Its done on a statistical experience curve and it works to a high degree fairly well. Keeping in mind though, that all those areas are generally either fairly heavily populated or have only one major game species like white tail deer for example. When you go in the other areas of the lower 48 where you have a higher diversity of game species, like in the western states you come back to some kind of a concession system that is getting more and more heavily integrated with tresspass authorizations where the ranchers that hold wide real estate titles are looking at that as an income from hunting. That is getting more and more pronounced. The other thing that's getting more and more pronounced is just private game ranching and game farming because people are fed up with that statistical one weekend only type deal and they seek a higher quality hunt and thats what plays into it.

Those people in those ranches needless to say, they set it up on a trying to produce trophy animals because that's what they're selling.

To come back to Alaska and the Board function...our biggest problem the way I can see it coming up is, and that relates to what the (guide) task force is up to. Is strictly the relationship between management and the allocation system. I don't want to but I got to bring up the matter of subsistence here because it has a pronounced influence what this task force has to do and a pronounced influence on the guiding industry.

We got, like I said, in the constitution, two demands - a common use clause and a sustained yield clause. And we got four groups of people that are set up on a priority basis. Both ANILCA and the state subsistence law gives clear preference to the resource to subsistence users. They got ..on everything that comes up they got to be considered first. And the second group, especially for the four big game species, among caribou and moose, the residents have priority over non-residents. That leaves then simply non-residents and hunters that are involved through the guiding industry on the rear end of the <trough -?>. And the reasons that is very significant and important is because one of the things that would fit nicely into the Supreme Court demands would be a demand for either a lottery system or a permit system or a first-come, first-serve type assignment system, because that would fulfill the demands for not having some kind of hanky-panky allocation assignment going on.

That is probably, from the game management and allocation standpoint, the worst one for us. For us, being the Board. And there are a variety of reasons. I want to go through some of them.

In order to do that, in all cases where we utilize the permit system, it's done because there's some kind of a problem. The problem most likely being that there is a limited resource available. That's when we do it. In order to determine that there is a limited resource available in a specific area we have to have pretty detailed knowledge about that area. That's how we find out. In those areas that are not heavily utilized, we don't know even about it. The resource may be in trouble, it may be not. But, we concentrate on those areas that have heavy utilization and where there is either political fallout or some kind of public outcry. Nelchina herd for example, and things like that.

That type of a system, unless we say there's some complete imbalance in the sex ratio or age or something where we make it all bulls or something like that, it goes without exclusive determination as to sex or age. From a game management standpoint that is a real problem.

Then, the other thing is when you get then into the aspect of guiding or allocating it. Let's assume as an example, the Nelchina situation here on caribou, just as an example. We went the last time, last go-round last spring, the department told us that the herd could stand such and such a harvest. It was 1800 permits or something like that. We had to go through first trying to decide how many of those should go to subsistence users, we had to find out what is the subsistence demand on an historic basis for that area. We came up with 750 or 800 on the basis of testimony. That left 1250 permits open to the general public. The next step we had to go through was to decide how many of those should go to residents or were there any left over for non-residents. The determination was made after a lot of testimony that that did not fulfill the demand from resident people and as a consequence, none of them went out to non-residents. It just shows for the record how difficult it becomes to ..in regards to managing a specific segment of a population in an area for a specific time period when we don't even have rudimentary data for all of Alaska. Keep that in mind when you remember how small for example, in other systems they manage, they have territorial sizes of from five to ten thousand hectares, that being ten to 20 thousand acres. Those are management units with competent staff in place just to find out what the dynamics of just a small area are. We are managing thousands of square miles with one biologist covering the whole thing.

A permit system requires a very very detailed knowledge which the department doesn't have right now, the staff nor the budget to do. We're trying to manage on a time-area concept. The other thing is it's not only expensive, a permit system is expensive from that standpoint. It's expensive to administer later on. You have to have staff in place just to handle that.

The third aspect from the guiding ..trying to come back with the guiding deal on those situations. How are they going to exist on the permit system from year to year. I said I was not going to touch on that aspect because it doesn't pertain to game management. It's a separate issue, but you can't keep out of mind what such a system does to an industry. It's valid in relation to the time element if we say it takes ten years or 15 years for species like sheep. Take 20 to 25 years for species like brown bear, and you have that type of uncertainty, and with subsistence and resident users taking non-selectively, animals, which is exactly contrary from a management standpoint what you want to do with the role of the guides. The guides you want to press into that role that the manager in the other areas of the state are taking. And that is through selective collecting to further the management aspect. We've got two contrary systems going here at the same time.

In the one that would be fulfilling the management principals, <the highers-?> is on the end of the resource allocation process. It's an incredible situation we're having here. And the only reason the system hasn't collapsed up to that point is that we enjoy still large, untouched areas where the population pressure is just not that big.

Though, to come back to the guides. The role that they fulfill and I think the Supreme Court probably recognized it, but I just want to emphasize again is that if they stay in one area for longer periods of time, the longer they stay the better the more knowledge they absorb. That's why all the other systems use that principal. Assign one person and keep him there. They are in the forefront to supplement the knowledge level the Department of Fish and Game needs and that comes out in part of the operations plan. That's where that would translate into. They by the nature of their job, are looking for trophies, and since trophy sizes in most cases, are related to age, that trophy management becomes a much greater tool in the welfare of a population than is generally recognized. Compared with the unselective taking by subsistence or non-trophy hunters. It's a very important aspect, especially in species like bear, sheep and goats and so on, where adult males have very pronounced and important roles. They are the ones who are able to, in contrary to the other users who work on a selective taking system, because of that implied deal. And they are also the best trained of anybody or most hunters in the average, in the judgement in the field. Obviously in most circumstances, it's not too hard to see which is a big sheep and which isn't. It becomes a different matter when for example, you try to judge bears or non-horn <-- ?> in the field. So, those are some factors.

Somebody said something should be said about the Canada system (British Columbia). We studied Canada in the first part of the task force pretty intensively what they are doing. Unfortunately, you can't extract too much out of it other than what we said about the lower 48, because they don't have a common use clause in their constitution either. But, they're going much further than we are. Number one, they are all of them, Alberta, Saskatchewan, Manitoba, British Columbia, they're all re-evaluating their systems, too. They had similar task forces going as this one, still have it going. They implemented in the last two years pretty drastic reforms. For example, in Saskatchewan and in Alberta and in B.C., no non-residents can hunt without guides for all big game species. Even deer hunters are required to have guides. And they have come to similar conclusions. It's not just because they're greedy or because the guides are especially powerful political lobby. They have come to the same conclusion that the guiding industry in the absence of other mechanisms, got to fulfill a part of the game management deal to supplement the governmental functions. They have some pretty close cooperation between those guides and the local governmental

managers in their relationships ..what quotas they should get the next year, how the hunting types should be restricted. They've got a closer relationship than the more formal relationship adopted than we have at the present. Out of that very reason. I could talk alot more, but you guys got a lot to do. I'd be glad to answer any questions in regards. I want to make clear again. All I wanted to do is establish some kind of a relationship of management with a time aspect and why maximizing time is not something the board wants to see from an economic aspect or to support guides or anything. It is strictly a very integral and very important part of game management. Especially for the larger species in Alaska like bears, moose, sheep, not to mention sea mammals. We don't want to get into those, but they would fall in that catagory.

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QUESTION: from Randall Burns: "Henry, if, lets take the issue of the length of time. Do you think the Game Board would be capable of, if called to the stand to testify and justify the length that was established for a guide-outfitter use area, could present valid data that would support the kind of statements you just made?"

RESPONSE: Springer: "Why, I would, what do you think, I was bullshitting you here?" (laughter)

Burns: "No, I'm asking if -- the Game Board could get their biologist to present, you'd have that data."

Springer: "You better believe it. That stuff I didn't dream up while I was sitting on the crapper, I got a lot of material at home and.."

Burns: "We're creating a record here, Henry."

Springer: "You better believe it."

QUESTION: from Bob Hinman: "Henry, I had a comment or question or whatever. We have discussed numerous times the desirability of stability in the guiding industry. One important element obviously, is length of tenure of a permit. And, also that factor as an incentive for husbandry of game resources. The longer the guide he must depend upon that area and the longer he has to work with it, the better care he is likely to take of the resources within it. At least to some degree. Wouldn't you agree that the need for this concern for husbandry varies considerably between species and is greatest with those that are longest lived, because they develop slowly, especially develop to a either a reproductive state or to trophy status whichever you're looking at, much more slowly. And the classic of course here, is brown bear. But, unless one then issues permits - use area permits - only for that species, at a certain length, and then for other species of a shorter length, which would be a rather cumbersome

system, to say the least, then you're really looking at the requirements of the longest lived species as the ideal time period. Is that along something what your're thinking of?"

Springer: "Well, that's by just the sheer power of logic that's the way it would come out, except that I could see.... Let's take as an interesting example Kodiak for example. The main two species being brown bear and black tail deer. On the opposite sides of the spectrum. To call for an integrated management plan there and trying to design something - yes, if you want to do it, you would have to design it for brown bear. But, I would also venture to say strictly from an industrial standpoint, that there would be a guiding industry that would be interested in just furnishing black tail deer hunts without bothering the brown bear population. You can have very well, under a multiple use concept, situations where they are sharply enough divided where you don't have a predator/prey relationship and you have extreme part of the spectrum. So, I think in a case like Kodiak, for example, you could have separated guiding assignments and like that. If you get into more typical Alaskan areas where you have grizzly bear, moose, caribou and whatever together obviously, you don't have that type of an extreme situation. And, in a case like that where you probably have multi-species assignment to a guide, yeah, you would have to look at the upper end. And for example, well, if we take a look at a moose maybe for 12, 13, 14, 15 years and bear 20 years, you're far apart, yes, but not that far apart as you would be for example between deer or brown bear on the extreme. But, you would have to look from strictly a game management standpoint. Yes, you would have to look at the species with the higher longevity and the most pronounced slowness in reproductivity and such like that.

Hinman: "And for units that were on the other end of the spectrum - wolves for example, and you could have a one-year permit then."

Springer: "I aint gonna say a God-damn thing about wolves today." (laughter)

QUESTION: from Pete Buist : "We have had a few minor duels here about specifically allocation of permits to take individual beasties as apposed to permits for areas, and its one of my pet topics, and I'm sure most people are tired of hearing it. But, we have Nelchina caribou as an example of where the reason we have permits is because demand exceeds supply. There are some who would argue that, but that's basically the reason for the permit system there. We have other permit areas where the reason for the permits, and I'm speaking specifically of sheep here, is to provide an aesthetically pleasing hunt. There's not going to be as many people there you gonna have to walk in and so forth. One of my pet projects is to somehow by the time we're done here try and assure that, again, in the interest of stability in the

industry - that when we get finished that somehow there is some reasonable expectation of the guide who's assigned that area getting some of those permits, and not having to wait until 30 days before the season opens to know whether his clients drew permits in that particular area. Maybe what we're going to end up with is just guides aren't going to hunt in permit areas. Now, that would be unfortunate, particularly on Kodiak for example. But, do you see the Board as being at all receptive to somehow doing a 10% or 20% allocation to non-residents? If for no other reason than to somehow maximize the revenue situation on the sale of tags in some of those areas.

RESPONSE: Springer: "No, I can only speculate on it, but the handwriting's on the wall as far as we can see. You're going to see more and more of those situations that happened with the Nelchina caribou, assignment in Unit 11 last spring for all species. It used to be that for example, there was no high demand for sheep from a subsistence end of things. You're seeing that changing very very rapidly because the word is out, and there's going to be more and more pressure from subsistence users for their priority allocations. And that's going to be a real tricky part of the whole thing. I would be less than candid if I would paint you a rosey picture.

I think the guiding industry is really, regardless of what happens here, in those aspects, is really going to be going through some rough waters with the allocation process in the future for a whole variety of reasons. It may very well have to come to a real blowup into a head, but the way ANILCA and the subsistence law is written, you guys are suck'n hind tit, I can tell you that right now."

Hinman: warned that the task force had only 15 minutes left to use the room.

QUESTION: from Steve White (Asst. AG): "Henry, my challenge is going to be to sell the court the idea that it serves 'sustained yield' to have guide A in an area for 20 years as opposed to having "A" in for 10 years and then "B" in for the next 10 years. Okay. I'm going to have to sell it. It's going to have to make a logical connection. It has to be tied to something the courts can get their handle on.

One thing you said this having a guide in there for a longer period of time makes, gives him higher knowledge of the area and game, now logically doesn't that mean he's going to be a more efficient harvester of game in that area?

RESPONSE: Springer: "That absolutely means that he's going to be more efficient with it, in doing that activity. Absolutely. But, he also will just like similar to what European managers or other managers are doing. He will know

how many curl and a quarter rams he can expect next year, especially for that species, because they're non-migratory. They're a fairly stationary. He knows the predation situation. He knows which one produces good areas. He for example, may leave a gang of 3 or 4 rams by themselves in that hunting season and concentrate over in another hunting season, to build them up. He knows how many made it through the winter okay. That is that type of a management line where it's in his own interest to produce the best trophies. As a consequence, he is able to use that knowledge for propagation purposes just like a rancher with cattle would.

White: "Maybe I don't understand the biology here. If he decides to let an animal grow older because he knows that he can take that animal at a later time for his client, but he goes and takes a younger animal now, for his current client, what does that have to do with whether there's a sustainable yield herd up there?"

Springer: "No, no. The sustainable yield doesn't say anything about trophies. That's just total population. And he'd <garbled - rather?> integrate that with subsistence hunters than other hunters that come in his area. He doesn't own that whole stock of sheep, right? So he is out there in that area. The subsistence hunters and the resident hunters most likely take what is easiest available to them - the closest. But, what he knows is that let's say there are 20 rams that are 6 or 7 years old, and he gets a client in here who just wants a sheep, period. That's one of them he's going to pick. But he makes sure 4 or 5 of them he's not going to pick out of that group because that's what he needs for coming through. He's going to harvest let's say 60% of the rams that are in the 11th year or something like that and will die off anyway. Because that's the crown of the whole management system. But, he keeps enough of the old ones and sub-adults alive to have that progression come through. That's exactly the difference between the harvest level and the rams which should reproduce not those underlings, not those secondary ones. And that's exactly what he's doing. He's pushing it to the longevity limit where he produces the best harvest, the best trophies consistently without affecting the breeding biology of that group. Did I lose you?"

Okay. Let's say there's a correlation between a curl and a quarter ram being the 11th year or the 12th year being the best time from a standpoint of longevity in obtaining trophy size. So that's when you want to knock them off. If you knock one off at 9 years you have knocked him off prematurely. Okay. So you are going for that optimum in a harvest level to trophy size. You can't expect that from a random hunter. Random hunter will find one of those rams, too but most likely it's not going to happen. That's where the guide fulfills a completely different management function than the statistical approach to management.

WHITE: "But allowing him to nurture that herd and go for the trophies, I guess I'm still. I know that's economically better for him."

Springer: "It's not economically - that is more important from a wildlife management standpoint because it's those adult rams who have the highest propagation function in that herd."

White: "Okay, that's what I wanted to find out."

QUESTION/comment: from Lew Pamplin: "Just to sum up a lot of what Henry is saying is it's selectivity is what it is. It's by..time in an area you can be more selective...and it can be an economic benefit. No question about that. But, the real point is that it is definitely to the benefit of wildlife management because selectivity of the older age class trophies, or whatever you want to call it can only be made either two ways. Either real substantive knowledge of an area is gained over time and experience, or sheer luck. You get a new guide or a hunter come in there and they just happen to walk up this creek and bingo there's a 10 1/2 foot brown bear that they just walk into. Flat lucky and they don't know. But, you take a guide or anyone else, a resident hunter that's gone in the same area 8-10 years and they go back there year after year after year, they get to know that area, get to learn it. It keys back into selectivity, where - another way of looking at it you can be more selective and make just as much money if you want to look at it from an economic term and actually work less. Now, there's going to be some shuddering in the room when I say that, but on some species that's exactly what can happen in some areas. Not just looking at Alaska wildlife. Because people will pay, if they know that a guide is a real conservationist, and has let these older age class get up to like say, 10 foot bear class and all that. And they know it, and they know they're in there. Some of those people will pay more for that than they would to go bouncing around and look for 7 foot bears.

CLOSING REMARKS - Springer: "I would suspect that I would go for 15 to 20 years, if I have to go for that stand and swear a solemn oath I would feel on very thick ice with those figures. I fully appreciate the situation the AG is in. They've got to have something pretty solid to hang their hat onto. That's a tricky situation between the two constitutional clauses. I appreciate you letting the Game Board get in something, because no matter what you do, we're going to be stuck indirect...we're in the picture indirectly with the allocation process.

Final comment from L. Pamplin: "Henry, one of the points that I think are real important, especially with you being the Chairman of the Board of Game. Some of the stuff we're talking about ...selectivity and other things related to wildlife management. You can't even put into regulation. It's

things that are going to occur - Im just seeing if you would agree with this - based on the knowledge and concern of the people who are in those areas. And they can either help benefit it beyond what the law requires and the regulations, or else they can hurt it and be legal while they're doing it."

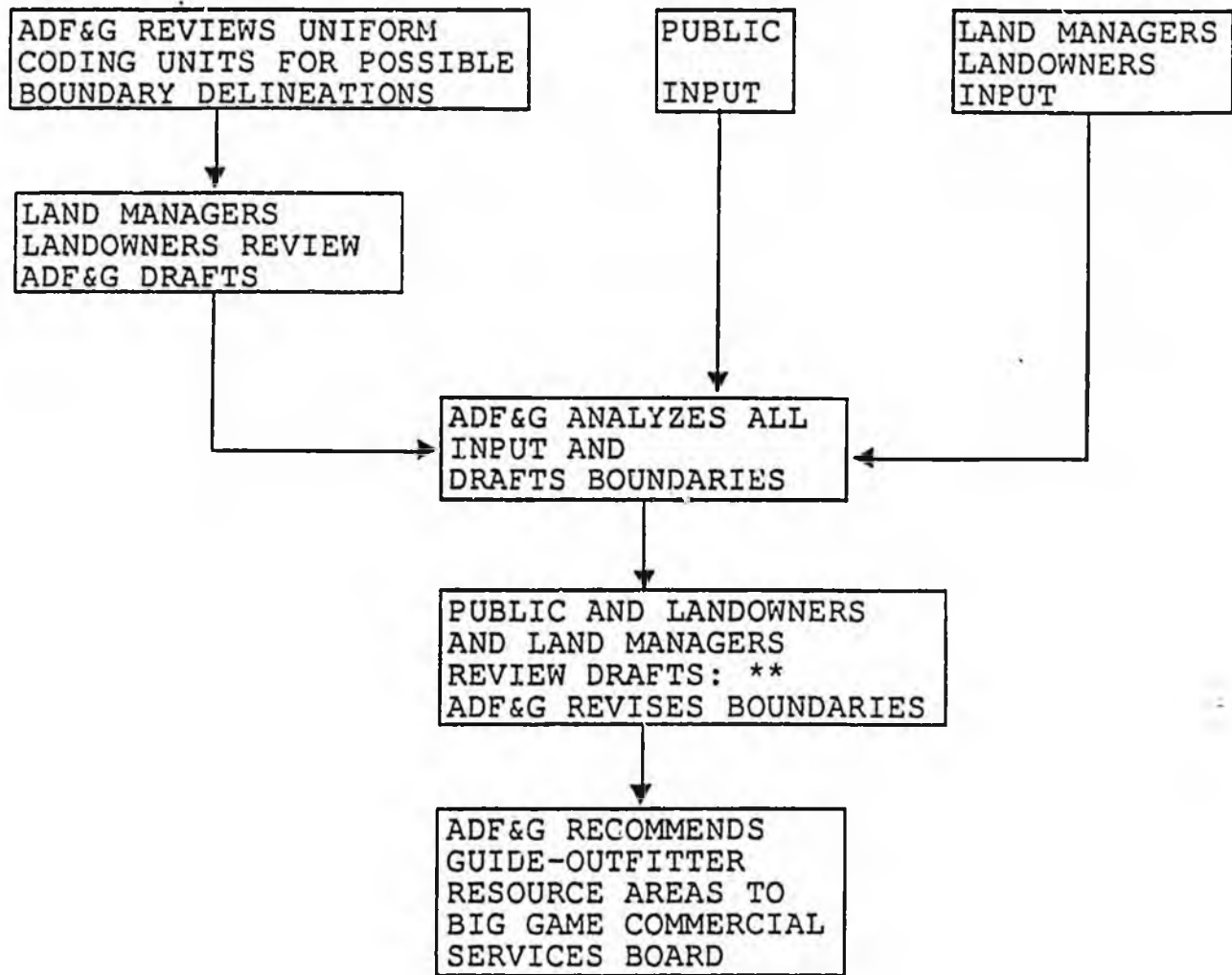
Springer: "My biggest concern for the welfare of Alaska's game resource is the 100% opposite situations between what we are trying to do here through the guiding industry and what the subsistence law allows. The subsistence law specifically says that there can't be any distinction if they want to shoot young ones or females or whatever the preference is, there isn't a damn thing you can do about it, which is like it or not, which is in most cases not very conducive to game management."

end

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F.G.
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PROCESS FOR DEVELOPING BIG GAME GUIDE-OUTFITTER
RESOURCE AREA MAPS

ALASKA DEPARTMENT OF FISH AND GAME
DIVISION OF WILDLIFE CONSERVATION
NOVEMBER 1989



** Review methods would include sending packets of draft maps out for review; also holding public meetings for comments.

SCHEDULE: For the entire state this process is expected to take two years, within which higher priority areas would be completed first.

PUBLIC PROCESS FOR DEVELOPING BIG GAME GUIDE-OUTFITTER
RESOURCE MAPS

DIVISION OF WILDLIFE CONSERVATION
ALASKA DEPARTMENT OF FISH AND GAME

November 7, 1989

The Legislative Task Force on Guiding and Game has directed the Alaska Department of Fish and Game to solicit initial public input as part of developing big game guide-outfitter resource maps. The following steps could be used to achieve the goal of obtaining public input regarding the locations of boundaries for new guide-outfitter resource areas.

Step 1: ADF&G OPENS PUBLIC INPUT PERIOD

A. ADF&G conducts a public information campaign to alert people to the process, and how to participate.

B. ADF&G distributes an order packet for the public to submit to ADF&G to get the actual maps and forms for public comment. Includes a statewide index map of GMUs and titles of 1:250,000 scale quads, and a sheet explaining (a) the process, (b) that the public should designate on the index maps which quad maps they want, and (c) that they have to submit the index map as an order form to ADF&G.

C. ADF&G sends map order information to organizations and individuals that could include licensed guide-outfitters, APHA, landowners, as well as all who request map sets.

Step 2: PUBLIC INPUT

A. ADF&G sends out packets of maps and forms to match public orders. Maps are 1:250,000 scale blueline copies with subunit and UCU boundaries. Forms are for written boundary information, species to be used, ideas and concerns about how boundaries would be determined, and other helpful information. The resource mapping criteria approved by the task force would be clearly presented in the explanatory sheet for the public.

B. Statewide, ADF&G allows 60 days for the public to obtain maps/forms and return them to ADF&G. Sends letter upon receiving each set of comments/maps, explaining the next steps in the process, and upcoming schedule.

C. During the public review period, ADF&G begins evaluations of each GMU based upon wildlife resource criteria, and reviews uniform coding units for possible boundaries for guide-outfitter areas. ADF&G provides these preliminary drafts to landowners/land managers for their initial review and comment. Landowners/land managers include but are not limited to regional Native corporations, village corporations, boroughs, municipalities, DNR, BLM, FWS, FS. and NPS.

profit v. non-profit

Step 3: ADF&G ANALYZES ALL INPUT AND DRAFTS BOUNDARIES

At the end of the public review period, ADF&G evaluates all submitted comments, by GMU, and revises earlier proposed boundaries as necessary. Areas will be examined in priority order according to the departmental list.

Step 4: PUBLIC REVIEW OF ADF&G DRAFTS

The new maps are then provided for public review, including landowners/land managers. ADF&G considers all final review comments, and makes any necessary revisions to the draft maps resulting from the review.

Step 5: ADF&G RECOMMENDS GUIDE-OUTFITTER AREAS TO BIG GAME COMMERCIAL SERVICES BOARD

A. ADF&G prepares legal descriptions and digitized boundaries for the recommended guide-outfitter resource areas.

B. ADF&G transmits final recommendations to the BGCSB.

ADMINISTRATION OF BIG GAME GUIDE-OUTFITTING AREAS IN OTHER WESTERN STATES AND CANADA

REPORT TO THE LEGISLATIVE TASK FORCE ON GUIDING AND GAME
Alaska Department of Fish and Game
Division of Wildlife Conservation

October 4, 1989

The Alaska Department of Fish and Game has recently obtained information from selected western states and Canadian provinces and territories regarding regulation of guide-outfitters or their equivalents. The areas surveyed included:

| | | |
|----------|------------|-----------------------|
| Colorado | New Mexico | Alberta |
| Idaho | Oregon | British Columbia |
| Montana | Washington | Northwest Territories |
| Nevada | Wyoming | Yukon Territory |

In addition, Oregon provided recent licensing information from Arizona, California, Texas, and Utah.

The following points describe big game guide-outfitting programs in other areas. The term "guide-outfitter" is used throughout, for the reader's convenience. A separate table summarizes the various licensing requirements. Specific legislation and regulations are also available separately.

1. In most western states there is little state land that guide-outfitters can or want to use. Most guide-outfitting takes place on federal or private lands. Thus, federal government agencies are the main managers of guide-outfitting resource areas in western states outside Alaska.

Outside Alaska, the U.S. Forest Service and Bureau of Land Management are the largest land managers. Together they manage most of the lands used for guide-outfitting in the western states.

2. In several western states there are few guide-outfitters because the wildlife resources do not offer attractive commercialized hunting opportunities. In these states there is no real need for a state system for managing guide-outfitter activities on state lands, or for issuing state permits to use state lands for guide-outfitting. Some of these states do not even license guide-outfitters.
3. On federal lands the resource areas used by guide-outfitters are based on federal planning and management units. These units do not necessarily correspond to state wildlife management units. State wildlife agencies are notified about proposed guide-outfitting areas on federally managed lands.

4. The few western states and the provinces that manage guide-outfitter resource areas make the boundaries generally fit within wildlife management units. Areas for guide-outfitters in British Columbia and Idaho do not necessarily correspond to wildlife management units, but their wildlife agencies say that this has not been a problem.
5. None of the other states and provinces surveyed have a constitutional common use clause like Alaska. Thus the existing management of western guide-outfitter areas tends to be characterized by grandfathered operators, who may receive preferential treatment when they apply to renew their land use permits.
6. Some states, provinces, and federal agencies can provide a short (1-5 years) preliminary lease or permit for guide-outfitter resource areas. If the operator complies with laws and regulations, the lease or permit can be extended or re-issued for the full period allowed (5-10 years).
7. Lease or permit fees for guide-outfitter resource areas in this survey varied, including:
 - * a fixed fee (e.g. Yukon)
 - * a percentage of the anticipated gross revenue (e.g. 3% for lands managed by U.S. Forest Service and Bureau of Land Management)
 - * a fee for the base camp plus each spike camp (e.g. Idaho)
 - * market value (e.g. British Columbia).
8. Management of guide-outfitting in most of the western states outside Alaska allows for joint use of areas rather than restricting guide-outfitters to sole authorization areas.

Both the Forest Service and Bureau of Land Management manage multiple land uses. They also specifically try to offer opportunities for more than one guide-outfitter to use a particular area. A guide-outfitter who wants to use federal lands has to submit an application, including a detailed operational plan. The federal agency reviews this plan, and compares it with their management goals for the area. Their decision to issue a permit depends mostly on whether they consider that another big game guide-outfitter in the area would be compatible with other users.

Wyoming has joint use on federal lands, with a system of sole authorization areas only on state land. Nevada allows for joint use of guide-outfitting resource areas throughout the state, although state officials are currently being asked by their Guide Advisory Board to re-allocate guiding areas for exclusive use. Idaho appears to be the only western state with an exclusive use system on all state and federal lands.

9. The U.S. Forest Service and Bureau of Land Management have not managed Alaskan areas for guide-outfitting the same way that they manage most areas outside Alaska because they relied upon the state's former exclusive guide area system.

10. There are some western states and provinces where there has been a great deal of competition among guide-outfitters. Because these states do not manage much or any of the lands used by guide-outfitters, they regulate by imposing very stringent guide-outfitter licensing requirements. The province of Alberta has established a similar licensing program.

Montana, Wyoming, Idaho, Nevada, Colorado, and Alberta all have newly passed laws to maintain and improve the quality of the guide-outfitting industry through strengthened licensing requirements. These requirements are similar to Alaska's new guide-outfitter licensing program. Some additional requirements in other states include:

- * landowner permission
- * higher amount of liability insurance
- * performance bond
- * current first aid certification
- * operational plan
- * record of no prior felony convictions
- * equipment inspection

These and other specific licensing requirements are more fully described in a separate summary table.

In contrast to Alaska, Montana does not allow any guide-outfitting on state lands. They have a constitutional clause that prohibits charging a fee to help someone harvest wildlife.

11. Last year the province of Alberta appointed a Fish and Wildlife Outfitter-Guide Task Force to review all outfitting and guiding policies. After examining the policies of British Columbia, Ontario and Montana, and consulting with a natural resource economist, they recommended guidelines to be used in developing new policies. Alberta's concerns were similar to Alaska's, and their final report may be useful to Alaska's task force.



APSA

Alaska Professional Sportsmen's Association

JAN 31 1990

Representing Alaska's Big Game Guides, Outfitters, Air Taxis, Sport Fishing Guides,
Lodges and Support Industries

January 20, 1990

The Governor's Task Force on Guiding and Big Game
The Governor
The Alaska State Legislature

Dear Task Force Members, Governor, and Members of the State
Legislature:

The Alaska Professional Sportsmen's Association is an Alaskan non-profit corporation made up of hunting guides, outfitters, air taxi operators, transporters, fishing guides and lodges, taxidermists, every day fishermen and outdoor sportsmen and women who use our lands and renewable resources including our "common use" resources of water, fish and game. We include support industries such as sporting equipment supply stores, hotels, restaurants, etc. Our main purposes are to maintain equal access to our fish, game and waters and to promote proper game and fish management.

Although a young organization, less than a year old, we have already caused major changes in law and in the manner state and federal agencies treat sportsmen. This also includes ongoing litigation, litigation under preparation, recent Supreme Court decisions and an investigation into possible violations of the Federal Civil Right's Act by Federal, State and/or Local government officials.

Many of our members have been upset at the Task Force about the lack of fair and equitable public notice which should include mailings to the people who will be regulated and most impacted by recommendations of the task force.

Although there are less than 500 registered guides and assistant guides in Alaska, they have not been directly notified, as would reasonably be expected, of what the task force is doing, what direction it is heading and what it's recommendation is to the Governor and Legislature. In addition, most of our members feel that the existing public process, as practiced especially by this Task Force, is no

longer a meaningful process and may have violated state notice requirements. Our members look back to public meetings in 1988 and 1989 when the public was invited to speak at these meetings, and it became quite obvious that the Task Force was determined to remain on one track - back to an exclusive guide area concept, in direct violation of our state constitution and recent Supreme Court decisions. We have also had reports that the Task Force did not have "enough time" or "money" to notify everyone effected by their deliberations or recommendations so the Task Force put together "selective" mailouts. We have requested a copy of this list and requested an explanation as to its development.

A mailing to all registered guides/outfitters and transporters does not cost that much. Simply sending out the handouts from Task Force meetings to this small group would have done a great deal to fairly satisfy notice requirements. We have also requested proof of notice of all meetings of the Task Force which we believe were deficient.

We ask the Task Force, Governor and members of the Legislature to read pages 9 through 24 of the Owsichek decision of our State Supreme Court. It clearly deals with the "common use clause" researching back to the founding days of our constitution and our state. The court examined the "Why" of the words of our constitution. The Supreme Court offered the first and most substantial insight into the meaning of "common use" in their Owsichek decision. This was not a decision about leases and contracts but about "common use" of the waters, fish and game within the state of Alaska. The CWC fisheries case and several other cases fully back up the "common use" language and the intent of it's actions. In addition, guiding itself was given a "common use" designation. Guides are not the "users" of the game but supply guide, outfitter and transport services to the real users.

The legislature, and its appointed boards and commissions, have the responsibility to uphold our constitution and all of its provisions. Their purpose is not to find ways around our Constitution, but rather ways to expand its meaning - always reminded of the author's intent. Our public servants are not supposed to tell the people what to do but rather represent the goals and aspirations of Alaskan's in solving public problems. That means they must notify and listen to those most affected. Not cow tow to former Federal officials who now are given cozy consulting contracts. In

this position, our representatives are TRUSTEES of all Alaska's waters, fish and game. The fish and game and waters do not belong to the administrative or legislative branches of government. They belong to the people of Alaska and are there for "common use".

It is apparent that the exclusive guide area scheme will not be put to rest by this Task Force. Because of the continued actions of a few to keep the EGA concept alive - in whatever form, the charge of the Task Force, the expectations of Alaskan's and the public process have been subverted. You occasionally asked for "public comments" but have already committed to a new guide area scheme. Your handouts and draft legislation make that clear. And yet there are tested alternatives to the resource allocation and permitting issues which the Task Force and ADF&G continue to dismiss as "administratively" unworkable. And yet they work in most states - and have for decades.

We want the Task Force and the Alaska Legislature to know that we are doing our best to participate, in a constructive manner, and are following this Task Force very closely. Anything resembling an exclusive guide area concept will be brought before the court requesting injunction as quickly as it is signed into law. You know this and many familiar with the Task Force have already admitted that the process will start all over again at great public expense.

Why not provide alternatives to the guiding and outfitting industry and to the legislature that you know can stand the test of the court. As mentioned, we are exploring further constitutional and now federal civil rights violations by state, federal and local government officials that we already believe may subject individuals in government to stiff fines and possible criminal charges.

The supposed "chaos and confusion" that you claim in your findings of the guiding profession was not created by the Owsichuk decision. The chaos that exists was created by the actions of special interest groups trying to protect their unconstitutionally guaranteed incomes and investments with an exclusive guide area concept that deprived all Alaskans, under law, of their common use of fish, game and waters within our state and found illegal by our Supreme Court only after one Alaskan refused to "playball".

The failure of the EGA system has been made apparent by the increasing issuance of more and more legislation and

regulations on all factions of the hunting and visitor guiding industry. These regulations are like sand bags being thrown against a poorly constructed and crumbling dam. Not only has the exclusive guide area system been declared unconstititutional; IT DOES NOT WORK. The government control that had become necessary to keep the EGA system going was indeed creating chaos long before the Owsichek decision. It is now easier for a doctor to get a license in the State of Alaska than it is to become licensed as a guide/outfitter. Total government control has not worked in socialist and communist countries and it will not work with our guiding industry.

The state's EGA system has also created a dangerous situation for the guiding industry on Federal land. The system gives the Federal agencies a way to eliminate all guiding on Federal land by attrition. It gives them a way to eliminate a "mangement problem". A problem which is consistant with the Theology of some Federal agencies, when they should (under various legal mandates) be exploring expanded visitor uses.

To say that it is the Guide Board or Task Force's responsibility to conserve game is incorrect. Guide licensing and game management are two separate and unrelated legal and game management concepts. Trying to manage game by limiting, restricting and putting unnecessary requirements on guides, outfitters, air taxis, etc. is not "game" management unless it is a component of an overall "take" permitting program. Game must be managed by wildlife behavioral professionals, game biologists, not politicians or the guide industry.

The purpose of the EGA system was to protect the income of a privileged few. It was not to conserve game. For those who continue to tell themselves that the purpose of the EGA and the Task Force's recommendations are to conserve game or is "resource based", are lying to themselves. Look at the industry in the last year of the EGA system - the game was not being preserved by the EGA system and the chaos of THAT EGA system is still obvious. Unfortunately, we anticipate this will continue under the new proposal.

As Vice President of The Alaska Professional Sportsmen's Association I recommend:

1. A total rewrite and simplification of guide laws. Establish two licenses. One license would be for guiding or outfitting all species of big game. This license should require a two year apprenticeship, taking no less than one

guided hunter a year to qualify. The second license would be for guiding or outfitting to take moose, caribou and black bear only. This would require a one year apprenticeship. There is no reason to separate guiding from outfitting as they are so close that they are impossible to separate rationally and the Supreme Court found them both to be common users.

2. Establish a lottery and registration permit system for all non-residents. They are the consumptive "users" of the game, not the guides or outfitters. The lottery should be 6 to 8 months prior to the hunting season. Among other advantages, such a permit system will:

a. Manage the game and limit the kill by permit or registration.

b. Stop "hot spots" or kill zones from developing and spread hunting pressure through the state.

c. Stabilize hunting seasons and adjust the management of game by decisions made before the kill as well as after the kill.

d. Leave game management with the proper agencies.

3. The guiding/outfitter test should be administered one or two times a month by a college or a private firm the same way insurance license tests and other licensing tests are given. A practical test given in this manner insures fairness, equality and an acceptable level of competency in a guide. This eliminates bias and favoritism. The Division of Licensing should only issue a license to a person who passes the test, not dictate how one might get a license.

4. Discriminatory users fees, presently charged only of guides, outfitters, transporters, etc. should be eliminated. The present type of user fee violates equal protection under the law and discourages visitors. The standard tag and license fees are themselves user fees and can only be charged to the hunter who takes the game not to the person providing a guiding service to the hunter. The guide is only one link in a long chain of services provided a hunter. Hotels, restaurants, airlines, taxis all provide services. The system should also leave the choice of which guide or outfitter or service provider a visitor wishes to use to the visitor. It is not the government's role to dictate who a visitor must choose to provide guiding service.

5. Any and all licensed commercial service providers should be allowed to operate in the entire state. Allowing some guides to hunt the entire state while others are limited to

one game unit also violates the common use and equal protection clauses of our constitution. A game permit system eliminates the need to limit the areas in which a guide can operate. The game is managed by the allowed permits acquired by the visitor and all the other users.

6. The state should not mandate unreasonable insurance. Our legislature took it upon itself to mandate insurance levels for guides when doctors and other professionals are not required by law to have insurance. This was done without reasonable public notice and input and imposed at the most difficult time of the season. The legislature's effect on the industry by mandating such unreasonable insurance requirements was to eliminate the "small guy". Remember that insurance does nothing to protect the hunter, the game or the guiding industry. If anything, it causes the guide to take more game, over and over, in order to pay the costs of the insurance. Guiding is a private service business and the state should treat it as such. Alaska has civil courts in place to handle any negligence or complaints between a guide and clients. Use this system. It is much more appropriate and cost effective.

7. A point system, much like the driver's license system, should be established to discipline guides. This would reduce the favoritism we have seen in the past and it would let a guide know where he or she stands when convicted of a fish or game violation. This point system should be reasonable and should not be used as a means of reducing the number of guides but of putting more pressure on those who violate. A point system should eliminate the substantial cost of hearings and greatly reduce the cost of enforcement.

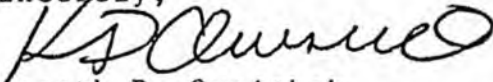
8. The Federal government likes the limited entry concept. It fits right in with their efforts to eventually stop all consumptive uses on park and refuge lands. The task force should recommend that the legislature demand, of the Federal government, the return of control of all fish and game management in the state to the state. All other 49 states have control of their resident fish and game and Alaska should not be treated differently. Law suits are already being developed to attack this inequality. It is time Alaska becomes a state and not an extension of the Federal Department of the Interior.

9. The task force should establish policies that encourage tourism and use of our renewable resources. The state spends millions of dollars to bring tourists to Alaska but

once they are here, the state doesn't want them to do anything other than take the train or ride the road. Does the state really want visitors to have access to our recreational resources?

10. The task force should recommend policies that establish scientific management of our fish and game, not policies that socioeconomically manage people. Equal access (common use) to our waters, fish and game is guaranteed by our constitution. It is the duty of the Task Force and our Legislature to act accordingly. The members of APSA believe in equal access, common use and wise use.

Sincerely,



Kenneth D. Owsichuk
Vice President
Alaska Professional Sportsmen's Association

klf/KO

cc: Governor Cowper
All Task Force Members
All State Legislators

TASK

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

FEB 7 1990

Senate

February 6, 1990

Ken Owsichek
Box 190301
Anchorage, AK 99519

Dear Mr. Owsichek:

Attached is a detailed description of the notices provided for all meetings of the Legislative Task Force on Guiding and Game that you requested. After the initial meeting of June 29th which was held for the purpose of organizing the task force, each meeting was preceded by phone calls to task force members to establish a time and meeting place for the upcoming meeting. Once a date was agreed to, staff notified the members by mail or phone depending upon the time available before the meeting date. Also, again depending upon the time available before the meeting, various forms of public notice of the meeting were provided. The type of public notice provided for each meeting is identified in the attachments.

For the sake of thoroughness, I will also mention that on August 16th some task force members, but not a quorum, met with representatives of Birch, Horton, Bittner, and Cherot Law Offices for the purpose of discussing the scope of the work that the firm would provide for the task force. This gathering did not constitute a meeting for purposes of application of AS 44.62.310, but was, rather, an administrative gathering between staff and some task force members to discuss matters relating purely to the internal workings of the task force. The following people attended this gathering:

Task Force members:

Senator Faiks
Ken Fanning (by telephone)
Lew Pamplin (Wildlife Conservation)
Randall Burns (Occupational Licensing)

OUT OF SESSION

3111 C STREET ANCHORAGE, ALASKA 99503 907-561-7610

Ken Owsichek
Page 2
February 6, 1990

Staff:

Mark Rienle (Senator Faiks)
Steve White (Assistant Attorney General)

Birch, Horton representatives:

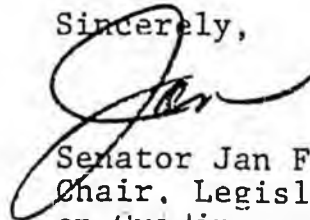
Steve Pradell
William Horn (by telephone)

I was discouraged to learn from my staff that, following your visits to my office in November and December, despite being urged to do so, you declined to participate in the task force hearings, suggesting instead that you had better things to do. I regret that you apparently felt it would be useless to offer testimony to the task force or to listen to the panel's discussions of issues. Significant changes based upon testimony were made to recommendations adopted by the task force. I feel that the task force could have benefited from your comments.

Much of your letter of January 20, 1990 consists of objections you have to policy decisions made by the task force. I regret your dissatisfaction with those policy decisions and can only urge you to bring these concerns to the attention of the legislative committees that will be working on the guiding legislation. It is not too late to attempt to influence those decisions.

In closing let me assure you that every effort was made to notify interested persons of meetings of the Legislative Task Force on Guiding and Game, that public testimony was actively solicited, and that public comments were seriously considered by members of the task force before recommendations were adopted.

Sincerely,



Senator Jan Faiks
Chair, Legislative Task Force
on Guiding and Game
(terminated January 25, 1990)

JF:TBC:pl
WKPI/105
Attachments

Ken Owsichek
Page 3
February 6, 1990

cc: Governor Cowper

All members of the Legislative
Task Force on Guiding and Game

✓ All State Legislators

William Horn
Birch, Horton, Bittner and Cherot

THE FOLLOWING ATTACHMENT IS A LIST OF ALL TASK FORCE MEETINGS

JUNE 29, 1989 - (work session) (posted Public Notices at Anchorage LIO, Senate Secretary posting)

JULY 19, 1989 - (work session) (notice may have been posted at the Anchorage LIO and notice may have been given to one or both of the Anchorage newspapers but no records exist to verify)

OCTOBER 5-6, 1989 - (combination work session/regular meeting with public comment)

(newspaper ads, written notice to staff mailing list)

NOVEMBER 8, 1989 - (regular meeting - public comment)

(posted Public Notice at Anchorage LIO, newspaper ads, written notice to staff mailing list and to approximately 1500 commercial licensees, landowners, agencies from agency lists, available to statewide teleconference network)

NOVEMBER 20, 1989 - (regular meeting - public comment)

(posted Public Notice at Anchorage LIO, newspaper ads, written notice to staff mailing list and to approximately 1500 commercial licensees, landowners, agencies from agency lists, available to statewide teleconference network)

DECEMBER 11-12, 1989 - (regular meeting - public comment)

(posted Public Notice at Anchorage LIO, newspaper ads, written notice to staff mailing list, available to statewide teleconference network)

JANUARY 4-5, 1990 - (work session with public comment)

(posted Public Notice at Anchorage LIO, available to statewide teleconference network)

JANUARY 22, 1990 - (final meeting - work session)
(available to teleconference network)

(posted Public Notice at Anchorage LIO, available to statewide teleconference network)

The attached press release was issued by the Legislative Task Force on Guiding and Game following their June 29, 1989 organizational meeting.

The release was provided to all radio, television and newspaper outlets in Alaska.

copy

June 29, 1989

PRESS RELEASE

Subject: Legislative Task Force on Guiding and Game

Senator Jan Faiks was elected Chairman of the Legislative Task Force on Guiding and Game during an organizational meeting in Anchorage Friday, June 29th.

The panel is made up of 15 members who represent the general public, Alaska natives, industry, the legislature and state agencies. The task force will develop a resource-based management system for allocating big game hunting opportunities among guide-cutfitters.

Under the chairmanship of former Representative Henry Springer, in January the task force presented the Legislature with a package of recommendations. The effort resulted in the passage of House Bill 112 and Senate Bill 139. Both have been signed by the Governor. HB 112 provides for changes in regulations pertaining to the commercial big game industry in Alaska. SB 139 extended the task force for another year to develop recommendations for a statewide big game management plan.

The task force will conduct meetings throughout the legislative interim.

For additional information please call 561-7610.

The following is a list of newspapers in which advertisements were placed for the Legislative Task Force on Guiding and Game

Attached is a sample ad (all adds were similar with dates and times changed)

for the October 5th & 6th meeting:

Anchorage Daily News
Anchorage Times
Fairbanks Newsminer
Peninsula Clarion
Juneau Empire

For the November 8th meeting:

Anchorage Daily News
Anchorage Times
Fairbanks Newsminer

For the November 20th meeting:

Anchorage Daily News
Anchorage Times
Fairbanks Newsminer
Frontiersman
Peninsula Clarion

Legislative Task Force
on
Guiding and Game
will meet on

October 5th
10 a.m. to 4:30 p.m. • Work Session

7 to 9 p.m.
Public Testimony
Game Management Plan Options

October 6th
10 a.m. to 4:30 p.m. • Work Session

at
Anchorage Legislative Information Office
3111 C Street, First Floor

Public Welcome!

Senator Jan Faiks
Task Force Chairman

• For more information, call 561-7610 •

Also included in the packet to Mr. Owsichuk was a copy of the "staff-generated" task force related mailing list of about 140 individuals compiled during the time from June 29, 1989 to January 25, 1990.

The list was comprised of individuals and organizations who requested their names be placed on "the mailing list", in addition to task force members and others directly involved in the task force work either on a continuing or a temporary basis.

In addition to individuals and organizations on this list, mailed notices of meetings were sent to native organizations, village entities and all municipalities. Names and addresses for these groups were obtained from federal agencies in the form of mailing labels. Notices were also sent to licensed guide-outfitters and licensed members of related occupations, including air transporters and commercial use permit holders. These names and addresses were supplied by the Division of Occupational Licensing in the form of mailing labels.



SIGN-IN SHEET

SPONSOR: Senate Resources
 SUBJECT: SB 422: Guide - but jetties use area
SB 317: Forest Practice Act
 START/END TIME: 10:00 A.M. DATE: 2/19/90

PLEASE PRINT

| | NAME/REPRESENTING | ADDRESS | ZIP | PHONE# | TESTIFY | OBSERVE | BILL # |
|----|---|-------------------------------|-------|-----------------|---------|---------|--------|
| 1 | John Nelson - Senator | P.O. Box 38, Galena, AK | 99741 | 907 656-1606 | X | X | |
| 2 | CHRISTIAN A. SMITH | A OFFICE FAIRBANKS | | 456-5156 | X | | SB 422 |
| 3 | Andy Reynolds | P.O. Box 191 Ester | 99725 | 479-5958 | X | | |
| 4 | Art Andreis - guide | P.O. Box 55818, N.P. AK | 99705 | 488-2352 | X | X | SB 422 |
| 5 | Pete Buist | POB 1561 Fob | 99707 | 457-7189 | X | X | 422 |
| 6 | Jason Buist | POB 1561 Fob | 99707 | 457-7189 | | X | 422 |
| 7 | Ken Smith | P.O. Box 55347 N.P. AK | 99705 | 988-3517 | | X | |
| 8 | Brend Gaidke | P.O. Box 80434 Fbks | 99708 | 474-6354 | | X | 422 |
| 9 | Chris Mousch ^{Janana} _{chiefs conf} | 172 1st Ave Fbks AK | 99701 | 452 8251 | X | | 422 |
| 10 | JOE WANT | P.O. Box 10044 Fbks AK | 99710 | 457-4736 | X | X | 422 |
| 11 | Don Troutman | 2453 Homestead Dr. N.P. AK | 99705 | 488-6300 | X | | 422 |
| 12 | CURTIS HAMLIN | 2998 SUPER CUB LN. | 99705 | 488-6887 | | X | 422 |
| 13 | MAX J. HAHN DORF | GALENA, ALASKA 99741 | | 656-1606 | X | X | |
| 14 | GARY D. LEE | 201 1st Ave Fbks 99701 | 99701 | 452-4755 | X | X | |
| 15 | LAARBY Kelly For Bow Ricketts (CIND) | 709 2nd Ave Ave Fbks AK 99701 | | 452-1105 | X | | |

COMMITTEE: Senate Resources DATE: 2-19-90 TIME: 10:12 am
 SUBJECT: SB 317: Forest Practices SB422: Guide
 MEMBERS: Senator Jahrenkamp, Senator Frank,

(336)

| SPEAKER | TAPE # Side # | SIGNIFICANT INFORMATION |
|-----------------|-----------------|--------------------------------|
| Jahrenkamp | 0.05 | I think we'll get started |
| Christian Smith | 1.43 | Thank you Senator |
| Jahrenkamp | 9.42 | Thank you very much |
| Christian Smith | 10.26 | Right, okay the current status |
| Jahrenkamp | 11.56 | I have, I do have one |
| Senator Frank | 12.34 | Ah yes, I have a few questions |
| Christian Smith | 13.10 | At the present time |
| Senator Frank | 13.51 | Okay let me take a |
| Smith | 14.14 | at the present time |
| Frank | 14.26 | Is that sort of thing |
| Smith | 14.39 | that may affect some |
| Frank | 14.58 | so it could |
| Smith | 15.01 | it could be |
| Frank | 15.05 | could you give me |
| Smith | 15.40 | uh I think at this time |
| Frank | 16.09 | are you going to shape |
| Christian Smith | 16.42 | with our concerns are |
| Jahrenkamp | 17.00 | won't these |
| Smith | 17.05 | the decisions |
| Jahrenkamp | 17.14 | they don't have |
| Smith | 17.19 | they have some |
| Jahrenkamp | 17.55 | you |
| Smith | 18.00 | over any changes |

| BILL | TAPE # | Jape i Side A | SIGNIFICANT INFORMATION |
|-----------------|--------|---------------|-------------------------------|
| Sen. Jahn | 18.20 | | Sorry I wanted to |
| Christina Smith | 21.14 | | um, as I understand the |
| Jahn | 21.51 | | we would end up |
| Christina Smith | 21.53 | | I suspect |
| Jahn | 21.59 | | that was his statement |
| Christina Smith | 22.50 | | |
| Jahn | 23.18 | | I asked Walt as well |
| Donna Smith | 23.48 | | I read in the paper that |
| Jahn | 24.14 | | I don't think |
| Trotman | 24.20 | | for the commercial |
| Jahn | 24.29 | | Yes it will |
| Trotman | 24.31 | | you still |
| Jahn | 24.41 | | It's still going to |
| Art | 25.55 | | uh, Senator I would like to |
| Jahn | 29.04 | | maybe we can |
| Art | 29.09 | | Another thing I'm concerned |
| Frank | 29.41 | | Can I interrupt for a minute |
| Andrew | 29.49 | | uh yes I even |
| Frank | 30.11 | | I might just say |
| Jahn | 30.43 | | Well now Art we kept in touch |
| Andrew | 31.17 | | Well I think one as far as |
| Jahn | 32.02 | | You know there is a new |
| Andrew | 32.49 | | |
| Jahn | 32.51 | | well do you agree |
| Trotman | 32.57 | | you know Bettye |
| Jahn | 33.28 | | okay the reason I wanted |
| Trotman | 33.40 | | there was so many |
| Jahn | 33.57 | | well that doesn't |

| BILL | TAPE # | Tape 1 side A | SIGNIFICANT INFORMATION |
|-------------------|--------|---------------|---------------------------------|
| Zindman | 34.01 | | Well they |
| Jahrenkamp | 34.34 | | okay lets put it this way |
| ? Joe Wurst | 34.55 | | When you look at |
| Jahrenkamp | 36.08 | | I'll tell you right now |
| ? Joe Wurst | 36.24 | | I'm not trying |
| Jahrenkamp | 36.33 | | Now that was brought |
| Andreas | 36.45 | | I think personally |
| Jahrenkamp | 39.58 | | Art, another question brought |
| Andreas | 38.44 | | I was going to hit |
| Jahrenk. | 40.14 | | I think some of you |
| Frank | 40.25 | | Well I was going to in |
| Andreas | 42.31 | | Well it seemed to me |
| Frank | 42.52 | | But what do you |
| Andreas | 43.18 | | Well the problem is |
| Frank | 30 | | I hear what |
| Jahren | 32 | | But wasn't there |
| Andreas | 44 | | |
| John | 43.57 | | Was that the |
| Pete Wurst | 44.04 | | the same O's office |
| Frank | 44.28 | | what do you base |
| Bust | 44.31 | | to tell you the truth |
| Frank | 45.01 | | that was the |
| Jan | 45.15 | | But there is |
| Bust | 45.21 | | But there, we |
| Frank | 46.08 | | didn't you ^{quit} Pete |
| Bust | 46.24 | | ya we do |
| John | 46.55 | | So when you |
| Bust | 46.57 | | This is for specific |

| BILL | TAPE # | Tape Change Tape 1 Side B | SIGNIFICANT INFORMATION |
|----------------------|--------|------------------------------|---------------------------------------|
| Andrew | 0.01 | | So if we could change it |
| Jahren | 0.37 | | have you |
| Andrew | 0.40 | | It would have to be |
| Frank | 0.49 | | just another question |
| Andrew | 1.32 | | I would personally say |
| Jahrenkamp | 2.46 | | Well I think that is |
| Andrew | 3.11 | | That is true but on the |
| Jahren | 3.46 | | And I think we need to get |
| ? Sweeney | 3.58 | | What you might |
| Jahren | 4.05 | | Well |
| Bust | 4.17 | | That would discriminate |
| Andrew | 4.36 | | Well in closing |
| ? Sen Jahrenk. | 6.05 | | You bet art I'm not trying |
| ? Sweeney | 6.41 | | I would like to say a |
| ? Smith | 7.56 | | I don't recall |
| ? Wright | 8.00 | | But I believe in October |
| Jahren | 8.56 | | do you have |
| ? Wright | 8.58 | | Yes I do have |
| Andrew | 9.16 | | I think |
| Jahren | 9.29 | | how do you feel ^{about} Pete |
| Bust | 9.32 | | Last year after |
| Jahrenkamp | 9.58 | | I tell you I don't know |
| Jahren | 10.26 | | I'm trying to |
| ? Pete Bust | 10.48 | | As you know I endeared |
| Jahrenk. | 11.36 | | you mean Ken |
| Bust | 11.45 | | He was in Mexico, or somewhere |
| Jahrenk. | 17.16 | | okay Pete thank you |
| Frank | 17.21 | | uh what can I ask |

| BILL | TAPE # | Jape 1 Side B | SIGNIFICANT INFORMATION |
|--------------|--------|---------------|---------------------------------|
| Buist | 17.40 | | The reason we had |
| Frank | 17.56 | | well thats interesting |
| Jahrenk | 18.00 | | Group I have to call a halt out |
| Woods Nelson | 18.14 | | Thank you Senator's I apologize |
| Jahrenk | 19.45 | | Well thats okay the most they'd |
| Nelson | 19.47 | | Well I'm in Section |
| Jahren | 20.09 | | Absolutely we are |
| Nelson | 20.24 | | Well that would be great |
| Jahrenkamp | 21.38 | | and I advise you to do this |
| Nelson | 22.30 | | Should that be |
| Jahrenk | 22.32 | | ya and |
| Nelson | 22.37 | | and the last comment |
| Jahrenk | 22.51 | | have you checked |
| Nelson | 23.11 | | and I thank you |
| Jahrenk | 23.26 | | okay going back |
| Mausch | 23.51 | | I'm also here to talk |
| Jahrenk | 24.06 | | uh what day is it |
| Mausch | 24.13 | | So I'm basically |
| Jahren | 25.01 | | we have |
| Mausch | 25.04 | | ya that one is the main |
| Jahrenkamp | 25.49 | | There not happy at all |
| Mausch | 25.51 | | So there is one a group |
| Jahrenk | 26.55 | | uh thats on the |
| Mausch | 26.58 | | uh well there are |
| Jahren | 28.22 | | how did you know |
| Mausch | 28.24 | | We get around |
| Jahren | 28.27 | | uh when I asked |
| Mausch | 28.42 | | its through the forest |

| BILL | TAPE # | Jape #1 side B: SIGNIFICANT INFORMATION |
|-------------|--------|---|
| Jahren | 29.50 | That's uh had |
| Mausch | 29.28 | I think, this two year |
| Jahren | 30.41 | do you think the |
| Mausch | 30.42 | I think there should be |
| Jahren | 31.08 | Another question on |
| Mausch | 31.13 | uh, we would support |
| Jah | 31.51 | what about |
| Mausch | 31.53 | that would be fine |
| Jah | 32.00 | There are other |
| Mausch | 32.22 | I guess it would be |
| Jah | 32.38 | Another one was |
| Mausch | 32.48 | that was DEC |
| Jah | 33.45 | One other question that came |
| Mausch | 34.08 | I know that. one other point |
| Jah | 35.34 | what about |
| Mausch | 35.13 | Not for Tanana Chiefs |
| Jah | 35.48 | Or did you have |
| Jee want | 36.34 | I guess the first thing |
| Jah want | 41.23 | Can I ask a question (Mausch) |
| Jee want | 41.32 | They they existed in |
| | | Tape change - Tape #2 side A |
| Jee want | 0.01 | Under this bill, let me back up |
| Jahren | 3.50 | how would |
| Jee want | 3.52 | Well |
| Jahre | 3.57 | |
| Jee want | 3.59 | The |
| Jahren | 4.51 | Well now Jee say |
| Jee want | 5.02 | I guess we have five. |

| BILL | TAPE # | Tape # 2 side A SIGNIFICANT INFORMATION |
|---------|--------|---|
| Jahrenk | 5.43 | The thing that is confusing me |
| Youtman | 6.05 | Now most of the guides out there |
| Jahrenk | 10.14 | But you have a area |
| Youtman | 6.17 | I have area |
| Jah | 6.25 | But what are you |
| Joe | 6.38 | what would happen |
| Jahrenk | 15.46 | who guides under the permit? |
| Joe | 15.56 | As the same system we |
| Frank | 18.29 | uh uh I was just wonder |
| Joe | 18.38 | the first thing |
| Frank | 19.11 | So let me see if I got this |
| Joe | 42 | Right we use |
| Frank | 46 | So I guess you saying |
| Jah | 20.01 | But what about |
| Joe | 20.06 | he's in the same |
| Jahrenk | 20.16 | okay what about Part 1 worth |
| Joe | 20.28 | let me show you |
| Frank | 20.48 | But what if you |
| Andrew | 21.09 | let me |
| Joe | 21.20 | but the very reason |
| Jah | 21.78 | and we |
| Joe | 21.33 | I know |
| Frank | 22.53 | So who doesn't agree |
| Joe | 23.59 | The place I build the |
| Frank | 24.08 | that have lodges |
| Joe | 24.09 | Well a few have lodges |
| Frank | 24.32 | They want |
| Joe | 24.36 | that's only part of |

| BILL | TAPE # | Tape # 2 side A SIGNIFICANT INFORMATION |
|-----------------|--------|---|
| Jahrenk | 2531 | Once I don't understand your |
| Joe want | 25.57 | First the state |
| Frank | 2613 | There are 3 |
| Jahrenk | 2619 | Am I wrong |
| Joe want | 2625 | one year |
| Jah | 2635 | Then what will do |
| Joe want | 2642 | No because one of |
| Jahrenk | 2718 | what if I'm not now |
| Joe want | 2728 | If you want to |
| Joe want | 2735 | I thought had been |
| Jah | 2745 | I'm - I guess |
| Joe want | 2754 | I don't think back n forth |
| Jah | 2841 | Absolutely, but it still |
| Joe want | 2920 | you |
| Jah | 2923 | but I |
| Joe want | 2926 | But |
| Jah | 2941 | But what do we do |
| | ↓ | back n forth with audience |
| | ↓ | no one identified themselves |
| Andrew | 3044 | See better if |
| Jah | 3106 | and you think |
| Andrew | 3111 | Sure everyone could |
| Joe want | 3122 | If someone messes up |
| Andrew | 3231 | See another point about this |
| Frank | 3252 | But under this |
| Joe want | 3314 | They wouldn't have |
| Jah | 3434 | Let me ask you |
| Andrew Smith | 3444 | wh, ya I don't think |

| BILL | TAPE # | TAPE 2 Side SIGNIFICANT INFORMATION |
|--------|--------|-------------------------------------|
| Jah | 35.06 | When the come up for |
| Frank | 35.28 | Randall Burns |
| Jah | 35.32 | The only comment |
| Jah | 35.50 | I'm going to |
| Jah | 35.52 | if I knew |
| Jah | 37.08 | Well if you |
| Jah | 37.14 | You understand why |
| Jah | 37.59 | You know what |
| Frank | 38.06 | Madam Chair |
| Jah | 38.27 | yah, thats why I'm |
| Frank | 38.30 | thats why |
| Andrew | 39.44 | Well to me it's |
| Jah | 40.10 | Well you know what I |
| | | Back n forth w/ audience |
| Jah | 40.56 | did I not hear |
| | | unidentified testimony |
| Jah | 42.58 | okay well this |
| Frank | 42.09 | But it would |
| | | same unidentified man |
| Jah | 43.38 | I've seen that I travel |
| | 43.10 | same man |
| Andrew | 43.25 | The air taxis are |
| Jah | 44.05 | Now wh. |
| Andrew | 44.59 | It's on a lease |
| ? | 44.43 | as a airtaxi |
| Jah | 45.04 | See under this |
| Frank | 46.05 | Better I think |
| Jah | 46.24 | There are a number |
| Frank | 46.35 | was the task force |

Tape Change

| BILL | TAPE # | SIGNIFICANT INFORMATION |
|--------------------|--------|---|
| Jah | 0.01 | That's what |
| Frank | 0.10 | |
| Joe Went | 0.13 | But But working |
| Andrew | 1.27 | What happened was |
| Jah | 1.39 | |
| Andrew | 1.42 | Right and |
| Frank | 1.57 | do you guys belong |
| Andrew | 2.09 | We |
| Joe Went | 2.38 | The general |
| Frank | 2.54 | Well that's good to know |
| Andrew | 3.08 | You would get |
| Frank | 3.23 | do you guys |
| Andrew | 3.33 | We had a organizational |
| Frank | 3.48 | Well I would just |
| Jahron | 4.34 | if you have a interior |
| Andrew | 5.12 | I would say |
| Joe Went | 5.19 | I don't know |
| Frank | 5.47 | And even if you are a |
| Joe Went | 6.10 | Well I would say ^{subjective} 10.23 could |
| Andrew | 8.48 | We will see |
| Jah | 9.00 | We'll see |
| Andrew | 9.09 | Well see to like on page 10 |
| Frank | 9.47 | I think it is subjective |
| Andrew | 9.56 | |
| Bernad Crawford | 10.10 | I have a lodge ^{in the middle} 10.34 could |
| Jahron | 12.40 | use the courts |
| Paideks | 12.47 | uh yes but I personally |
| Jah | 13.48 | and you know |

| BILL | TAPE # | Significant Information |
|-------------------|--------|-------------------------------|
| | | Tape #2 side B |
| Bardick | 13.56 | But what |
| Jiah | 14.10 | uh I think we could try |
| Joe Want | 14.21 | Well the other thing |
| ? Joe Silva | 16.29 | The important thing |
| Frank | 16.46 | I guess I think I'm |
| Jiah | 17.23 | According to this |
| Jit tman | 17.35 | that's fine |
| Jiah | 18.09 | and that way can't |
| Jit tman | 18.15 | that's fine |
| Frank | 18.26 | okay but hell |
| Tre tman | 18.35 | not necessarily |
| Joe Want | 18.49 | Just and will be |
| Andreas | 20.04 | I think the bottom line is |
| Joe Want | 20.27 | I appreciate the concern |
| Jiah | 21.11 | Well what happens to the unit |
| Joe Want | 21.20 | Well the same management |
| Jiah | 22.04 | and you know that |
| Joe Want | 23.17 | Well under this system |
| Frank | 24.04 | |
| Tre tman | 24.09 | That should stay |
| Andreas | 24.29 | This is the only state |
| | 24.56 | Well were saying |
| Jit tman | 25.09 | I didn't have a chance 25.29 |
| Jiah | 26.45 | Well that's true |
| Jit tman | 26.58 | I still have |
| Joe Want | 27.15 | But only |
| Andreas | 27.21 | and a professional |
| Jit tman | 27.26 | another |

| BILL | TAPE # | TAPE 2 Side B SIGNIFICANT INFORMATION |
|---------|--------|---------------------------------------|
| Trotman | 2820 | But this is a big problem |
| Joe | 2821 | May I say something |
| Jah | 2932 | Each of |
| Trotman | 2935 | What know we are |
| Jah | 3102 | Was there |
| Joe | 3109 | The court case |
| Jah | 3138 | I thought |
| Joe | 3144 | Well you can |
| Trotman | 3223 | I think everything |
| Jah | 4343 | How do |
| Trotman | 3502 | Betty its a gravel |
| Jah | 3531 | I dont think |
| Frank | 3537 | Its not my purpose |
| Thomas | 3638 | You cant use |
| Frank | 3656 | I didnt know |
| Trotman | 3951 | Well theyve had a hard |
| Jah | 3804 | Well you know we cant |
| Frank | 3823 | But I respect what |
| Jah | 3834 | The funny part of that |
| Joe | 3856 | O, O disagree with this |
| Frank | 4007 | Well actually the want |
| Dudwis | 4040 | The problem that's being |
| Trotman | 4106 | Well it does because |
| Jah | 4118 | Well we know |
| Joe | 4135 | I think industry wise |
| Jah | 4245 | Well I think don |
| Trotman | 4248 | Well I'll just seen interrupted |
| Jah | 4377 | I think its a different |

| BILL | TAPE # | SIGNIFICANT INFORMATION |
|---------|--------|--------------------------------|
| | | Tape # 2 side B |
| Jah | 44.38 | you know that substance |
| | | Tape Change Tape # 3 side A |
| Jah | 001 | I want fortunate |
| Joe | 0.28 | Is there a chance that |
| Jah | 1.08 | What we can do |
| Joe | 1.18 | Whatever we |
| Jah | 1.29 | Talk with Kelley |
| Frank | 1.49 | I think another |
| Jah | 2.06 | do you have something |
| Joe | 2.18 | I told you |
| Jah | 7.57 | Well suppose |
| Frank | 3.10 | Well I was going to |
| Jah | 2.30 | uh and is nothing met |
| Boedeke | 3.42 | Can I bring up another |
| | | back n forth |
| Jah | 6.42 | ah gentlemen |
| Max | 7.45 | uh Max hundred \$ |
| Jah | 8.13 | I think were getting very |
| Max | 8.34 | uh I intended to be here to |
| Jah | 10.40 | Max do you feel |
| Max | 10.47 | The little bit I've read |
| Jah | 12.12 | Well are you going |
| Max | 12.31 | Well were just about |
| Jah | 13.28 | To get at you |
| Max | 12.40 | there are things we need to do |
| Jah | 19.34 | Um know when we were |
| Max | 19.50 | Sanchez |
| Jah | 23.02 | Now that's not in it |

| BILL | TAPE # | Tape # 3 side SIGNIFICANT INFORMATION |
|-----------------------------|--------|---------------------------------------|
| Max | 24.75 | See from what I understand |
| Jah | 25.31 | you make sense to me |
| Max | 25.55 | The main thing I |
| Jah | 27.22 | Thank you very |
| Gary Lee | 28.15 | my name is Gary Lee |
| Jahren | 31.21 | may I ask you a couple |
| Lee | 31.42 | No I think there should |
| Jah | 31.52 | okay there was a big demand |
| Lee | 32.10 | uh that certain |
| Jah | 32.14 | okay there was another |
| Lee | 32.59 | I think the present size |
| Jah | 33.25 | and it is now |
| Lee | 33.30 | I think it is important |
| Jah | 33.48 | Okay I appreciate your comments |
| Reynolds | 35.49 | uh my concern was issue |
| Jah | 36.08 | we've heard |
| Reynolds | 36.10 | Good, good, I'm |
| Jah | 38.24 | let me ask you a question |
| Reynolds | 39.12 | absolutely, and I don't think |
| Jahren | 40.11 | Will you know in the coal industry |
| Reynolds | 40.49 | uh that is a specific scenario |
| Jah | 43.00 | But don't aren't |
| Reynolds | 43.56 | they seem to be operating |
| Jahren | 45.16 | Oh hard to |
| Reynolds | 45.18 | O know, but another concern |
| Tape Change Tape # 3 Side B | | |
| Reynolds | 0.01 | Cont'd statement |
| Jahren | 1.17 | I don't think |

| BILL | TAPE # | Tape #3 side B SIGNIFICANT INFORMATION |
|----------|--------|--|
| Frank | 1.48 | Well perhaps |
| Frank | 2.35 | 1000 more top people |
| Frank | 4.19 | I guess I hadn't heard the |
| Reynolds | 4.40 | Well various sizes 1000 feet |
| Frank | 5.21 | Oh and also |
| Frank | 5.28 | Well what about |
| Reynolds | 5.45 | Yes as well as |
| Frank | 5.55 | 1000 the state doesn't |
| Reynolds | 6.11 | Well were not proposing |
| Frank | 7.00 | Well that |
| Reynolds | 7.11 | No |
| Frank | 7.12 | So you'd only be |
| Reynolds | 7.24 | Yes, were taken |
| Frank | 7.33 | Is that |
| Reynolds | 7.40 | There would have to be |
| Frank | 8.05 | Well that becomes sticky |
| Reynolds | 9.29 | We've got |
| Frank | 10.04 | In Wood would we |
| dr. Wood | 11.35 | I really remember the |
| Frank | 13.31 | Ohm thinking in that |
| dr. Wood | 14.32 | Why? — |
| Frank | 15.36 | I think in reality |
| dr. Wood | 15.45 | But the record doesn't show that |
| Frank | 16.00 | It shows just working |
| Wood | 16.13 | I don't |
| Frank | 16.50 | Now the boreholes |
| Wood | 17.09 | uh I think that's fine |
| Frank | 17.40 | no no don't go into |

6 December 1989

Senator Jan Faiks, Chairman
Alaska Legislative Task Force
on Guiding and Game
3111 C Street, Suite 525
Anchorage, Ak. 99503

Dear Senator Faiks:

This letter is concerning my interest in the guide industry and concerns and viewpoints of the 17 November 1989 workdraft and also of the guide-outfitter resource area allocation program.

I've been conducting hunts for other registered guides since 1979 while at the same time, following the rules and regulations of the old guide law. I made a big commitment at that time to give up other livelihood opportunities to try and meet the past-use criteria of the old guide law by guiding every spring and fall as much as seasons allowed. I resent the fact that I'm being referred to as (small time) or (fly-by-night) guide. Although only 50% of my annual income comes from guiding, its the maximum amount that I've been able to make from guiding. Just because someone, (on his own decision) has a lodge or bought improvements to operate his hunting business, should not mean that he or she should have any more points in an award criteria basis than a guide who has equal or more investment in time. I could also, establish a large financial investment due to the work I've had to pass up in order to establish a high past-use record under the old system and yes, (on my own decision). There are a lot of guides that have recently bought improvements in units 8 - 9 but do not have near the past-use experience there that I do. The state, or the resource, should not be responsible for feeding the hugh lodges that have been built around this state. In essence, if the transfer of a guide area permit is allowed by the permit holder it is forcing a person to buy his or her improvements to operate a guide-outfitter business. I do not agree with this kind of transfer.

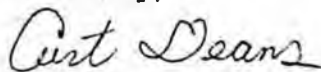
Under Sec. 08.54.620 subsection (d) on pg. 4 line seven of the work draft, I would like to see the language amended to read, (d) A guide-outfitter may not contract or conduct a guide-outfitted hunt. This was a loophole in the previous guide law that allowed a guide with an area to simply sign the contracts when in actuality they were another guides clients. The area holder could show minimum use while at the same time lease the area out.

I disagree with the class A,B,C permits and would much rather see a more simplified allocation program that would include the same time period for all applicants.

While I do realize the scope of your purpose, I think there needs to be a closer look at other commercial users such as air taxies, because they are in a direct way responsible for the harvest of a resource.

I commend you all for the work that has been done to date and hope that my interest will be taken into consideration as they are as important as a guides financial investments.

Sincerely,


Curt Deans, Reg. Guide

Enc: All Task Force Members
Bill Horn
Senate Resources

FEB 1 1990

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523

JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

January 31, 1990

MEMORANDUM:

TO: Senator Bettye Fahrenkamp, Chairman
Senate Resources Committee

FROM: Senator Jan Faiks, Chairman
Legislative Task Force on Guiding and Game

SUBJECT: Scheduling of SB 422, Relating to Guide-Outfitter
Use Area Permits

SB 422 has been referred to the Senate Resources Committee for its consideration. I would appreciate your scheduling the legislation to come before your committee at your earliest possible convenience.

The measure is the result of the work done by the task force in its effort to satisfy the legislative directive to formulate a recommendation for a new guide-outfitter industry management system. This followed the 1988 Alaska Supreme Court decision in Owsichek v. Alaska which found the previous exclusive guide area system unconstitutional.

As you know, the task force was asked to develop a plan which would stress conservation and management of the resource, provide broad access as guaranteed under the Alaska constitution and have statewide applicability to help ensure a more standardized management system. The directive included several other elements including access rights which must be of limited duration and it must ensure a viable industry while the state must receive compensation for the commercial use of the resources. The recommendation was to follow the essential elements of the Owsichek decision so as to withstand a constitutional challenge.

The legislation was drafted following a series of task force meetings. More than 500 people attended the meetings with approximately 100 people offering testimony. Concerns and recommendations were also provided by major landowners including state and federal agencies and native organizations. While the 15 member panel considered all concepts which were

OUT OF SESSION

proposed, no comprehensive solutions were presented during public testimony which they felt could meet their objectives.

The task force believes that an area-based system for guide-outfitting is necessary for managing the commercial use of the wildlife resource to prevent damage from overharvest of certain species or certain areas of the state and to stabilize the industry. Access to the areas as designated by the Alaska Department of Fish and Game would be of limited duration and dependent upon wildlife management considerations.

Offerings to the guide-outfitter areas would begin on a staggered basis to ensure continued future access to the designated areas. All areas of the state would be offered to applicants during the first five years of the program. Those areas left unawarded would be available on a one-year permit basis to those certified to guide-outfit in the game management unit.

The terms of the guide-outfitter use area permits may be established by the Big Game Commercial Services Board to a maximum of 10 years. The Board may provide permits of up to 15 years following consultation with the Alaska Department of Fish and Game (ADF&G) if the additional length of time would improve resource management objectives. The use permits may provide limits in the number of clients and species to be hunted. The Board must also consider ADF&G's recommendations regarding sole or joint use for each area. Permits can be revoked or suspended for cause.

Use areas may be transferred by the Board for good cause but only within the issued term of the permit. No property right accrues to the permittee with the issuance of the use area permit so the permits may not be sold. The sale of improvements or facilities should be based on replacement value and are subject to review and approval of the board.

The task force also recommends that the Alaska Department of Commerce and Economic Development charge guide-outfitters and transporters a wildlife conservation fee of \$25 for each big game animal taken by resident or non-resident clients except that deer will be \$5 per animal taken.

Transporters who advertise big game hunting services will be required to obtain a commercial use permit in addition to the transporter's license.

Legal Services is currently working on a sectional analysis of SB 422.



Alaska State Legislature

Please enter into the record my testimony to the Resources / Joint
 committee name
 committee on SB422, dated 2/12/90
 bill/subject

Delete ANY REFERENCE AS TO HISTORY OF
 USE FOR AREA QUALIFICATIONS DUE TO
 THE PROBLEMS CREATED BY UNLAWFUL
 PERMITS UNDER THE OLD GUIDE SYSTEM.
 ALSO TRY AND GET ~~THE~~ RID OF ANY REFERENCE
 TO ASSIGNMENT WITH THE SALE OF PROPERTY.
 SALE OF PRIVATE PROPERTY SHOULD HAVE NO
 BEARING ON THE USE OF PUBLIC LANDS
 AND ANIMALS.
 MAKE THE ONLY QUALIFICATION FOR
 A GUIDE AREA A STATE LICENSE.
 LIMIT GUIDES TO ONE AREA.

Signed: VERN PORTER
 Testifier

Representing (Optional)
Box 4478 Soldotna 99669
 Address
262-3224
 Phone No.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: An Act relating to guide-outfitter use area permits: . . . BRU: Occupational Licensing
 Sponsor: Senate Rules by Request Components: _____
 Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| PERSONAL SERVICES | 85.3 | 85.3 | 85.3 | 85.3 | 85.3 | 85.3 |
| TRAVEL | 26.4 | 26.4 | 26.4 | 26.4 | 26.4 | 26.4 |
| CONTRACTUAL | 8.0 | 8.0 | 8.0 | 8.0 | 8.0 | 8.0 |
| SUPPLIES | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |
| EQUIPMENT | 17.6 | 0 | 0 | 0 | 0 | 0 |
| LAND & STRUCTURES | | | | | | |
| GRANTS, C.AIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 139.3 | 121.7 | 121.7 | 121.7 | 121.7 | 121.7 |
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
| REVENUE | 32.2 | 32.2 | 32.2 | 32.2 | 32.2 | 32.2 |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--------------|--------------|--------------|--------------|--------------|--------------|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER (GF/PR) | 139.3 | 121.7 | 121.7 | 121.7 | 121.7 | 121.7 |
| TOTAL | 139.3 | 121.7 | 121.7 | 121.7 | 121.7 | 121.7 |

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 2 | 2 | 2 | 2 | 2 | 2 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS : (Attach a separate page if necessary)

The bill requires the Big Game Commercial Services Board to establish guide-outfitter use areas throughout the state, to adopt procedures for evaluating qualifications of use area applicants, and to annually offer available use areas to qualified guide-outfitters. (CONTINUED ON ATTACHED)

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: 2/7/90
 Approved by Commissioner: Larry Merculieff Date: 2/6/90
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

**CONTINUATION OF FISCAL NOTE
FOR SB 422**

In addition, the bill authorizes the board to issue use area permits; monitor and limit the number of clients that may be guide-outfitted in a use area each year; suspend or revoke a use area permit; and publish a comprehensive list of all unawarded guide-outfitter areas. The staff work involved in processing the highly complex operational plans will be submitted for competing use area applications and in adequately preparing for board meetings where use areas will be awarded will require an additional Licensing Examiner position. In addition, keeping track of use areas awarded or unawarded will consume extensive staff time. Finally, coordination with ADF&G staff will also require additional time.

The Investigator position is required to beef up enforcement. If we are to properly manage the commercial industry's use of our big game resource, then the state must adequately enforce the licensing requirements contained in SB 422. To assist the board with the responsibilities mandated in the bill, the fiscal note provides for:

| | |
|---|-------------|
| 1 Occupational Licensing Examiner I, 12 months, GGU, Range 12A | \$ 35.0 |
| 1 Investigator III, 12 months, GGU, Range 18A | <u>50.3</u> |
| Sub-Total: | \$ 85.3 |

Travel:

Funding provides two additional meetings annually for the Big Game Commercial Services Board and staff to conduct its business, including review of qualified applicants for issuance of use area permits.

\$ 16.4

This funding will also provide travel for the Investigator III to assist the board in enforcing the use area permit requirements and to conduct rural area education regarding the new big game commercial services statutes and to encourage rural resident participation in the big game commercial services industry.

10.0

Sub-Total: \$ 26.4

Contractual Services:

This funding will cover the expense of public noticing regulations, publishing comprehensive lists of unawarded use areas, postage, and other communications.

\$ 8.0

Supplies:

Provides for daily operating desk top supplies for the two positions. \$ 2.0

Equipment: (One time expense)

| | | |
|--|-------------|----------------|
| 2 - Strata III telephone units and lines | \$1.2 | |
| 2 - Wang DP/WP Workstations | 4.4 | |
| 2 - Desks, double pedestal | 1.6 | |
| 2 - Chairs, swivel with arms | .8 | |
| 2 - Chairs, side without arms | .5 | |
| 2 - Typewriters | 1.4 | |
| 2 - File Cabinets, 5-drawer, legal with lock | 1.2 | |
| 2 - Workstations (modular furniture) | <u>6.5</u> | |
| | Sub-Total: | \$ 17.6 |
| | GRAND TOTAL | <u>\$139.3</u> |

Revenues

The revenue identified is based on 1,286 guide-outfitters and transporters paying the \$25 Wildlife Conservation Fee required in Section 6 of the bill at least once annually.

Presently, we are unable to more accurately predict the amount of revenues generated each year by this bill. However, revenues collected are anticipated to be more than the amount shown in this fiscal note as a result of the use area permit application fee (yet to be established by the Big Game Commercial Services Board) and the \$25 and \$5 Wildlife Conservation Fees for each big game animal taken annually.

A M E N D M E N T

BY RANDALL BURNS

TO: W.O. 6-1718A (dated 1/11/90)

Page 8, lines 16 - 29:

Delete all material.

Insert the following new subsections to read:

"(b) The board may after a hearing suspend or revoke a use area permit for

- (1) violation of the conditions of the use area permit;
- (2) failure to exercise the privileges conferred by the use area permit for one year;
- (3) a significant unauthorized deviation, as defined by the board, from an operations plan;
- (4) fraud in applying for a use area permit or assignment of a use area permit; or
- (5) other good cause, as defined by the board.

(c) The board may suspend or revoke a use area permit upon conviction of the permittee of an unlawful act under AS 08.54.520.

(d) A use area permit is suspended automatically if the permittee fails to pay the wildlife conservation fee when due. The suspension remains in effect until the wildlife conservation fee is paid.

(e) A use area permit is revoked automatically upon revocation of the permittee's guide-outfitter license. A use area permit is suspended automatically upon suspension of the permittee's guide-

outfitter license.

(f) If the license of a guide-outfitter is summarily suspended under AS 08.01.075(c), the use area permits held by the guide-outfitter are suspended automatically until after the final disposition of the disciplinary proceeding by the board.

(g) A hearing to suspend or revoke a use area permit may be combined with a disciplinary proceeding under AS 08.01.075 or AS 08.-54.500 involving the use area permittee."

Reletter the following subsections accordingly.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

| | | | |
|--|-----------------------------------|--|----------------------------|
| DEPARTMENT Fish and Game | DIVISION Wildlife Conservation | BILL NUMBER SB 422 | SPONSOR Rules Committee |
| SHORT TITLE OF BILL An act relating to guide outfitter use area permits... | | | |
| DEPARTMENT POSITION The department supports the provisions of this bill as endorsed in the report of the Legislative Task Force on Guiding and Game dated January 1990. | | | |
| PREPARED BY | DATE | COMMISSIONER'S SIGNATURE <i>[Signature]</i> | DATE 2/10/90 |

SUMMARY

| | |
|--|--|
| OTHER AGENCIES AFFECTED BY BILL Dept. of Commerce and Economic Dev. Div. of Occupational Licensing Dept. of Public Safety Div. of Fish and Wildlife Protection | CONSTITUENT GROUPS AFFECTED BY BILL Licensed big game guide/outfitters Transporters Providers of other big game commercial services |
| ORGANIZATIONAL SUPPORT FOR BILL Alaska Professional Hunters Association USF&WS, USFS, and USNPS U.S. Bureau of Land Management | ORGANIZATIONAL OPPOSITION TO BILL Some guide/outfitters and transporters |

FISCAL IMPACT. NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
The Legislative Task Force on Guiding and Game developed this bill proposing that the state establish a new wildlife resource-based system of allocating access to big game hunting opportunities among guide/outfitters. The proposed permit-based system differs from the previous system in that it: a) is founded on wildlife conservation and management concerns; b) provides specific selection criteria to ensure broad access and equal opportunity among applicants;
Continued on Page 2

ANALYSIS OF BILL PROGRAM EFFECTS
The Department of Fish and Game (ADF&G) would propose guide/outfitter use areas for the state. These recommendations would be forwarded to the Big Game Commercial Services Board for adoption, and subsequent permitting. ADF&G would base the proposed use areas primarily on wildlife management and enforcement concerns, with additional consideration of public comment, land ownership, administrative boundaries, recognizable field boundary features, access, land uses, and existing facilities. The initial mapping project would be completed during FY 92, with continuing but reduced levels of support to maintain the area boundary maps and to provide statewide wildlife information on a regular basis to the Big Game Commercial Services Board.

The department will need to continue normal biological surveys and analyses of big game as well as harvest data management in order to assess and manage ongoing effects of commercial use on wildlife. The proposed wildlife conservation fee would potentially be available for legislative allocation to ADF&G, Division of Wildlife Conservation to help offset costs of managing big game populations for all uses.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Legislative Intent Continued:

c) provides annual compensation in the form of wildlife conservation fees to the people of the state, based upon actual use of the wildlife resource; d) limits terms of the authorizations (permits); e) requires contractual terms (operations plans) for commercial use of the state's wildlife resource; f) is based on joint use rather than exclusive use; and g) precludes any "property value" accruing to the permittee for the use of a public resource held in common use.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act Relating to Guide
Outfitters Use Area Permits...
 Sponsor: Rules Committee
 Requestor: _____

Agency Affected: Fish and Game
 BRU: Wildlife Conservation
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| PERSONAL SERVICES | 67.5 | 71.7 | 36.9 | 36.9 | 20.1 | 20.1 |
| TRAVEL | 3.0 | 3.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| CONTRACTUAL | .5 | 7.5 | 1.0 | 1.0 | 1.0 | 1.0 |
| SUPPLIES | 1.0 | 1.5 | 1.0 | 1.0 | 1.0 | 1.0 |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 72.0 | 83.7 | 39.9 | 39.9 | 23.1 | 23.1 |
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 1 | 1 | | | | |
| PART-TIME | | | 1 | 1 | 1 | 1 |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary) No FY 90 impact.
 The FY 91 and FY 92 expenditures reflect the development of a computerized mapping and information management system for processing use area data needed in the administration of the guide/outfitter industry.
Continued on Page 2

Prepared by: W. Lewis Pamplin, Jr., Director Phone: 465-4190
 Division: Wildlife Conservation Date: 2/9/90

Approved by Commissioner: *William D. Dale* Date: 2/12/90
 Agency: Fish and Game

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Expenditures in FY 93 and FY 94 reflect the role that the division plays in providing the Big Game Commercial Services Board with wildlife resource information required to determine the number of guide/outfitters authorizations in each use area and used in the award process. FY 95 and FY 96 reflect the continuing support role of the division to the Board.

| | FY 91 Mos. Cost | FY 92 Mos. Cost | FY 93 Mos. Cost | FY 94 Mos. Cost | FY 95 Mos. Cost | FY 96 Mos. Cost |
|-------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| LINE 100 * | | | | | | |
| WB III @ \$4.5/mo | 11 49.5 | | | | 3 14.1 | 3 14.1 |
| @ \$4.7/mo | | 12 56.4 | 6 28.2 | 6 28.2 | | |
| AP II @ \$3.3/mo | 3 9.9 | 3 9.9 | 1 3.3 | 1 3.3 | 1 3.3 | 1 3.3 |
| DPC II @ \$2.7/mo | 3 8.1 | 2 5.4 | 2 5.4 | 2 5.4 | 1 2.7 | 1 2.7 |
| SUB TOTAL | 67.5 | 71.7 | 36.9 | 36.9 | 20.1 | 20.1 |
| LINE 200 TRAVEL | 3.0 | 3.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| LINE 300 CONTRACTUAL SERVICES | .5 | 7.5 | 1.0 | 1.0 | 1.0 | 1.0 |
| LINE 400 SUPPLIES | 1.0 | 1.5 | 1.0 | 1.0 | 1.0 | 1.0 |
| LINE 500 EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 72.0 | 83.7 | 39.9 | 39.9 | 23.1 | 23.1 |

Note: The total for FY 92 is greater than previously projected, and subsequent years totals are lower. This is due to additional mapping work necessitated under the proposed legislation, with less work anticipated after FY 92.

The reduced line 100 costs in FY 95 and FY 96 reflect the fact that by FY 95, the Big Game Commercial Services Board will have already awarded the majority of use areas, and we will begin to assume a "maintenance" role with regard to the system.

* These positions are existing PCNs.

Joe Miguel
4456 Mt. Side
Juneau
907-6351

6-1718A
Utermohle
1/23/90

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to guide-outfitter use area permits,
7 the Big Game Commercial Services Board, and guide-
8 outfitters, transporters, and providers of other big
9 game commercial services."

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

11 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that
12 fitters ⁽¹⁾ unregulated access to game management units by guide-out-
13 fitters ⁽¹⁾ *currently* ⁽¹⁾ *unregulated* access to game management units by guide-out-

14 *happening in S.E. with* ⁽¹⁾ *resources* can potentially harm the state's valuable big game
15 *Br. Bears* ⁽¹⁾ *resources* by allowing overharvest of big game species or populations
16 *getting 5 million each year.* that have a low recovery capacity or that exist in low abundance; and

17 (B) has hindered management of hunters guide-outfitted by
18 guide-outfitters, led to conflicts among guide-outfitters, and de-
19 creased the quality of the hunting experience for clients of guide-
20 outfitters and other hunters;

21 *rehabilitate* ⁽²⁾ *non guided* ⁽²⁾ *hunts provide this* ⁽²⁾ *same quality* ⁽²⁾ *experience*
22 *save quality* ⁽²⁾ *experience* an economically viable guide-outfitter industry can offer a
23 quality hunting experience to hunters from throughout the world who seek a
24 unique opportunity to pursue and take trophy big game animals in the state
25 and can contribute significantly to the state's economy by increasing
26 tourism and supporting a variety of businesses associated with the guide-
27 outfitter industry; *So can non guided hunts! More nice words!*

28 (3) ⁽³⁾ the guide-outfitter industry provides an opportunity for
29 enhancing the state's economy, particularly the underdeveloped economies of
30 the rural regions of the state;

if pressure is so intense, then residents should be given first opportunities! when game becomes limited are the residents going to be cast out to enhance the guides? I believe so! the overharvest of game is being done by the guides - look at the statistics of br. bear taken in S.E. during 1989. Close to 80% were taken by guides!

1 (4) intense competition exists for big game in many parts of the
 2 state and the allocation of access to big game hunting opportunities among
 3 guide-outfitters will prevent overharvest of big game in those areas and
 4 will provide continued open access to the big game resource by all users;

5 (5) a resource-based management system for allocating access to
 6 big game hunting opportunities among guide-outfitters will alleviate con-
 7 flicts among guide-outfitters, will provide an effective basis for regulat-
 8 ing guide-outfitters, and will enhance conservation and management of big
 9 game;

10 (6) a long-term interest in the conservation of wildlife encour-
 11 ages sound management practices among users of wildlife and fosters a
 12 mutually beneficial relationship between wildlife and the users of wildlife
 13 because the user understands that the user's own future well-being is
 14 dependent upon wise use of the resource in the present.

15 (b) The purpose of this Act is to

16 (1) establish a resource-based system of allocating access to
 17 big game hunting opportunities among guide-outfitters that is fully con-
 18 sistent with common use principles of the Constitution of the State of
 19 Alaska; and

20 (2) support the conservation and management of the state's
 21 wildlife, provide economic and noneconomic benefits to the state and to the
 22 citizens of the state, and generate revenue for the state from the wise use
 23 of wildlife for commercial purposes.

24 This Act does not affect the existing rights and privileges of
 25 subsistence and resident sport hunters to take game in the state.

26 AS 08.54 is amended by adding new sections to read:

27 ARTICLE 5. GUIDE-OUTFITTER USE AREAS.

28 Sec. 08.54.610. GUIDE-OUTFITTER USE AREAS. (a) The board shall
 29 establish guide-outfitter use areas throughout the state. The board

*It already
 has with the
 additions of
 guides to the
 list of
 hunters
 in
 the
 state*

1 shall consider the recommendations of the Department of Fish and Game
 2 in identifying the boundaries of the use areas. The board shall adopt
 3 the recommendations of the Department of Fish and Game for each use
 4 area unless the board obtains a finding from the Department of Fish
 5 and Game that an amended use area boundary as proposed by the board
 6 will not adversely affect wildlife conservation and management.

7 (b) The board may amend the boundaries of use areas adopted
 8 under (a) of this section if

9 (1) the Department of Fish and Game finds that the proposed
 10 amendment will not adversely affect wildlife conservation and manage-
 11 ment; and

12 (2) the board notifies all guide-outfitters who hold use
 13 area permits for the affected use areas of the proposed amendment and
 14 provides those guide-outfitters with an opportunity to comment on the
 15 proposed amendment.

16 *What's*
 17 *No what*
 18 *does*
 19 *stagger*
 20 *mean?*
 Sec. 08.54.620. OFFERINGS OF GUIDE-OUTFITTER USE AREAS. (a)

18 The board shall annually offer available use areas to qualified guide-
 19 outfitters. The board shall stagger the offering of use areas.

20 (b) The board may request recommendations from the public for
 21 use areas to be offered at the next offering of use areas.

22 (c) The board shall decide whether a use area will be offered
 23 for sole or joint use before offering the use area. In making its
 24 decision, the board shall consider for each use area

25 (1) information provided by the Department of Fish and Game
 26 on the status of big game populations, historical harvests of big
 27 game, and uses of wildlife in the use area;

28 (2) information gathered from previous use by guide-outfit-
 29 ters that would facilitate big game management and planning;

(3) requirements for economically viable guide-outfitter

1 operations;

2 (4) the number of economically viable guide-outfitter
3 operations that the use area could support;

4 (5) the effect of guide-outfitting activities on resident
5 hunters; and

6 (6) other relevant factors, including land ownership
7 concerns, land management concerns, and law enforcement concerns.

8 (d) Use areas for which use area permits have expired or been
9 relinquished by the permittee or revoked by the board may be offered
10 at the next offering of use areas.

11 (e) The notice of the offering of use areas must include for
12 each use area

13 (1) the location and a brief description of the use area;

14 (2) whether the use area is available for sole or joint
15 use.

16 Sec. 08.54.630. GUIDE-OUTFITTER USE AREA PERMIT; REGISTRATION
17 PERMIT. (a) A guide-outfitter use area permit or registration permit
18 authorizes a guide-outfitter to guide-outfit hunts in the use area for
19 those big game species specified by the permit and may limit the
20 number of clients that may be guide-outfitted in the use area each
21 year.

22 (b) A sole use area permit grants to the permittee the sole
23 privilege to guide-outfit hunts for all big game species that occur
24 within the use area. A joint use area permit grants to the permittee
25 the privilege to guide-outfit hunts in the use area for the big game
26 species specified in the permit; however, all joint use area permits
27 for a use area, when considered together, must grant privileges to
28 guide-outfit hunts for all big game species that occur within the use
29 area.

If no one selects Berners it is open to all guides



1 (c) A use area that is not awarded to a guide-outfitter under
2 AS 08.54.650 is open to use by guide-outfitters who are certified to
3 guide-outfit hunts in the game management unit in which the use area
4 is located and who obtain a registration permit for the use area. The
5 board may establish the number of registration permits that will be
6 issued for each use area. Registration permits are valid for the
7 calendar year in which they are issued. A registration permit must
8 specify the big game species for which hunts may be guide-outfitted
9 under the authority of the permit.

10 (d) A guide-outfitter may not guide-outfit a hunt for a big game
11 species in a use area, unless the guide-outfitter has a use area
12 permit or registration permit that entitles the guide-outfitter to
13 guide-outfit hunts for that species in that use area.

Definition of needed

14 (e) A guide-outfitter shall physically participate in field
15 operations while guide-outfitted hunts are conducted under the author-
16 ity of a use area permit or registration permit held by the guide-
17 outfitter.

18 Sec. 08.54.640. APPLICATION FOR A GUIDE-OUTFITTER USE AREA
19 PERMIT. (a) A guide-outfitter who is licensed under AS 08.54.350 and
20 is certified by the board to guide-outfit hunts in the game management
21 unit in which the use area is located may apply for a guide-outfitter
22 use area permit.

*See a total of
How many?*

23 A guide-outfitter shall submit a separate application for
24 each use area permit sought. The application shall be made on a form
25 provided by the board and shall be accompanied by the application fee
26 and a proposed operations plan for the conduct of guide-outfitted
27 hunts under the use area permit, including locations of base camps,
28 the number of clients, and the big game species to be hunted.

29 (c) The department shall set the application fee for a guide-

1 outfitter use area permit under AS 08.01.065.

2 Sec. 08.54.650. PROCEDURES FOR AWARDING GUIDE-OUTFITTER USE AREA
3 PERMIT. (a) The board shall adopt procedures for evaluating the
4 qualifications of applicants for guide-outfitter use area permits.
5 The procedures must appropriately balance the criteria included under
6 (b) of this section to ensure that new guide-outfitter licensees under
7 this chapter are not unfairly disadvantaged or denied an opportunity
8 to obtain a use area permit in those game management units for which
9 the licensee is certified by the board.

10 (b) The board shall evaluate each application and determine
11 whether the applicant is qualified for a guide-outfitter use area per-
12 mit under criteria adopted by the board, including

13 (1) the applicant's ability and means to provide the type
14 and quality of guide-outfitting services proposed by the applicant, as
15 demonstrated by the applicant's proposed operations plan;

16 (2) whether the applicant has proposed a guide-outfitting
17 operation in the use area that is economically feasible given the
18 economic resources of the applicant;

19 (3) the applicant's history of safety in guide-outfitting
20 hunts or demonstrated ability to guide-outfit hunts safely;

21 (4) the applicant's history of compliance with state and
22 federal fish and game and guide-outfitting statutes and regulations;

23 (5) the applicant's experience in or knowledge of the use
24 area;

25 (6) the applicant's history of compliance with AS 08.54.-
26 520(a) in regard to prior authorization to enter or remain on state,
27 federal, or private land;

28 (7) whether the applicant has obtained those prior autho-
29 rizations to guide-outfit hunts on state, federal, or private land in

1 the use area from the significant or major landowners in the use area
2 or has demonstrated the ability to acquire those authorizations;

3 (8) whether the applicant holds all permits and licenses
4 necessary to guide-outfit hunts in the use area or has demonstrated
5 the ability to obtain the necessary permits and licenses.

6 *How does this work with p. 5 line 24?* (c) → If the board determines that more applicants are qualified
7 to receive a use area permit for a use area than there are use area
8 permits available, then the board shall reevaluate the applications of
9 the qualified applicants and, with or without requesting additional
10 documentation, shall select the best qualified applicants to receive
11 the available permits. The board may request the qualified applicants
12 to appear before the board to discuss the applicant's application in
13 regard to the criteria in (b) of this section.

14 (d) The board shall award a use area permit only to a qualified
15 applicant.

16 (e) If a successful applicant does not provide, at the time the
17 board awards the use area permit, proof of the permits and licenses
18 necessary to guide-outfit hunts in the use area or the authorizations
19 to guide-outfit hunts on state, federal, or private land in the use
20 area from the significant or major landowners in the use area, the
21 board shall issue a conditional use area permit that is valid for 120
22 days. A conditional use area permit does not entitle the permittee to
23 guide-outfit hunts within the use area. If the successful applicant
24 provides proof satisfactory to the board within 120 days after issu-
25 ance of the conditional use area permit that the applicant has re-
26 ceived the necessary permits and licenses and land use authorizations,
27 the applicant shall be awarded a use area permit. If the successful
28 applicant does not provide the required proof within 120 days after
issuance of the conditional use area permit, the conditional use area

1 permit is void. If a conditional use area permit is voided under this
2 subsection, the board shall offer the use area permit to the next best
3 qualified applicant for the use area.

4 Sec. 08.54.660. TERM AND SUSPENSION OR REVOCATION OF GUIDE-
5 OUTFITTER USE AREA PERMIT; OPERATIONS PLAN. (a) The board shall
6 grant guide-outfitter use area permits for a term not to exceed 10
7 years, unless the board determines, after consultation with the De-
8 partment of Fish and Game, that a longer term will further promote the
9 wildlife conservation and management objectives of the use areas. The
10 term of a use area permit may not in any instance exceed 15 years.

11 The board may after a hearing suspend or revoke a use area
12 permit for

- 13 (1) violation of the conditions of the use area permit;
- 14 (2) failure to exercise the privileges conferred by the use
15 area permit for one year;
- 16 (3) a significant unauthorized deviation, as defined by the
17 board, from an operations plan;
- 18 (4) fraud in applying for a use area permit or assignment
19 of a use area permit; or
- 20 (5) other good cause, as defined by the board.

21 (c) The board may suspend or revoke a use area permit upon
22 conviction of the permittee of an unlawful act under AS 08.54.520.

23 (d) A use area permit is suspended automatically if the permit-
24 tee fails to pay the wildlife conservation fee when due. The suspen-
25 sion remains in effect until the wildlife conservation fee is paid.

26 (e) A use area permit is revoked automatically upon revocation
27 of the permittee's guide-outfitter license. A use area permit is
28 suspended automatically upon suspension of the permittee's guide-
29 outfitter license.

*This is
bullshit
about
new
blood?
should be
open
5 years
give others
equal opportunity*

*I love
blackmail*

1 (f) If the license of a guide-outfitter is summarily suspended
 2 under AS 08.01.075(c), the use area permits held by the guide-out-
 3 fitter are suspended automatically until after the final disposition
 4 of the disciplinary proceeding by the board.

5 (g) A hearing to suspend or revoke a use area permit may be
 6 combined with a disciplinary proceeding under AS 08.01.075 or AS 08.-
 7 54.500 involving the use area permittee.

8 (h) A use area permit may be revoked or the terms of the use
 9 area permit or an operations plan may be altered by the board for
 10 wildlife conservation and management considerations.

11 (i) A use area permittee shall submit an amended operations plan
 12 if the permittee intends to vary the permittee's guide-outfitting
 13 operation from that stated in the plan. An amended operations plan is
 14 not effective until approved by the board. A permittee may not con-
 15 duct a guide-outfitting operation outside of the terms of an approved
 16 operations plan.

17 Sec. 08.54.670. ASSIGNMENT OF GUIDE-OUTFITTER USE AREA PERMIT.

18 (a) A use area permit may be assigned by the board under regulations
 19 of the board if the assignment is

20 (1) consistent with the purposes of AS 08.54.610 - 08.-
 21 54.690; *this is necessary*

22 (2) not for consideration to the former permittee *unless no*
 23 *other applications are submitted for it;*

24 (3) to a guide-outfitter qualified to receive the use area
 permit; and

25 (4) due to the death or disability of the former permittee
 26 or for other good cause, as defined by the board.

27 (b) The sale of guide-outfitter facilities and equipment between
 28 the former permittee and the assignee of a use area permit may not be
 29 for an amount that exceeds the replacement value of the property. The

this also is necessary

1 sale of property between the former permittee and the assignee of a
2 use area permit for an amount in excess of the replacement value of
3 the property voids the assignment of the use area permit.

4 (c) An assigned use area permit is valid only for the period for
5 which the use area permit was originally issued.

6 (d) If proceedings in which a guide-outfitter license may be
7 revoked or suspended under this chapter are pending against a guide-
8 outfitter, the guide-outfitter's use area permits may not be assigned
9 unless allowed for good cause by the board. During the period for
10 which a guide-outfitter's license is suspended under this chapter, use
11 area permits held by the guide-outfitter may not be assigned.

12 (e) If proceedings in which a guide-outfitter use area permit
13 may be revoked or suspended under AS 08.54.660 are pending against a
14 guide-outfitter, the use area permits that are the subject of the
15 pending proceedings may not be assigned. During the period for which
16 a use area permit is suspended under AS 08.54.660, the use area permit
17 may not be assigned.

18 Sec. 08.54.680. INFORMATION ON GUIDE-OUTFITTER USE AREAS. (a)
19 The board shall maintain and publish on a regular basis a comprehen-
20 sive list of all unawarded guide-outfitter use areas that are open to
21 application for use by qualified guide-outfitters.

22 (b) The board shall maintain a centralized information center
23 where information on guide-outfitter use areas and all commercial use
24 permittees can be readily obtained by guide-outfitters, government
25 agencies, and the public.

26 Sec. 08.54.690. DEFINITIONS. In AS 08.54.610 - 08.54.690

27 (1) "joint use" means the utilization of a guide-outfitter
28 use area by more than one use area permittee;

(2) "sole use" means the utilization of a guide-outfitter

1 use area by one use area permittee.

2 * Sec. 3. AS 08.54.310(a) is amended by adding new paragraphs to read:

3 (11) certify guide-outfitters to conduct guide-outfitting
4 activities within a game management unit;

5 (12) establish by regulation a system of guide-outfitter use
6 areas for allocating access to big game hunting opportunities among
7 guide-outfitters.

8 * Sec. 4. AS 08.54 is amended by adding a new section to read:

9 Sec. 08.54.355. GAME MANAGEMENT UNIT CERTIFICATION. (a) The
10 board shall certify guide-outfitters licensed under AS 08.54.350 to
11 guide-outfit hunts within a game management unit.

12 (b) A guide-outfitter may not guide-outfit hunts in a game
13 management unit unless the guide-outfitter is certified by the board
14 to guide-outfit hunts in the game management unit.

15 (c) The board shall allow a guide-outfitter to prequalify for
16 certification for each game management unit in which the guide-out-
17 fitter is competent to guide-outfit hunts. The board shall allow a
18 guide-outfitter to transfer a certification between game management
19 units.

20 * Sec. 5. AS 08.54.370(a) is amended to read:

21 (a) An applicant for renewal of a guide-outfitter license or a
22 marine mammal guide-outfitter license shall submit with the applica-
23 tion for renewal

24 (1) the hunt record required under AS 08.54.550 for the
25 period covered by the current license;

26 (2) the license fee for the next licensing period; [AND]

27 (3) the commercial use permit fee for the next licensing
28 period;

29 (4) an amended guide-outfitter use area permit operations

1 plans, if appropriate; and

2 (5) the wildlife conservation fee for the period covered by
3 the current license.

4 * Sec. 6. AS 08.54 is amended by adding a new section to article 2 to
5 read:

6 *this is an add-on to all resident hunters who utilize the services of a transporter.*
7 Sec. 08.54.480. WILDLIFE CONSERVATION FEE. (a) Each guide-
8 outfitter licensed under AS 08.54.350 and transporter shall pay annu-
9 ally a wildlife conservation fee.

10 (b) The wildlife conservation fee paid by a guide-outfitter is
11 the sum of \$25 for each big game animal other than deer and \$5 for
12 each deer taken by a client during the year. A guide-outfitter shall
13 pay the fee at the time for renewal of guide-outfitters' licenses.
14 Failure to renew a guide-outfitter's license does not excuse payment

15 *will pay the extra costs of the fee.*
16 (c) The wildlife conservation fee paid by a transporter is the
17 sum of \$25 for each big game animal other than deer and \$5 for each
18 deer that is (1) taken on a non-guide-outfitted hunt by a customer of
19 the transporter, and (2) transported by the transporter. Transporters
20 shall pay the fee at the time set by the department.

21 (d) The commissioner of administration shall separately account
22 for wildlife conservation fees deposited in the general fund by the
23 department. The annual estimated balance in the account may be used
24 by the legislature to make appropriations to the Department of Fish
25 and Game and the Department of Public Safety to carry out their re-
26 spective responsibilities for management of game resources and en-
27 forcement of game laws.

27 * Sec. 7. AS 08.54.590(13) is amended to read:

28 (13) "transportation services" means the carriage for
29 compensation of big game hunters, their equipment, or big game animals

What does this mean?
↓

1 harvested by hunters to, from, or in the field; "transportation ser-
2 vices" does not include the carriage by aircraft of big game hunters,
3 their equipment, or big game animals harvested by hunters

4 (A) on nonstop flights between state or federally
5 maintained airports; or

6 (B) by an air taxi operator or air carrier for which
7 the carriage of big game hunters, their equipment, or big game
8 animals harvested by hunters is only an incidental, as defined by
9 the board, portion of its business unless the air taxi operator
10 or air carrier advertises hunting services to the public;

11 * Sec. 8. IDENTIFICATION OF PROPOSED GUIDE-OUTFITTER USE AREAS. (a)

12 The Department of Fish and Game shall propose guide-outfitter use areas for
13 use by the Big Game Commercial Services Board in establishing a resource-
14 based management system for allocating access to big game hunting oppor-
15 tunities among guide-outfitters. The department shall identify proposed
16 guide-outfitter use areas for appropriate regions and areas of the state.
17 The department may set priorities for identifying use areas and may deter-
18 mine the extent and number of use areas to be identified at one time. The
19 department shall complete the identification of proposed use areas within
20 two years after the close of the first public comment period prescribed
21 under (e) of this section. The department shall complete the identifica-
22 tion of proposed use areas for a significant portion of the state within
23 nine months after the close of the first public comment period prescribed
24 under (e) of this section.

25 (b) The Big Game Commercial Services Board may recommend to the
26 department those areas of the state that should receive priority in identi-
27 fying use areas.

28 (c) The department shall publish a public notice that it is accepting

public comment for identification of areas as proposed guide-outfitter use

*This is great
Why wasn't this done
to not. by public of task
since meetings as
agendas -13-
what happened
to public when
goats were
added to
guides
list
are just
learning
this*

1 areas. The department shall accept public comment for 60 days after the
2 notice is first published.

3 (d) The department shall propose use areas in light of the following
4 considerations:

5 (1) wildlife management concerns, including abundance and diver-
6 sity of wildlife, historical harvest of wildlife from the area, and exist-
7 ing administrative boundaries established for wildlife management purposes;

8 (2) wildlife law enforcement concerns;

9 (3) public comment received under (c) of this section;

10 (4) land ownership in the area;

11 (5) administrative restrictions;

12 (6) existence of boundaries that can be readily identified in
13 the field;

14 (7) accessibility of the area and other transportation consid-
15 erations;

16 (8) existence of complementary and noncomplementary land uses
17 within the area;

18 (9) existing facilities within the area; and

19 (10) other considerations relevant to the purposes of this sec-
20 tion.

21 (e) The department shall provide maps or descriptions to the public
22 of the use areas proposed under (d) of this section and shall solicit
23 public comment on the proposed use areas. The public shall have 45 days
24 after the maps or descriptions are distributed to comment on the use areas
25 proposed by the department. At the close of the comment period, the de-
26 partment shall review the proposed use areas in light of the public comment
27 received and shall then recommend boundaries for the proposed use areas.
28 The department shall transmit its boundary recommendations to the Big Game
29 Commercial Services Board as the recommendations are made final.

1 (f) The actions of the department under this section are exempt from
2 the Administrative Procedure Act (AS 44.62).

3 (g) In this section

4 (1) "department" means the Department of Fish and Game;

5 (2) "public" includes a natural person, corporation, associa-
6 tion, organization, society, company, partnership, or state, federal, or
7 local government agency.

8 * Sec. 9. PRELIMINARY DETERMINATION OF ELIGIBILITY FOR GUIDE-OUTFITTER
9 USE AREA PERMIT. (a) In order to facilitate and expedite the process for
10 issuing guide-outfitter use area permits during the first five years that
11 offerings of guide-outfitter use areas are made under AS 08.54.610 - 08.-
12 54.690, enacted by sec. 2 of this Act, the Big Game Commercial Services
13 Board shall make preliminary determinations of the eligibility of a guide-
14 outfitter to receive use area permits.

15 (b) A guide-outfitter may apply, at times set by the board, for a
16 preliminary determination of eligibility for a use area permit for each
17 game management unit in which the guide-outfitter is certified or prequal-
18 ified for certification to guide-outfit hunts under AS 08.54.355, enacted
19 by sec. 4 of this Act.

20 (c) A guide-outfitter is qualified for a preliminary determination of
21 eligibility to receive a use area permit if the board finds that the guide-
22 outfitter satisfies the criteria of AS 08.54.650(b), enacted by sec. 2 of
23 this Act, that can be satisfied without reference to the characteristics of
24 a specific use area.

25 (d) A preliminary determination of eligibility to receive a use area
26 permit does not vest a right in the guide-outfitter to receive a use area
27 permit when use areas are offered under AS 08.54.650, enacted by sec. 2 of
28 this Act.

29 * Sec. 10. During the first five years that offerings of use areas are

1 made under AS 08.54.610 - 08.54.690, enacted by sec. 2 of this Act, the Big
2 Game Commercial Services Board shall offer all guide-outfitter use areas.

3 * Sec. 11. SEVERABILITY. If a provision of this Act or the application
4 of this Act to a person or circumstance is held invalid, the remainder of
5 this Act and the application of this Act to other persons or circumstances
6 are not affected by the invalidity.

7 * Sec. 12. AS 08.54.310(b)(1) is repealed.
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Original sponsor(s): Rules Committee by request

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 422 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to guide-outfitter use area permits,
7 the Big Game Commercial Services Board, guide-out-
8 fitters, transporters and air carriers^(As), and providers^(A=)
9 of other big game commercial services, and commercial^(A=)
10 use permits; and providing for an effective date."^(A=)

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

12 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

13 (1) unregulated access to game management units by guide-out-
14 fitters

15 (A) can potentially harm the state's valuable big game
16 resources by allowing overharvest of big game species or populations
17 that have a low recovery capacity or that exist in low abundance; and

18 (B) has hindered management of hunters guide-outfitted by
19 guide-outfitters, led to conflicts among guide-outfitters, and de-
20 creased the quality of the hunting experience for clients of guide-
21 outfitters and other hunters;

22 (2) an economically viable guide-outfitter industry can offer a
23 quality hunting experience to hunters from throughout the world who seek a
24 unique opportunity to pursue and take trophy big game animals in the state
25 and can contribute significantly to the state's economy by increasing
26 tourism and supporting a variety of businesses associated with the guide-
27 outfitter industry;

28 (3) the guide-outfitter industry provides an opportunity for
29 enhancing the state's economy, particularly the underdeveloped economies of

1 the rural regions of the state;

2 (4) intense competition exists for big game in many parts of the
3 state and the allocation of access to big game hunting opportunities among
4 guide-outfitters will prevent overharvest of big game in those areas and
5 will provide continued open access to the big game resource by all users;

6 (5) a resource-based management system for allocating access to
7 big game hunting opportunities among guide-outfitters will alleviate con-
8 flicts among guide-outfitters, will provide an effective basis for regulat-
9 ing guide-outfitters, and will enhance conservation and management of big
10 game;

11 (6) a long-term interest in the conservation of wildlife encour-
12 ages sound management practices among users of wildlife and fosters a
13 mutually beneficial relationship between wildlife and the users of wildlife
14 because the user understands that the user's own future well-being is
15 dependent upon wise use of the resource in the present.

16 (b) The purpose of this Act is to

17 (1) establish a resource-based system of allocating access to
18 big game hunting opportunities among guide-outfitters that is fully con-
19 sistent with common use principles of the Constitution of the State of
20 Alaska; and

21 (2) support the conservation and management of the state's
22 wildlife, provide economic and noneconomic benefits to the state and to the
23 citizens of the state, and generate revenue for the state from the wise use
24 of wildlife for commercial purposes.

25 (c) This Act does not affect the existing rights and privileges of
26 subsistence and resident sport hunters to take game in the state.

27 * Sec. 2. AS 08.54 is amended by adding new sections to read:

28 ARTICLE 5. GUIDE-OUTFITTER USE AREAS.

29 Sec. 08.54.610. GUIDE-OUTFITTER USE AREAS. (a) The board shall

1 establish guide-outfitter use areas throughout the state. The board
2 shall consider the recommendations of the Department of Fish and Game
3 in identifying the boundaries of the use areas. The board shall adopt
4 the recommendations of the Department of Fish and Game for each use
5 area unless the board obtains a finding from the Department of Fish
6 and Game that an amended use area boundary as proposed by the board
7 will not adversely affect wildlife conservation and management.

8 (b) The board may amend the boundaries of use areas adopted
9 under (a) of this section if

10 (1) the Department of Fish and Game finds that the proposed
11 amendment will not adversely affect wildlife conservation and manage-
12 ment; and

13 (2) the board notifies all guide-outfitters who hold use
14 area permits for the affected use areas of the proposed amendment and
15 provides those guide-outfitters with an opportunity to comment on the
16 proposed amendment.

17 (c) AS 08.54.620 - 08.54.690 do not apply within an area or to
18 the activities of a guide-outfitter within an area of the state that
19 is not included within the boundary of a guide-outfitter use area
20 adopted by the board.

21 Sec. 08.54.620. OFFERINGS OF GUIDE-OUTFITTER USE AREAS. (a)
22 The board shall annually offer available use areas to qualified guide-
23 outfitters. The board shall stagger the offering of use areas.

24 (b) The board may request recommendations from the public for
25 use areas to be offered at the next offering of use areas.

26 (c) The board shall decide whether a use area will be offered
27 for sole or joint use before offering the use area. In making its
28 decision, the board shall consider for each use area

29 (1) information provided by the Department of Fish and Game

1 on the status of big game populations, historical harvests of big
2 game, and uses of wildlife in the use area;

3 (2) information gathered from previous use by guide-outfit-
4 ters that would facilitate big game management and planning;

5 (3) requirements for economically viable guide-outfitter
6 operations;

7 (4) the number of economically viable guide-outfitter
8 operations that the use area could support;

9 (5) the effect of guide-outfitting activities on resident
10 hunters; and

11 (6) other relevant factors, including land ownership con-
12 cerns, land management concerns, and law enforcement concerns.

13 (d) Use areas for which use area permits have expired, been
14 relinquished by the permittee, automatically revoked under AS 08.54.-
15 660, or revoked by the board may be offered by the board at the next
16 offering of use areas.

17 (e) The notice of the offering of use areas must include for
18 each use area

19 (1) the location and a brief description of the use area;

20 (2) whether the use area is available for sole or joint
21 use.

22 Sec. 08.54.630. GUIDE-OUTFITTER USE AREA PERMIT; REGISTRATION
23 PERMIT. (a) A guide-outfitter use area permit or registration permit
24 authorizes a guide-outfitter to guide-outfit hunts in the use area for
25 those big game species specified by the permit and may limit the
26 number of clients that may be guide-outfitted in the use area each
27 year.

28 (b) A sole use area permit grants to the permittee the sole
29 privilege to guide-outfit hunts for all big game species that occur

1 within the use area. A joint use area permit grants to the permittee
2 the privilege to guide-outfit hunts in the use area for the big game
3 species specified in the permit; however, all joint use area permits
4 for a use area, when considered together, must grant privileges to
5 guide-outfit hunts for all big game species that occur within the use
6 area.

7 (c) A use area that is not awarded to a guide-outfitter under
8 AS 08.54.650 is open to use by guide-outfitters who are certified to
9 guide-outfit hunts in the game management unit in which the use area
10 is located and who obtain a registration permit for the use area. The
11 board may establish the number of registration permits that will be
12 issued for each use area. Registration permits are valid for the
13 calendar year in which they are issued. A registration permit must
14 specify the big game species for which hunts may be guide-outfitted
15 under the authority of the permit.

16 (d) A guide-outfitter may not guide-outfit a hunt for a big game
17 species in a use area, unless the guide-outfitter has a use area
18 permit or registration permit that entitles the guide-outfitter to
19 guide-outfit hunts for that species in that use area.

20 (e) A guide-outfitter shall physically participate in field
21 operations while guide-outfitted hunts are conducted under the author-
22 ity of a use area permit or registration permit held by the guide-
23 outfitter.

24 Sec. 08.54.640. APPLICATION FOR A GUIDE-OUTFITTER USE AREA
25 PERMIT. (a) A guide-outfitter who is licensed under AS 08.54.350 and
26 is certified by the board to guide-outfit hunts in the game management
27 unit in which the use area is located may apply for a guide-outfitter
28 use area permit.

29 (b) A guide-outfitter shall submit a separate application for

1 each use area permit sought. The application shall be made on a form
2 provided by the board and shall be accompanied by the application fee
3 and a proposed operations plan for the conduct of guide-outfitter
4 hunts under the use area permit, including locations of base camps
5 the number of clients, and the big game species to be hunted.

6 (c) The department shall set the application fee for a guide-
7 outfitter use area permit under AS 08.01.065.

8 Sec. 08.54.650. PROCEDURES FOR AWARDING GUIDE-OUTFITTER USE AREA
9 PERMIT. (a) The board shall adopt procedures for evaluating the
10 qualifications of applicants for guide-outfitter use area permits.
11 The procedures must appropriately balance the criteria included under
12 (b) of this section to ensure that new guide-outfitter licensees under
13 this chapter are not unfairly disadvantaged or denied an opportunity
14 to obtain a use area permit in those game management units for which
15 the licensee is certified by the board.

16 (b) The board shall evaluate each application and determine
17 whether the applicant is qualified for a guide-outfitter use area per-
18 mit under criteria adopted by the board, including

19 (1) the applicant's ability and means to provide the type
20 and quality of guide-outfitting services proposed by the applicant, as
21 demonstrated by the applicant's proposed operations plan;

22 (2) whether the applicant has proposed a guide-outfitting
23 operation in the use area that is economically feasible given the
24 economic resources of the applicant;

25 (3) the applicant's history of safety in guide-outfitting
26 hunts or demonstrated ability to guide-outfit hunts safely;

27 (4) the applicant's history of compliance with state and
28 federal fish and game and guide-outfitting statutes and regulations;

29 (5) the applicant's experience in or knowledge of the use

1 area;

2 (6) the applicant's history of compliance with AS 08.54.-
3 520(a) in regard to prior authorization to enter or remain on state,
4 federal, or private land;

5 (7) whether the applicant has obtained those prior autho-
6 rizations to guide-outfit hunts on state, federal, or private land in
7 the use area from the significant or major landowners in the use area
8 or has demonstrated the ability to acquire those authorizations;

9 (8) whether the applicant holds all permits and licenses
10 necessary to guide-outfit hunts in the use area or has demonstrated
11 the ability to obtain the necessary permits and licenses.

12 (c) If the board determines that more applicants are qualified
13 to receive a use area permit for a use area than there are use area
14 permits available, then the board shall reevaluate the applications of
15 the qualified applicants and, with or without requesting additional
16 documentation, shall select the best qualified applicants to receive
17 the available permits. The board may request the qualified applicants
18 to appear before the board to discuss the applicant's application in
19 regard to the criteria in (b) of this section.

20 (d) The board shall award a use area permit only to a qualified
21 applicant.

22 (e) If a successful applicant does not provide, at the time the
23 board awards the use area permit, proof of the permits and licenses
24 necessary to guide-outfit hunts in the use area or the authorizations
25 to guide-outfit hunts on state, federal, or private land in the use
26 area from the significant or major landowners in the use area, the
27 board shall issue a conditional use area permit that is valid for 120
28 days. A conditional use area permit does not entitle the permittee to
29 guide-outfit hunts within the use area. If the successful applicant

1 provides proof satisfactory to the board within 120 days after issu-
2 ance of the conditional use area permit that the applicant has re-
3 ceived the necessary permits and licenses and land use authorizations,
4 the applicant shall be awarded a use area permit. If the successful
5 applicant does not provide the required proof within 120 days after
6 issuance of the conditional use area permit, the conditional use area
7 permit is void. If a conditional use area permit is voided under this
8 subsection, the board shall offer the use area permit to the next best
9 qualified applicant for the use area.

10 Sec. 08.54.660. TERM AND SUSPENSION OR REVOCATION OF GUIDE-
11 OUTFITTER USE AREA PERMIT; OPERATIONS PLAN. (a) The board shall
12 grant guide-outfitter use area permits for a term not to exceed 10
13 years, unless the board determines, after consultation with the De-
14 partment of Fish and Game, that a longer term will further promote the
15 wildlife conservation and management objectives of the use areas. The
16 term of a use area permit may not in any instance exceed 15 years.

17 (b) The board may after a hearing suspend or revoke a use area
18 permit for

- 19 (1) violation of the conditions of the use area permit;
- 20 (2) failure to exercise the privileges conferred by the use
21 area permit for one year;
- 22 (3) a significant unauthorized deviation, as defined by the
23 board, from an operations plan;
- 24 (4) fraud in applying for a use area permit or assignment
25 of a use area permit; or
- 26 (5) other good cause, as defined by the board.

27 (c) The board may suspend or revoke a use area permit upon
28 conviction of the permittee of an unlawful act under AS 08.54.520.

29 (d) A use area permit is revoked automatically upon revocation

1 of the permittee's guide-outfitter license. A use area permit is
2 suspended automatically upon suspension of the permittee's guide-
3 outfitter license.

4 (e) If the license of a guide-outfitter is summarily suspended
5 under AS 08.01.075(c), the use area permits held by the guide-out-
6 fitter are suspended automatically until after the final disposition
7 of the disciplinary proceeding by the board.

8 (f) A hearing to suspend or revoke a use area permit may be
9 combined with a disciplinary proceeding under AS 08.01.075 or AS 08.-
10 54.500 involving the use area permittee.

11 (g) A use area permit may be revoked or the terms of the use
12 area permit or an operations plan may be altered by the board for
13 wildlife conservation and management considerations.

14 (h) A use area permittee shall submit an amended operations plan
15 if the permittee intends to vary the permittee's guide-outfitting
16 operation from that stated in the plan. An amended operations plan is
17 not effective until approved by the board. A permittee may not con-
18 duct a guide-outfitting operation outside of the terms of an approved
19 operations plan.

20 Sec. 08.54.670. ASSIGNMENT OF GUIDE-OUTFITTER USE AREA PERMIT.

21 (Aw) (a) Except as provided in this section, a use area permit may not be
22 sold, leased, or otherwise assigned.

23 (b) A use area permit may be assigned by the board under regu-
24 lations of the board if the assignment is

25 (1) consistent with the purposes of AS 08.54.610 - 08.-
26 54.690;

27 (2) not for consideration to the former permittee;

28 (3) to a guide-outfitter qualified to receive the use area
29 permit; and

1 (4) due to the death or disability of the former permittee
2 or for other good cause, as defined by the board.

3 (c) An assigned use area permit is valid only for the period for
4 which the use area permit was originally issued.

5 (d) If proceedings in which a guide-outfitter license may be
6 revoked or suspended under this chapter are pending against a guide-
7 outfitter, the guide-outfitter's use area permits may not be assigned
8 unless allowed for good cause by the board. During the period for
9 which a guide-outfitter's license is suspended under this chapter, use
10 area permits held by the guide-outfitter may not be assigned.

11 (e) If proceedings in which a guide-outfitter use area permit
12 may be revoked or suspended under AS 08.54.660 are pending against a
13 guide-outfitter, the use area permits that are the subject of the
14 pending proceedings may not be assigned. During the period for which
15 a use area permit is suspended under AS 08.54.660, the use area permit
16 may not be assigned.

17 Sec. 08.54.680. INFORMATION ON GUIDE-OUTFITTER USE AREAS AND
18 COMMERCIAL USE PERMITTEES. (a) The board shall maintain and publish
19 on a regular basis a comprehensive list of all unawarded guide-out-
20 fitter use areas that are open to application for use by qualified
21 guide-outfitters.

22 (b) The board shall maintain a centralized information center
23 where information on guide-outfitter use areas and all commercial use
24 permittees can be readily obtained by guide-outfitters, government
25 agencies, and the public.

26 Sec. 08.54.690. DEFINITIONS. In AS 08.54.610 - 08.54.690

27 (1) "joint use" means the utilization of a guide-outfitter
28 use area by more than one use area permittee;

29 (2) "sole use" means the utilization of a guide-outfitter

1 use area by one use area permittee.

2 * Sec. 3. AS 08.54.310(a) is amended by adding new paragraphs to read:

3 (11) certify guide-outfitters to conduct guide-outfitting
4 activities within a game management unit;

5 (12) establish by regulation a system of guide-outfitter use
6 areas for allocating access to big game hunting opportunities among
7 guide-outfitters.

8 * Sec. 4. AS 08.54.350(a) is amended to read:

9 (a) A natural person is entitled to a guide-outfitter license if
10 the person

11 (1) is 21 years of age or older;

12 (2) has practical field experience in the handling of
13 firearms, hunting, judging trophies, field preparation of meat and
14 trophies, first aid, photography, and related guide-outfitting activi-
15 ties;

16 (3) is familiar with the terrain and transportation prob-
17 lems in the game management unit for which the license is requested;

18 (4) has passed the qualification examinations prepared and
19 administered by the board;

20 (5) has demonstrated to the board sufficient standards of
21 competence and ethical conduct and has not been convicted of a state
22 or federal hunting or guide-outfitting statute or regulation within
23 the last five years for which the person was fined more than \$500 or
24 imprisoned for more than five days;

25 (6) has legally hunted in the state for part of each of any
26 five years in a manner directly contributing to the person's experi-
27 ence and competency as a guide-outfitter;

28 (7) has been licensed as and performed the services of a
29 class-A assistant guide-outfitter or assistant guide-outfitter in the

1 state for a part of each of three years, or has guide-outfitted in the
2 state for a part of each of three years under a marine mammal guide-
3 outfitter license issued under AS 08.54.360;

4 (8) has demonstrated a current knowledge of fishing, hunt-
5 ing, and guide-outfitting regulations;

6 (9) is capable of performing the essential duties associ-
7 ated with guide-outfitting;

8 (10) has been favorably recommended in writing by six big
9 game hunters, two for each year of the person's most recent three
10 years as a class-A assistant guide-outfitter or assistant guide-
11 outfitter, when the person has guide-outfitted or assisted in guide-
12 outfitting as a class-A assistant guide-outfitter or assistant guide-
13 outfitter, whose recommendations have been solicited by the board from
14 a list provided by the applicant;

15 (11) possesses a business license to provide guide-outfit-
16 ting services; and

17 (12) has paid the license fee and has applied for a commer-
18 cial use permit [FEE].

19 * Sec. 5. AS 08.54 is amended by adding a new section to read:

20 Sec. 08.54.355. GAME MANAGEMENT UNIT CERTIFICATION. (a) The
21 board shall certify guide-outfitters licensed under AS 08.54.350 to
22 guide-outfit hunts within a game management unit.

23 (b) A guide-outfitter may not guide-outfit hunts in a game
24 management unit unless the guide-outfitter is certified by the board
25 to guide-outfit hunts in the game management unit.

26 (c) The board shall allow a guide-outfitter to prequalify for
27 certification for each game management unit in which the guide-out-
28 fitter is competent to guide-outfit hunts. The board shall allow a
29 guide-outfitter to transfer a certification between game management

1 units.

2 * Sec. 6. AS 08.54.360(a) is amended to read:

3 (a) The board may issue a marine mammal guide-outfitter license
4 to a natural person who applies to guide-outfit a hunt for a specific
5 species of marine mammal in a specifically designated area if the
6 person

7 (1) is 21 years of age or older;

8 (2) has, for at least 10 years, resided and hunted in the
9 area of the state in which the applicant is to guide-outfit;

10 (3) is able to perform the duties of a marine mammal guide-
11 outfitter;

12 (4) has demonstrated knowledge of the following areas to an
13 extent and degree satisfactory to the board:

14 (A) current fish and game laws and regulations;

15 (B) relevant characteristics of the specific species
16 to be hunted;

17 (C) field preparation of trophies;

18 (D) care of game meat;

19 (E) use of guide-outfitting gear;

20 (F) firearm safety;

21 (G) practical first aid; and

22 (H) booking and contracting hunts;

23 (5) has not been convicted of violating a state or federal
24 game or guide-outfitting statute or regulation during the previous
25 five years for which the person was fined more than \$500 or imprisoned
26 for more than five days;

27 (6) possesses a business license to provide guide-outfit-
28 ting services; and

29 (7) has paid the license fee and has applied for a

(A2)

1 commercial use permit [FEE].

2 * Sec. 7. AS 08.54.370(a) is amended to read:

3 (a) An applicant for renewal of a guide-outfitter license or a
4 marine mammal guide-outfitter license shall submit with the applica-
5 tion for renewal

6 (1) the hunt record required under AS 08.54.550 for the
7 period covered by the current license;

8 (2) the license fee for the next licensing period; [AND]

9 (Az) (3) the commercial use permit fee for the [NEXT LICENSING]
10 period covered by the current permit; and

11 (4) an amended guide-outfitter use area operations plan, if
12 appropriate.

13 * Sec. 8. AS 08.54.400(a) is amended to read:

14 (a) A person is entitled to a transporter license if the person

15 (1) applies on a form provided by the department;

16 (2) pays the license fee;

17 (Az) (3) applies for a [PAYS THE] commercial use permit [FEE];

18 (4) provides proof of

19 (A) an air taxi/commercial operator certificate issued
20 by the Federal Aviation Administration under 14 C.F.R. Part 135,
21 if the person provides air transportation services to big game
22 hunters;

23 (B) licensure by the Coast Guard to carry passengers
24 for hire, if the person provides water transportation services to
25 big game hunters and if licensure is required by the Coast Guard;
26 and

27 (5) has a business license to transport big game hunters.

28 * Sec. 9. AS 08.54.400(c) is amended to read:

29 (c) An applicant for renewal of a transporter license shall

1 submit with the application for renewal

2 (1) an activity report on a form provided by the department
3 for the period covered by the current license; an activity report
4 shall contain information required by the board by regulation;

5 (2) the license fee for the next licensing period;

6 (3) the commercial use permit fee for the [NEXT LICENSING]
7 period covered by the current permit; and

8 (4) proof of

9 (A) an air taxi/commercial operator certificate issued
10 by the Federal Aviation Administration under 14 C.F.R. Part 135,
11 if the applicant provides air transportation services to big game
12 hunters;

13 (B) licensure by the Coast Guard to carry passengers
14 for hire, if the applicant provides water transportation services
15 to big game hunters and if licensure is required by the Coast
16 Guard.

17 * Sec. 10. AS 08.54.460(a) is amended to read:

18 (a) A person, other than a guide-outfitter, marine mammal guide-
19 outfitter, or a transporter, who provides other big game commercial
20 services for compensation shall register with the board on a form
21 provided by the board and shall obtain a commercial use permit and pay
22 the annual commercial use permit fee set by the department in consul-
23 tation with the board [UNDER AS 08.54.470]. In this section, "other
24 big game commercial services" includes provision of accommodations in
25 the field at a permanent lodge, house, or cabin owned by the commer-
26 cial use permit holder, hunt broker services, gear rental services,
27 photographic or videographic services, and services as defined by the
28 board by regulation.

29 * Sec. 11. AS 08.54.470(a) is amended to read:

1 (a) A person who is licensed under this chapter as a guide-
2 outfitter, marine mammal guide-outfitter, or transporter shall obtain
3 an annual commercial use permit. The [AND PAY AN] annual commercial
4 use permit fee shall be paid as set out in this section. (A2)

5 * Sec. 12. AS 08.54.470(b) is repealed and reenacted to read:

6 (b) The commercial use permit fee shall be set by the depart-
7 ment, in consultation with the board,

8 (1) for transporters on the basis of a progressive fee in
9 proportion to the number of big game hunters transported by the trans-
10 porter during the period for which the permit was issued;

11 (2) for guide-outfitters and marine mammal guide-outfit-
12 ters, ~~at not less than~~ the following amounts based on the number of
13 clients guide-outfitted by the guide-outfitter or marine mammal guide-
14 outfitter during the period for which the permit was issued:

| | | |
|----|--------------------|--------|
| 15 | 0 - 5 clients | \$ 250 |
| 16 | 6 - 10 clients | 500 |
| 17 | 11 - 15 clients | 750 |
| 18 | 16 - 20 clients | 1,000 |
| 19 | 21 - 25 clients | 1,500 |
| 20 | 26 - 30 clients | 2,000 |
| 21 | 31 or more clients | 2,500. |

22 * Sec. 13. AS 08.54.470(c) is amended to read:

23 (c) A guide-outfitter, marine mammal guide-outfitter, and trans-
24 porter shall pay the commercial use permit fee at the time of applica-
25 tion for [ISSUANCE OR] renewal of a guide-outfitter license, marine
26 mammal guide-outfitter license, or transporter license. If the guide-
27 outfitter, marine mammal guide-outfitter, or transporter does not
28 apply for renewal of the guide-outfitter license, marine mammal guide-
29 outfitter license, or transporter license, the commercial use permit (A2)

1 fee shall be paid within 30 days after the end of the annual period
2 for which the commercial use permit was issued.

3 (X) * Sec. 14. AS 08.54.470 is amended by adding a new subsection to read:

4 (A) (e) Notwithstanding (a) of this section and AS 08.54.370, a
5 person who is licensed under this chapter as a guide-outfitter but who
6 is retired from or does not engage in guide-cutfitting activities is
7 exempt from requirements to obtain a commercial use permit and to pay
8 the commercial use permit fee. The department shall adopt regulations
9 to implement this subsection.

10 * Sec. 15. AS 08.54 is amended by adding a new section to read:

11 WA: SEC:6 Sec. 08.54.560. REPORTS RELATING TO CARRIAGE OF BIG GAME HUNT-
12 ERS. (a) A person who is subject to AS 42.30.200 shall submit to the
13 department by January 31 of each year an activity report relating to
14 the carriage ^{* norm. in the field} during the previous year of big game hunters, their
15 equipment, and big game animals harvested by hunters. The report
16 shall be made on a form provided by the department and must contain
17 information required by the board by regulation.

18 (b) A person who ~~intentionally~~ violates this section is guilty
19 of a class B misdemeanor.

20 * Sec. 16. AS 08.54.590(13) is amended to read:

21 WA: SEC:6 (K) (13) "transportation services" means carriage of, or adver-
22 tising to carry for compensation, big game hunters, their equipment,
23 or big game animals harvested by hunters to, from, or in the field;
24 "transportation services" does not include the carriage by aircraft of
25 big game hunters, their equipment, or big game animals harvested by
26 hunters

27 (A) on nonstop flights between state, ~~municipally~~ or
28 federally maintained airports ^{* and who does} and float plane docks; or
29 ~~not advertise~~

(As) (B) by an air taxi operator or air carrier who does

1 not charge more than the usual tariff or charter rate for [WHICH]
2 the carriage of big game hunters, their equipment, or big game
3 animals harvested by hunters [IS ONLY AN INCIDENTAL, AS DEFINED
4 BY THE BOARD, PORTION OF ITS BUSINESS]^h **and who does not advertise.*

5 * Sec. 17. IDENTIFICATION OF PROPOSED GUIDE-OUTFITTER USE AREAS. (a)

6 The Department of Fish and Game shall propose guide-outfitter use areas for
7 use by the Big Game Commercial Services Board in establishing a resource-
8 based management system for allocating access to big game hunting oppor-
9 tunities among guide-outfitters. The department shall identify proposed
10 guide-outfitter use areas for appropriate regions and areas of the state.
11 The department may set priorities for identifying use areas and may deter-
12 mine the extent and number of use areas to be identified at one time. The
13 department shall complete the identification of proposed use areas within
14 two years after the close of the first public comment period prescribed
15 under (e) of this section. The department shall complete the identifica-
16 tion of proposed use areas for a significant portion of the state within
17 nine months after the close of the first public comment period prescribed
18 under (e) of this section.

19 (b) The Big Game Commercial Services Board may recommend to the
20 department those areas of the state that should receive priority in identi-
21 fying use areas.

22 (c) The department shall publish a public notice that it is accepting
23 public comment for identification of areas as proposed guide-outfitter use
24 areas. The department shall accept public comment for 60 days after the
25 notice is first published.

26 (d) The department shall propose use areas in light of the following
27 considerations:

28 (1) wildlife management concerns, including abundance and diver-
29 sity of wildlife, historical harvest of wildlife from the area, and

1 existing administrative boundaries established for wildlife management
2 purposes;

3 (2) wildlife law enforcement concerns;

4 (3) public comment received under (c) of this section;

5 (4) land ownership in the area;

6 (5) administrative restrictions;

7 (6) existence of boundaries that can be readily identified in
8 the field;

9 (7) accessibility of the area and other transportation consid-
10 erations;

11 (8) existence of complementary and noncomplementary land uses
12 within the area;

13 (9) existing facilities within the area; and

14 (10) other considerations relevant to the purposes of this sec-
15 tion.

16 (e) The department shall provide maps or descriptions to the public
17 of the use areas proposed under (d) of this section and shall solicit
18 public comment on the proposed use areas. The public shall have 45 days
19 after the maps or descriptions are distributed to comment on the use areas
20 proposed by the department. At the close of the comment period, the de-
21 partment shall review the proposed use areas in light of the public comment
22 received and shall then recommend boundaries for the proposed use areas.
23 The department shall transmit its boundary recommendations to the Big Game
24 Commercial Services Board as the recommendations are made final.

25 (f) The actions of the department under this section are exempt from
26 the Administrative Procedure Act (AS 44.62).

27 (g) In this section

28 (1) "department" means the Department of Fish and Game;

29 (2) "public" includes a natural person, corporation,

1 association, organization, society, company, partnership, or state, fed-
2 eral, or local government agency.

3 *was sec 9* * Sec. 18. PRELIMINARY DETERMINATION OF ELIGIBILITY FOR GUIDE-OUTFITTER
4 USE AREA PERMIT. (a) In order to facilitate and expedite the process for
5 issuing guide-outfitter use area permits during the first five years that
6 offerings of guide-outfitter use areas are made under AS 08.54.610 - 08.-
7 54.690, enacted by sec. 2 of this Act, the Big Game Commercial Services
8 Board shall make preliminary determinations of the eligibility of a guide-
9 outfitter to receive use area permits.

10 (b) A guide-outfitter may apply, at times set by the board, for a
11 preliminary determination of eligibility for a use area permit for each
12 game management unit in which the guide-outfitter is certified or prequal-
13 ified for certification to guide-outfit hunts under AS 08.54.355, enacted
14 by sec. 5 of this Act.

15 (c) A guide-outfitter is qualified for a preliminary determination of
16 eligibility to receive a use area permit if the board finds that the guide-
17 outfitter satisfies the criteria of AS 08.54.650(b), enacted by sec. 2 of
18 this Act, that can be satisfied without reference to the characteristics of
19 a specific use area.

20 (d) A preliminary determination of eligibility to receive a use area
21 permit does not vest a right in the guide-outfitter to receive a use area
22 permit when use areas are offered under AS 08.54.650, enacted by sec. 2 of
23 this Act.

24 * Sec. 19. During the first five years that offerings of use areas are
25 made under AS 08.54.610 - 08.54.690, enacted by sec. 2 of this Act, the Big
26 Game Commercial Services Board shall offer all guide-outfitter use areas.

27 * Sec. 20. The operation of AS 08.54.440 is suspended until January 1,
28 1991.

29 * Sec. 21. TRANSITION: COMMERCIAL USE PERMIT FEE FOR 1991 AND
CSSB 422(Res)

1 SUBSEQUENT YEARS. AS 08.54.350(a), as amended by sec. 4 of this Act,
2 AS 08.54.360(a), as amended by sec. 6 of this Act, AS 08.54.370(a), as
3 amended by sec. 7 of this Act, AS 08.54.400(a), as amended by sec. 8 of
4 this Act, AS 08.54.400(c), as amended by sec. 9 of this Act, AS 08.54.-
5 470(a), as amended by sec. 11 of this Act, AS 08.54.470(b), as amended by
6 sec. 12 of this Act, and AS 08.54.470(c), as amended by sec. 13 of this Act
7 apply to initial applications for and renewals of guide-outfitter licenses,
8 marine mammal guide-outfitter licenses, and transporter licenses for 1991
9 and subsequent years and to payment of commercial use permit fees for 1991
10 and subsequent years. Applicants for guide-outfitter licenses, marine
11 mammal guide-outfitter licenses, and transporter licenses for 1990 or for
12 renewal of these licenses for 1990 shall pay the commercial use permit fee
13 in accordance with AS 08.54 as it existed on the day before the effective
14 date of this section.

15 * Sec. 22. SEVERABILITY. If a provision of this Act or the application
16 of this Act to a person or circumstance is held invalid, the remainder of
17 this Act and the application of this Act to other persons or circumstances
18 are not affected by the invalidity.

19 (At) * Sec. 23. Section 20 of this Act is retroactive to May 12, 1989.

20 * Sec. 24. AS 08.54.310(b)(1) is repealed.

21 (At) * Sec. 25. Sections 20 and 23 of this Act take effect immediately under
22 AS 01.10.070(c).

6-1718M
Utermohle
4/26/90

Original sponsor(s): Rules Committee by Request

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 422 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to guide-outfitter use area permits,
7 the Big Game Commercial Services Board, guide-out-
8 fitters, transporters and air carriers, and providers
9 of other big game commercial services, and commercial
10 use permits; relating to hunting for mountain goat by
11 nonresident hunters; and providing for an effective
12 date."

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

14 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

15 (1) unregulated access to game management units by guide-out-
16 fitters

17 (A) can potentially harm the state's valuable big game
18 resources by allowing overharvest of big game species or populations
19 that have a low recovery capacity or that exist in low abundance; and

20 (B) has hindered management of hunters guide-outfitted by
21 guide-outfitters, led to conflicts among guide-outfitters, and de-
22 creased the quality of the hunting experience for clients of guide-
23 outfitters and other hunters;

24 (2) an economically viable guide-outfitter industry can offer a
25 quality hunting experience to hunters from throughout the world who seek a
26 unique opportunity to pursue and take trophy big game animals in the state
27 and can contribute significantly to the state's economy by increasing
28 tourism and supporting a variety of businesses associated with the guide-
29 outfitter industry;

1 (3) the guide-outfitter industry provides an opportunity for
2 enhancing the state's economy, particularly the underdeveloped economies of
3 the rural regions of the state;

4 (4) intense competition exists for big game in many parts of the
5 state and the allocation of access to big game hunting opportunities among
6 guide-outfitters will prevent overharvest of big game in those areas and
7 will provide continued open access to the big game resource by all users;

8 (5) a resource-based management system for allocating access to
9 big game hunting opportunities among guide-outfitters will alleviate con-
10 flicts among guide-outfitters, will provide an effective basis for regulat-
11 ing guide-outfitters, and will enhance conservation and management of big
12 game;

13 (6) a long-term interest in the conservation of wildlife encour-
14 ages sound management practices among users of wildlife and fosters a
15 mutually beneficial relationship between wildlife and the users of wildlife
16 because the user understands that the user's own future well-being is
17 dependent upon wise use of the resource in the present.

18 (b) The purpose of this Act is to

19 (1) establish a resource-based system of allocating access to
20 big game hunting opportunities among guide-outfitters that is fully con-
21 sistent with common use principles of the Constitution of the State of
22 Alaska; and

23 (2) support the conservation and management of the state's
24 wildlife, provide economic and noneconomic benefits to the state and to the
25 citizens of the state, and generate revenue for the state from the wise use
26 of wildlife for commercial purposes.

27 (c) This Act does not affect the existing rights and privileges of
28 subsistence and resident sport hunters to take game in the state.

29 * Sec. 2. AS 08.54 is amended by adding new sections to read:

1 decision, the board shall consider for each use area

2 (1) information provided by the Department of Fish and Game
3 on the status of big game populations, historical harvests of big
4 game, and uses of wildlife in the use area;

5 (2) information gathered from previous use by guide-outfit-
6 ters that would facilitate big game management and planning;

7 (3) requirements for economically viable guide-outfitter
8 operations;

9 (4) the number of economically viable guide-outfitter
10 operations that the use area could support;

11 (5) the effect of guide-outfitting activities on resident
12 hunters; and

13 (6) other relevant factors, including land ownership con-
14 cerns, land management concerns, and law enforcement concerns.

15 (d) Use areas for which use area permits have expired, been
16 relinquished by the permittee, automatically revoked under AS 08.54.-
17 660, or revoked by the board may be offered by the board at the next
18 offering of use areas.

19 (e) The notice of the offering of use areas must include for
20 each use area

21 (1) the location and a brief description of the use area;

22 (2) whether the use area is available for sole or joint
23 use.

24 Sec. 08.54.630. GUIDE-OUTFITTER USE AREA PERMIT; REGISTRATION
25 PERMIT. (a) A guide-outfitter use area permit or registration permit
26 authorizes a guide-outfitter to guide-outfit hunts in the use area for
27 those big game species specified by the permit and may limit the
28 number of clients that may be guide-outfitted in the use area each
29 year.

1 (b) A sole use area permit grants to the permittee the sole
2 privilege to guide-outfit hunts for all big game species that occur
3 within the use area. A joint use area permit grants to the permittee
4 the privilege to guide-outfit hunts in the use area for the big game
5 species specified in the permit; however, all joint use area permits
6 for a use area, when considered together, must grant privileges to
7 guide-outfit hunts for all big game species that occur within the use
8 area.

9 (c) A use area that is not awarded to a guide-outfitter under
10 AS 08.54.650 is open to use by guide-outfitters who are certified to
11 guide-outfit hunts in the game management unit in which the use area
12 is located and who obtain a registration permit for the use area. The
13 board may establish the number of registration permits that will be
14 issued for each use area. Registration permits are valid for the
15 calendar year in which they are issued. A registration permit must
16 specify the big game species for which hunts may be guide-outfitted
17 under the authority of the permit.

18 (d) A guide-outfitter may not guide-outfit a hunt for a big game
19 species in a use area, unless the guide-outfitter has a use area
20 permit or registration permit that entitles the guide-outfitter to
21 guide-outfit hunts for that species in that use area.

22 (e) A guide-outfitter shall physically participate in field
23 operations while guide-outfitted hunts are conducted under the author-
24 ity of a use area permit or registration permit held by the guide-
25 outfitter.

26 Sec. 08.54.640. APPLICATION FOR A GUIDE-OUTFITTER USE AREA
27 PERMIT. (a) A guide-outfitter who is licensed under AS 08.54.350 and
28 is certified by the board to guide-outfit hunts in the game management
29 unit in which the use area is located may apply for a guide-outfitter

1 use area permit.

2 (b) A guide-outfitter shall submit a separate application for
3 each use area permit sought. The application shall be made on a form
4 provided by the board and shall be accompanied by the application fee
5 and a proposed operations plan for the conduct of guide-outfitted
6 hunts under the use area permit, including locations of base camps,
7 the number of clients, and the big game species to be hunted.

8 (c) The department shall set the application fee for guide-
9 outfitter use area permit under AS 08.01.065.

10 Sec. 08.54.650. PROCEDURES FOR AWARDING GUIDE-OUTFITTER USE AREA
11 PERMIT. (a) The board shall adopt by regulation procedures for
12 evaluating and ranking the qualifications of applicants for guide-
13 outfitter use area permits. The procedures must appropriately balance
14 the criteria included under (b) of this section to ensure that all
15 applicants are afforded a fair opportunity to obtain a use area permit
16 in those game management units for which the applicant is certified by
17 the board. The board may adopt regulations to define or clarify the
18 criteria set out in (b) of this section.

19 (b) The board shall evaluate each application to determine
20 whether the applicant is qualified for a guide-outfitter use area
21 permit using the following criteria:

22 (1) the applicant's ability and means to provide the guide-
23 outfitting services proposed in the applicant's operations plan;

24 (2) whether the applicant has the financial capability to
25 carry out the guide-outfitting services proposed in the applicant's
26 operations plan;

27 (3) the applicant's history of safety in guide-outfitting
28 hunts or demonstrated ability to guide-outfit hunts safely;

29 (4) the applicant's history of compliance with state and

1 federal fish and game and guide-outfitting statutes and regulations;

2 (5) the applicant's

3 (A) experience, including experience as a guide-out-
4 fitter, an assistant guide-outfitter, or as a participant in
5 activities directly related to guide-outfitting operations; or

6 (B) knowledge of the use area, including knowledge of
7 the geography, climatic conditions, flora and fauna, and similar
8 knowledge, including knowledge obtained by big game hunting in
9 the use area, that would assist the applicant in guide-outfitting
10 hunts in the use area;

11 (6) the applicant's history of compliance with AS 08.54.-
12 520(a) in regard to prior authorization to enter or remain on state,
13 federal, or private land;

14 (7) whether the applicant has obtained those prior author-
15 izations to guide-outfit hunts on state, federal, or private land in
16 the use area from the significant or major landowners in the use area
17 or has demonstrated the ability to acquire those authorizations;

18 (8) whether the applicant holds all permits and licenses
19 necessary to guide-outfit hunts in the use area or has demonstrated
20 the ability to obtain the necessary permits and licenses.

21 (c) In balancing the criteria under (b)(5)(A) and (B) of this
22 section, the board shall give appropriate weight to each criterion to
23 ensure fair consideration of all applicants.

24 (d) The board shall award a use area permit only to a qualified
25 applicant. If the board determines that more applicants are qualified
26 to receive a use area permit for a use area than there are use area
27 permits available, then the board shall rank all applicants for the
28 use area permit and shall select the best qualified applicants to
29 receive the available permits. The best qualified applicants are

1 those who receive the highest ranking under the criteria set out in
2 (b) of this section and regulations adopted under (a) of this section.

3 (e) If a successful applicant does not provide, at the time the
4 board awards the use area permit, proof of the permits and licenses
5 necessary to guide-outfit hunts on state, federal, or private land in
6 the use area from the significant or major landowners in the use area,
7 the board shall issue a conditional use area permit that is valid for
8 120 days. A conditional use area permit does not entitle the per-
9 mittee to guide-outfit hunts within the use area. If the successful
10 applicant provides proof satisfactory to the board within 120 days
11 after issuance of the conditional use area permit that the applicant
12 has received the necessary permits and licenses and land use authori-
13 zations, the applicant shall be awarded a use area permit. If the
14 successful applicant does not provide the required proof within 120
15 days after issuance of the conditional use area permit, the condi-
16 tional use area permit is void. If a conditional use area permit is
17 voided under this subsection, the board shall offer the use area
18 permit to the next best qualified applicant for the use area.

19 Sec. 08.54.655. GUIDE-OUTFITTER USE AREA PERMIT FEE. (a) Not-
20 withstanding AS 08.01.065(c) - (e), the department, in consultation
21 with the board, shall set a fee for a guide-outfitter use area permit
22 that

23 (1) reflects the economic value of the privileges conferred
24 by the use area permit, taking into consideration the term for which
25 the use area permit is issued, the number of clients that may be
26 guide-outfitted in the use area under the use area permit, the big
27 game species for which hunts may be guide-outfitted under the use area
28 permit, and whether the use area permit is for sole or joint use of
29 the use area; and

1 (2) ensures a fair return to the people of the state for
2 the commercial use of the big game species in the use area.

3 (b) The commissioner of administration shall separately account
4 for the use area permit fees deposited in the general fund by the de-
5 partment. The annual estimated balance in the account may be used by
6 the legislature to make appropriations to the Department of Fish and
7 Game and the Department of Public Safety to carry out their respective
8 responsibilities for management of game resources and enforcement of
9 game laws.

10 Sec. 08.54.660. TERM AND SUSPENSION OR REVOCATION OF GUIDE-
11 OUTFITTER USE AREA PERMIT; OPERATIONS PLAN. (a) The board shall
12 grant guide-outfitter use area permits for a term not to exceed 10
13 years, unless the board determines, after consultation with the De-
14 partment of Fish and Game, that a longer term will further promote the
15 wildlife conservation and management objectives of the use areas. The
16 term of a use area permit may not in any instance exceed 15 years.

17 (b) The board may after a hearing suspend or revoke a use area
18 permit for

19 (1) violation of the conditions of the use area permit;

20 (2) failure to exercise the privileges conferred by the use
21 area permit for one year;

22 (3) a significant unauthorized deviation, as defined by the
23 board, from an operations plan;

24 (4) fraud in applying for a use area permit or assignment
25 of a use area permit; or

26 (5) other good cause, as defined by the board.

27 (c) The board may suspend or revoke a use area permit upon
28 conviction of the permittee of an unlawful act under AS 08.54.520.

29 (d) A use area permit is revoked automatically upon revocation

1 of the permittee's guide-outfitter license. A use area permit is
2 suspended automatically upon suspension of the permittee's guide-
3 outfitter license.

4 (e) If the license of a guide-outfitter is summarily suspended
5 under AS 08.01.075(c), the use area permits held by the guide-out-
6 fitter are suspended automatically until after the final disposition
7 of the disciplinary proceeding by the board.

8 (f) A hearing to suspend or revoke a use area permit may be
9 combined with a disciplinary proceeding under AS 08.01.075 or AS 08.-
10 54.500 involving the use area permittee.

11 (g) A use area permit may be revoked or the terms of the use
12 area permit or an operations plan may be altered by the board for
13 wildlife conservation and management considerations.

14 (h) A use area permittee shall submit an amended operations plan
15 if the permittee intends to vary the permittee's guide-outfitting
16 operation from that stated in the plan. An amended operations plan is
17 not effective until approved by the board. A permittee may not con-
18 duct a guide-outfitting operation outside of the terms of an approved
19 operations plan.

20 Sec. 08.54.670. ASSIGNMENT OF GUIDE-OUTFITTER USE AREA PERMIT.

21 (a) Except as provided in this section, a use area permit may not be
22 sold, leased, or otherwise assigned.

23 (b) A use area permit may be assigned by the board under regu-
24 lations of the board if the assignment is

25 (1) consistent with the purposes of AS 08.54.610 - 08.-
26 54.690;

27 (2) not for consideration to the former permittee;

28 (3) to a guide-outfitter qualified to receive the use area
29 permit; and

1 (4) due to the death or disability of the former permittee
2 or for other good cause, as defined by the board.

3 (c) An assigned use area permit is valid only for the period for
4 which the use area permit was originally issued.

5 (d) If proceedings in which a guide-outfitter license may be
6 revoked or suspended under this chapter are pending against a guide-
7 outfitter, the guide-outfitter's use area permits may not be assigned
8 unless allowed for good cause by the board. During the period for
9 which a guide-outfitter's license is suspended under this chapter, use
10 area permits held by the guide-outfitter may not be assigned.

11 (e) If proceedings in which a guide-outfitter use area permit
12 may be revoked or suspended under AS 08.54.660 are pending against a
13 guide-outfitter, the use area permits that are the subject of the
14 pending proceedings may not be assigned. During the period for which
15 a use area permit is suspended under AS 08.54.660, the use area permit
16 may not be assigned.

17 Sec. 08.54.680. INFORMATION ON GUIDE-OUTFITTER USE AREAS AND
18 COMMERCIAL USE PERMITTEES. (a) The board shall maintain and publish
19 on a regular basis a comprehensive list of all unawarded guide-out-
20 fitter use areas that are open to application for use by qualified
21 guide-outfitters.

22 (b) The board shall maintain a centralized information center
23 where information on guide-outfitter use areas and all commercial use
24 permittees can be readily obtained by guide-outfitters, government
25 agencies, and the public.

26 Sec. 08.54.690. DEFINITIONS. In AS 08.54.610 - 08.54.690

27 (1) "joint use" means the utilization of a guide-outfitter
28 use area by more than one use area permittee;

29 (2) "sole use" means the utilization of a guide-outfitter

1 use area by one use area permittee.

2 * Sec. 3. AS 08.54.310(a) is amended by adding new paragraphs to read:

3 (11) certify guide-outfitters to conduct guide-outfitting
4 activities within a game management unit;

5 (12) establish by regulation a system of guide-outfitter use
6 areas for allocating access to big game hunting opportunities among
7 guide-outfitters.

8 * Sec. 4. AS 08.54 is amended by adding a new section to read:

9 Sec. 08.54.355. GAME MANAGEMENT UNIT CERTIFICATION. (a) The
10 board shall certify guide-outfitters licensed under AS 08.54.350 to
11 guide-outfit hunts within a game management unit.

12 (b) A guide-outfitter may not guide-outfit hunts in a game
13 management unit unless the guide-outfitter is certified by the board
14 to guide-outfit hunts in the game management unit.

15 (c) The board shall allow a guide-outfitter to prequalify for
16 certification for each game management unit in which the guide-out-
17 fitter is competent to guide-outfit hunts. The board shall allow a
18 guide-outfitter to transfer a certification between game management
19 units.

20 * Sec. 5. AS 08.54.370(a) is amended to read:

21 (a) An applicant for renewal of a guide-outfitter license or a
22 marine mammal guide-outfitter license shall submit with the applica-
23 tion for renewal

24 (1) the hunt record required under AS 08.54.550 for the
25 period covered by the current license;

26 (2) the license fee for the next licensing period; [AND]

27 (3) the commercial use permit fee for the next licensing
28 period; and

29 (4) an amended guide-outfitter use area operations plan, if

1 appropriate.

2 * Sec. 6. AS 08.54.460(a) is amended to read:

3 (a) A person, other than a guide-outfitter, marine mammal guide-
4 outfitter, or a transporter, who provides other big game commercial
5 services for compensation shall register with the board on a form
6 provided by the board and shall obtain a commercial use permit and pay
7 the annual commercial use permit fee set by the department in consul-
8 tation with the board [UNDER AS 08.54.470]. In this section, "other
9 big game commercial services" includes provision of accommodations in
10 the field at a permanent lodge, house, or cabin owned by the commer-
11 cial use permit holder, hunt broker services, gear rental services,
12 photographic or videographic services, and services as defined by the
13 board by regulation.

14 * Sec. 7. AS 08.54.470 is amended by adding a new subsection to read:

15 (e) Notwithstanding (a) of this section and AS 08.54.370, a
16 person who is licensed under this chapter as a guide-outfitter but who
17 is retired from or does not engage in guide-outfitting activities is
18 exempt from requirements to obtain a commercial use permit and to pay
19 the commercial use permit fee. The department shall adopt regulations
20 to implement this subsection.

21 * Sec. 8. AS 08.54 is amended by adding a new section to read:

22 Sec. 08.54.560. REPORTS RELATING TO CARRIAGE OF BIG GAME HUNT-
23 ERS. (a) A person who is subject to AS 42.30.200 shall submit to the
24 department by January 31 of each year an activity report relating to
25 the carriage, to, from, or in the field, during the previous year of
26 big game hunters, their equipment, and big game animals harvested by
27 hunters. The report shall be made on a form provided by the depart-
28 ment and must contain information required by the board by regulation.

29 (b) A person who knowingly violates this section is guilty of a

1 class B misdemeanor.

2 * Sec. 9. AS 08.54.590(13) is amended to read:

3 (13) "transportation services" means the carriage of or
4 advertising to carry, for compensation, [OF] big game hunters, their
5 equipment, or big game animals harvested by hunters to, from, or in
6 the field; "transportation services" does not include the carriage by
7 aircraft of big game hunters, their equipment, or big game animals
8 harvested by hunters (A) on nonstop flights between state, municipally,
9 or federally maintained airports and float plane docks unless
10 the air taxi operator or air carrier providing transportation services
11 on flights between maintained airports advertises big game commercial
12 services that benefit an air taxi operator or air carrier that is a
13 subsidiary, affiliate, or contractor of the air taxi operator or air
14 carrier that is advertising; or (B) by an air taxi operator or air
15 carrier who does not charge more than the usual tariff or charter rate
16 for [WHICH] the carriage of big game hunters, their equipment, or big
17 game animals harvested by hunters, unless the air taxi operator or air
18 carrier providing transportation services advertises big game com-
19 mercial services; in this paragraph, "advertises" or "advertising"
20 means soliciting big game hunters to be customers of an air taxi
21 operator or air carrier for the purpose of providing air transporta-
22 tion to, from, or in the field through the use of print or electronic
23 media specifically directed to big game hunters, including advertising
24 at trade shows, or the use of hunt broker services or other promotion-
25 al services [IS ONLY AN INCIDENTAL, AS DEFINED BY THE BOARD, PORTION
26 OF ITS BUSINESS];

27 * Sec. 10. AS 16.05.340(a)(10) is amended to read:

28 (10) Nonresident hunting and sport fishing license96

29 A nonresident may not take a big game animal, including mountain goat,

1 without previously purchasing a numbered, nontransferable, appropriate
2 tag, issued under (15) of this subsection. The tag must be affixed to
3 the animal immediately upon capture and must remain affixed until the
4 animal is prepared for storage, consumed, or exported. A tag issued
5 but not used for an animal may be used to satisfy the tagging require-
6 ment for an animal of any other species for which the tag fee is of
7 equal or less value.

8 * Sec. 11. IDENTIFICATION OF PROPOSED GUIDE-OUTFITTER USE AREAS. (a)

9 The Department of Fish and Game shall propose guide-outfitter use areas for
10 use by the Big Game Commercial Services Board in establishing a resource-
11 based management system for allocating access to big game hunting oppor-
12 tunities among guide-outfitters. The department shall identify proposed
13 guide-outfitter use areas for appropriate regions and areas of the state.
14 The department may set priorities for identifying use areas and may deter-
15 mine the extent and number of use areas to be identified at one time. The
16 department shall complete the identification of proposed use areas within
17 two years after the close of the first public comment period prescribed
18 under (e) of this section. The department shall complete the identifica-
19 tion of proposed use areas for a significant portion of the state within
20 nine months after the close of the first public comment period prescribed
21 under (e) of this section.

22 (b) The Big Game Commercial Services Board may recommend to the
23 department those areas of the state that should receive priority in identi-
24 fying use areas.

25 (c) The department shall publish a public notice that it is accepting
26 public comment for identification of areas as proposed guide-outfitter use
27 areas. The department shall accept public comment for 60 days after the
28 notice is first published.

29 (d) The department shall propose use areas in light of the following

1 considerations:

2 (1) wildlife management concerns, including abundance and diver-
3 sity of wildlife, historical harvest of wildlife from the area, and exist-
4 ing administrative boundaries established for wildlife management purposes;

5 (2) wildlife law enforcement concerns;

6 (3) public comment received under (c) of this section;

7 (4) land ownership in the area;

8 (5) administrative restrictions;

9 (6) existence of boundaries that can be readily identified in
10 the field;

11 (7) accessibility of the area and other transportation consid-
12 erations;

13 (8) existence of complementary and noncomplementary land uses
14 within the area;

15 (9) existing facilities within the area; and

16 (10) other considerations relevant to the purposes of this sec-
17 tion.

18 (e) The department shall provide maps or descriptions to the public
19 of the use areas proposed under (d) of this section and shall solicit
20 public comment on the proposed use areas. The public shall have 45 days
21 after the maps or descriptions are distributed to comment on the use areas
22 proposed by the department. At the close of the comment period, the de-
23 partment shall review the proposed use areas in light of the public comment
24 received and shall then recommend boundaries for the proposed use areas.
25 The department shall transmit its boundary recommendations to the Big Game
26 Commercial Services Board as the recommendations are made final.

27 (f) The actions of the department under this section are exempt from
28 the Administrative Procedure Act (AS 44.62).

29 (g) In this section

1 (1) "department" means the Department of Fish and Game;

2 (2) "public" includes a natural person, corporation, associa-
3 tion, organization, society, company, partnership, or state, federal, or
4 local government agency.

5 * Sec. 12. PRELIMINARY DETERMINATION OF ELIGIBILITY FOR GUIDE-OUTFITTER
6 USE AREA PERMIT. (a) In order to facilitate and expedite the process for
7 issuing guide-outfitter use area permits during the first five years that
8 offerings of guide-outfitter use areas are made under AS 08.54.610 - 08.-
9 54.690, enacted by sec. 2 of this Act, the Big Game Commercial Services
10 Board shall make preliminary determinations of the eligibility of a guide-
11 outfitter to receive use area permits.

12 (b) A guide-outfitter may apply, at times set by the board, for a
13 preliminary determination of eligibility for a use area permit for each
14 game management unit in which the guide-outfitter is certified or prequal-
15 ified for certification to guide-outfit hunts under AS 08.54.355, enacted
16 by sec. 4 of this Act.

17 (c) A guide-outfitter is qualified for a preliminary determination of
18 eligibility to receive a use area permit if the board finds that the guide-
19 outfitter satisfies the criteria of AS 08.54.650(b), enacted by sec. 2 of
20 this Act, that can be satisfied without reference to the characteristics of
21 a specific use area.

22 (d) A preliminary determination of eligibility to receive a use area
23 permit does not vest a right in the guide-outfitter to receive a use area
24 permit when use areas are offered under AS 08.54.650, enacted by sec. 2 of
25 this Act.

26 * Sec. 13. During the first five years that offerings of use areas are
27 made under AS 08.54.610 - 08.54.690, enacted by sec. 2 of this Act, the Big
28 Game Commercial Services Board shall offer all guide-outfitter use areas.

29 * Sec. 14. The operation of AS 08.54.440 is suspended until January 1,

1 1991.

2 * Sec. 15. TRANSITION; AIR CARRIER ADVERTISING. Air taxi operators or
3 air carriers who, but for the fact that they solicit big game hunters as
4 customers for the purpose of providing air transportation to, from, or in
5 the field through the use of publicity brochures or other printed material,
6 would not have to obtain a transporter license after the effective date of
7 sec. 9 of this Act, may continue to use existing stocks of publicity bro-
8 chures and other printed materials that solicit big game hunters as cus-
9 tomers of the air taxi operator or air carrier without having to obtain a
10 transporter license if

11 (1) the publicity brochures and other printed materials were
12 produced before April 1, 1990; and

13 (2) the air taxi operator or air carrier does not, on or after
14 April 1, 1990, produce or distribute other publicity brochures or printed
15 materials that solicit big game hunters as customers of the air taxi opera-
16 tor or air carrier.

17 * Sec. 16. NONSEVERABILITY OF AS 08.54.610 - 08.54.655. Notwithstand-
18 ing AS 01.10.030, if a provision of AS 08.54.610 - 08.54.655, enacted by
19 sec. 2 of this Act, is held invalid by the final order, judgment, or
20 decision of a court of competent jurisdiction, then that provision is not
21 severable from other provisions of AS 08.54.610 - 08.54.690 and all
22 provisions of AS 08.54.610 - 08.54.690 are invalid.

23 * Sec. 17. Section 14 of this Act is retroactive to May 12, 1989.

24 * Sec. 18. AS 08.54.310(b)(1) is repealed.

25 * Sec. 19. Sections 14 and 17 of this Act take effect immediately under
26 AS 01.10.070(c).

Big Game Guiding

Dear Sen. Fahrenkamp -

I know you've put a lot of time into this issue and I'm sure you share our concern. It appears the deck is stacked against the guides, with Tameoni's powers being controlled by anti-hunters.

Please help our industry in this critical issue. Guides are more concerned about our resources as our lives depend on them. Without guides (and non-res. hunters) our ADFG would be broke. Guiding is one of Alaska's oldest and proudest professions. Please help keep it that way.

Sincerely,
Brend Gaudette

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Alaska State Legislature
LEGISLATIVE RESEARCH AGENCY

P.O. Box Y, Juneau, Alaska 99811-3100
907-465-3991 Fax 907-463-3351

TO: Nancy

DATE:

Feb. 22, 1990

FROM: Glenn

In addition to resident-nonresident differences outlined in Bruce Dinnelard's memo, I found the following:

- some areas may be open to hunting by residents and closed to nonresidents
- differences in bag limits
- Brown bear hunt in Unit 8
 - o Nonresidents hunt by registration permit, residents hunt by drawing permit.
 - o Nonresidents may be placed in drawing permit if accompanied by a resident relative with the second degree of kindred.

5 AAC 85.020 ALASKA ADMINISTRATIVE CODE 5 AAC 85.020

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|---|--|--|
| (1) | | |
| Unit 1 | | |
| 1 bear by registration permit only | Sept. 15 — Dec. 31 Mar. 15 — May 31 | Sept. 15 — Dec. 31 Mar. 15 — May 31 |
| (2) | | |
| Units 2 and 3 | No open season | |
| (3) | | |
| Unit 4, Chichagof Island south and west of a line that follows the crest of the island from Rock Point (58° N. lat., 136° 21' W. long.), to Rodgers Point (57° 35' N. lat., 135° 33' W. long.), including Yakobi and other adjacent islands, Baranof Island south and west of a line which follows the crest of the island from Niement Point (57° 34' N. lat., 135° 25' W. long.), to the entrance of Gut Bay (56° 44' N. lat., 134° 38' W. long.), including the drainages into Gut Bay and including Kruzof and other adjacent islands | Sept. 15 — Dec. 31 Mar. 15 — May 31 | Sept. 15 — Dec. 31 Mar. 15 — May 31 |
| 1 bear by registration permit only | | |
| Unit 4, that portion in the Northeast Chichagof Controlled Use Area | | |
| 1 bear by registration permit only | Mar. 15 — May 20 | Mar. 15 — May 20 |
| Remainder of Unit 4 | | |
| 1 bear by registration permit only | Sept. 15 — Dec. 31 Mar. 15 — May 20 | Sept. 15 — Dec. 31 Mar. 15 — May 20 |
| (4) | | |
| Unit 5 | | |
| 1 bear | Sept. 1 — May 31 | Sept. 1 — May 31 |
| (5) | | |
| Unit 6 | | |
| 1 bear | | Sept. 1 — May 31 |
| (6) | | |
| Units 7 and 15 | | |
| 1 bear | | Sept. 15 — Oct. 15 May 10 — May 25 |

5 AAC 85.020 FISH AND GAME 5 AAC 85.020

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|---|--|--|
| (7) | | |
| Unit 8, that portion of Kodiak Island east of a line from the mouth of Sallery Creek to Crag Point, and Spruce Island | | Oct. 25 — Nov. 30 Apr. 1 — May 15 |
| 1 bear by registration permit only | | |
| Remainder of Unit 8 | | |
| 1 bear by permit only. Residents, and nonresidents accompanied by a resident within the second degree of kindred, may take bear by drawing permit only; nonresidents guided by a registered, master, or Class A assistant guide may take bear by registration permit only | | Apr. 1 — May 15 Oct. 25 — Nov. 30 |
| (8) | | |
| Unit 9(A) | | |
| 1 bear | | Oct. 1 — Oct. 21 (odd years only) May 10 — May 25 (even years only) |
| Unit 9(B) and 9(E) | | |
| 1 bear | Oct. 1 — Oct. 21 (odd years only) May 10 — May 25 (even years only) | |
| Unit 9(C), Naknek River drainage | | Sept. 1 — Oct. 31 |
| 1 bear by registration permit only | | May 1 — June 30 |
| Unit 9(D), south and west of a line from Moffett Point to the eastern side of the eastern entrance of Kinzarof Lagoon, and north of a line from the base of Cape Glinzenap to Frosty Peak to the mouth of Old Man's Lagoon | | Oct. 1 — Oct. 21 |
| 1 bear by registration permit only; the season will be closed by Emergency Order when the allowable harvest is reached | | May 10 — May 25 |

| Units and Bag Limits | Subsistence Open Season | Resident and Non- resident Open Season |
|--|----------------------------|--|
| Remainder of Unit 9(C) and remainder of Unit 9(D) | | |
| 1 bear | | Oct. 1 — Oct. 21 (odd years only) May 10 — May 25 (even years only) |
| (9) | | |
| Unit 10 (Unimak Island only) | | Oct. 1 — Oct. 21 May 10 — May 25 |
| 1 bear by drawing permit only; up to 15 permits will be issued | | |
| (10) | | |
| Unit 11 | | Sept. 1 — Oct. 31 |
| 1 bear | | Apr. 25 — May 31 |
| (11) | | |
| Unit 12, that portion north of the crest of the Mentasta Mountains and west of the Nabessan River | | Sept. 1 — June 30 |
| 1 bear | | |
| Remainder of Unit 12 | | Sept. 1 — June 10 |
| 1 bear | | |
| (12) | | |
| Unit 13 | | Sept. 1 — May 31 |
| 1 bear | | |
| (13) | | |
| Units 14(A) and 14(C) | | Sept. 1 — Oct. 10 |
| 1 bear | | |
| Unit 14(B) | | Sept. 1 — Oct. 31 May 10 — May 25 |
| 1 bear | | |
| (14) | | |
| Unit 16 | | Sept. 1 — May 25 |
| 1 bear | | |
| (15) | | |
| Units 17(A) and 17(C) | Sept. 10 — Oct. 10 | Sept. 10 — Oct. 10 |
| 1 bear | April 10 — May 25 | May 10 — May 25 |
| Unit 17(B) | Sept. 20 — Oct. 10 | Sept. 20 — Oct. 10 |
| 1 bear | May 10 — May 25 | May 10 — May 25 |

| Units and Bag Limits | Subsistence Open Season | Resident and Non- resident Open Season |
|---|--------------------------------------|--|
| (16) | | |
| Unit 18 | Sept. 10 — Oct. 10 | Sept. 10 — Oct. 10 |
| SUBSISTENCE HUNTERS: Residents domiciled in Kwethluk: 1 bear (see 5 AAC 92.132(a)) | Apr. 10 — May 25 | May 10 — May 25 |
| ALL OTHER HUNTERS: 1 bear | | |
| (17) | | |
| Unit 19(A), 19(D), and 21(A) | | |
| 1 bear | Sept. 1 — Oct. 10 May 10 — May 25 | Sept. 1 — Oct. 10 May 10 — May 25 |
| Unit 19(B) | | Sept. 10 — Oct. 10 |
| 1 bear | | May 10 — May 25 |
| Unit 19(C) | | Sept. 1 — Oct. 10 |
| 1 bear | | May 10 — May 25 |
| (18) | | |
| Unit 20 except 20(E) | Sept. 1 — May 30 | Sept. 1 — Nov. 30 |
| 1 bear | Apr. 1 — May 31 | Apr. 1 — May 31 |
| Unit 20(E) | | Aug. 10 — June 30 |
| 1 bear | | |
| (19) | | |
| Unit 21(B), 21(C), 21(D), and 21(E) | | |
| 1 bear | Sept. 1 — Dec. 31 Apr. 1 — May 25 | Sept. 1 — Dec. 31 Apr. 1 — May 25 |
| (20) | | |
| Unit 22(A) | Sept. 1 — Oct. 31 | Sept. 1 — Oct. 31 |
| 1 bear | Apr. 15 — May 25 | Apr. 15 — May 25 |
| Unit 22(C) | | |
| SUBSISTENCE AND RESI- DENT HUNTERS: 1 bear | Sept. 1 — Oct. 31 May 10 — May 25 | Sept. 1 — Oct. 31 May 10 — May 25 |
| NONRESIDENT HUN- TERS: 1 bear by drawing permit only; 20 permits will be issued for this hunt in combination with remainder of Unit 22 | | Sept. 1 — Oct. 31 May 10 — May 25 |
| Remainder of Unit 22 | | |

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|--|---------------------------------------|---------------------------------------|
| SUBSISTENCE AND RESIDENT HUNTERS: 1 bear | Sept. 1 — Oct. 31 Apr. 15 — May 25 | Sept. 1 — Oct. 31 Apr. 15 — May 25 |
| NONRESIDENT HUNTERS: 1 bear by drawing permit only; 20 permits will be issued for this hunt in combination with the hunt in Unit 22(C) | | Sept. 1 — Oct. 31 Apr. 15 — May 25 |
| (21) | | |
| Unit 21 | | |
| SUBSISTENCE AND RESIDENT HUNTERS: 1 bear | Sept. 1 — Oct. 10 Apr. 15 — May 25 | Sept. 1 — Oct. 10 Apr. 15 — May 25 |
| NONRESIDENT HUNTERS: 1 bear by drawing permit only; 25 permits will be issued. | | Sept. 1 — Oct. 10 Apr. 15 — May 25 |
| (22) | | |
| Unit 24, that portion of the Koyukuk River drainage upstream from, and including, the Alutna River drainage | | |
| SUBSISTENCE HUNTERS: Residents of Anaktuvuk Pass: 1 bear | Sept. 1 — Oct. 31 Apr. 1 — May 31 | |
| ALL OTHER HUNTERS: 1 bear by registration permit; 15 bears may be taken | Sept. 1 — Oct. 31 May 10 — May 31 | Sept. 1 — Oct. 31 May 10 — May 31 |
| Remainder of Unit 24 | Sept. 1 — Dec. 31 | Sept. 1 — Dec. 31 |
| 1 bear | May 10 — May 25 | May 10 — May 25 |
| (23) | | |
| Unit 25(A) within the Holana River drainage, Unit 25(B) and Unit 25(D) | | Sept. 1 — Oct. 10 May 10 — May 25 |
| 1 bear | | |
| Unit 25(A), Shestegak, Coleen, and Porcupine River drainages | | |
| RESIDENT HUNTERS: 1 bear | | Sept. 1 — Oct. 31 May 10 — May 31 |
| NONRESIDENT HUNTERS: 1 bear by drawing permit only; 9 permits will be issued. | | Sept. 1 — Oct. 31 May 10 — May 31 |

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|---|--------------------------------------|---------------------------------------|
| Unit 25(A), East Fork Chandalar River and Christian River drainages | | |
| RESIDENT HUNTERS: 1 bear | | Sept. 1 — Oct. 31 May 10 — May 31 |
| NONRESIDENT HUNTERS: 1 bear by drawing permit only; 9 permits will be issued | | Sept. 1 — Oct. 31 May 10 — May 31 |
| Unit 25(A), the Chandalar River drainage excluding the East Fork Chandalar River drainage | | |
| RESIDENT HUNTERS: 1 bear | | Sept. 1 — Oct. 31 May 10 — May 31 |
| NONRESIDENT HUNTERS: 1 bear by drawing permit only; 9 permits will be issued | | Sept. 1 — Oct. 31 May 10 — May 31 |
| (24) | | |
| Unit 26(A), east of 159° W. long. | | |
| SUBSISTENCE HUNTERS: Residents of Anaktuvuk Pass: 1 bear | Sept. 1 — Oct. 31 Apr. 1 — May 31 | |
| OTHER SUBSISTENCE HUNTERS AND RESIDENTS: 1 bear | Sept. 1 — Oct. 31 May 10 — May 31 | Sept. 1 — Oct. 31 May 10 — May 31 |
| NONRESIDENT HUNTERS: 1 bear by drawing permit only; 22 permits will be issued | | Sept. 1 — Oct. 31 May 10 — May 31 |
| Unit 26(A), west of 159° W. long. | | |
| SUBSISTENCE AND RESIDENT HUNTERS: 1 bear | Sept. 1 — Oct. 31 May 10 — May 31 | Sept. 1 — Oct. 31 May 10 — May 31 |
| NONRESIDENT HUNTERS: 1 bear by drawing permit only; 22 permits will be issued | | Sept. 1 — Oct. 31 May 10 — May 31 |
| Unit 26(B) | | |
| SUBSISTENCE AND RESIDENT HUNTERS: 1 bear | Sept. 1 — Oct. 31 May 10 — May 31 | Sept. 1 — Oct. 31 May 10 — May 31 |
| NONRESIDENT HUNTERS: 1 bear by drawing | | Sept. 1 — Oct. 31 May 10 — May 31 |

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|--|--------------------------------------|---------------------------------------|
| permit only; 10 permits will be issued | | |
| Unit 26(C) | | |
| SUBSISTENCE AND RESIDENT HUNTERS: 1 bear | Sept. 1 — Oct. 31 May 10 — May 31 | Sept. 1 — Oct. 31 May 10 — May 31 |
| NONRESIDENT HUNTERS: 1 bear by drawing permit only; 5 permits will be issued | | Sept. 1 — Oct. 31 May 10 — May 31 |

(Eff. 8-20-89, Register 111)

Authority: AS 16.05.255
AS 16.05.258

5 AAC 85.025. HUNTING SEASONS AND BAG LIMITS FOR CARIBOU. Hunting seasons and bag limits for caribou are as follows:

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|--|-------------------------|---------------------------------------|
| (1) | | |
| Unit 7 north of the Sterling Highway and west of the Seward Highway. | | Aug. 10 — Sept. 30 |
| 1 caribou by drawing permit only; up to 250 permits will be issued | | |
| Remainder of Unit 7 | No open season. | |
| (2) | | |
| Unit 8 | No closed season. | |
| No limit | | |
| (3) | | |
| Units 9(A), 9(B), 9(C), 9(E), 17(B), and that portion of 17(C) east of the Nushagak River | | |
| SUBSISTENCE HUNTERS: 4 caribou; however, no more than 2 caribou may be taken Aug. 10 — Aug. 31 and no more than 1 caribou may be taken Sept. 1 — Nov. 30 | Aug. 10 — Mar. 31 | |
| RESIDENT HUNTERS: 4 caribou; however, no more | | Aug. 10 — Mar. 31 |

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|--|-------------------------|---------------------------------------|
| than 1 caribou may be taken Aug. 10 — Nov. 30 | | |
| NONRESIDENT HUNTERS: 1 caribou | | Aug. 10 — Mar. 31 |
| (4) | | |
| Unit 9(D) and Unit 10, Unimak Island only | | |
| SUBSISTENCE HUNTERS: 2 caribou | Sept. 1 — Mar. 31 | |
| RESIDENT AND NONRESIDENT HUNTERS: 1 caribou | | Sept. 1 — Oct. 31 |
| (5) | | |
| Unit 10, Adak Island only | Sept. 1 — Mar. 31 | Sept. 1 — Mar. 31 |
| 2 caribou by registration permit only | | |
| Unit 10, Unmak Island only | No open season. | |
| Remainder of Unit 10 | No closed season. | |
| (6) | | |
| Unit 11 | | |
| SUBSISTENCE HUNTERS: 1 caribou, by registration permit only | Aug. 10 — Sept. 30 | |
| RESIDENT HUNTERS: 1 caribou by drawing permit only; up to 300 permits will be issued | | Aug. 10 — Sept. 30 |
| NONRESIDENT HUNTERS: | | No open season. |
| (7) | | |
| Unit 12, residents of Tetlin and Northway only: | | |
| 1 caribou by registration permit only | | |
| Season will be opened by Emergency Order when Nelchina caribou are present and Mentastu caribou are absent; season will be closed by emergency order after 60 Nelchina caribou have been taken | | |
| Units 12 and 20(D) north of the Alaska Highway | | |

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|---|---------------------------------------|---------------------------------------|
| SUBSISTENCE HUNTERS 1 caribou | Aug 10 - Sept 30 Dec 1 - Feb 28 | |
| RESIDENT AND NONRESIDENT HUNTERS 1 bull | | Aug 10 - Sept 20 |
| Remainder of Unit 12 1 bull | Sept. 1 - Sept. 20 | Sept. 1 - Sept. 20 |
| (8) | | |
| Units 13 and 14(B) | | |
| SUBSISTENCE HUNTERS: 1 caribou by registration permit only. Season will be closed when 750 caribou have been taken; up to 1/2 of this quota may be taken in the fall season. During the Jan. 1 - Feb. 28 season, caribou may be taken in Unit 13 except for Unit 13(B) and except for that portion of Unit 13(A) within one-half mile of the Alaska Pipeline | Aug 10 - Sept. 20 Jan. 1 - Feb. 28 | |
| RESIDENT HUNTERS: 1 caribou by drawing permit only; up to 2,230 permits will be issued; season will be closed when 1,450 caribou have been taken. | | Aug 10 - Sept. 20 |
| NONRESIDENT HUNTERS: | | No open season. |
| (9) | | |
| Unit 15(A), that portion within the Kenai National Wildlife Refuge | | Sept. 1 - Sept. 20 |
| 1 bull by drawing permit only; up to 5 permits will be issued | | |
| (10) | | |
| Units 14(A) and 14(C), and remainder of Unit 15 | | No open season |
| (11) | | |
| Unit 16 1 caribou | Aug 10 - Oct. 31 | Aug 10 - Oct. 31 |

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|--|---------------------------------------|---|
| (12) | | |
| Unit 17(A) and that portion of Unit 17(C) west of Nushagak River | | No open season |
| (13) | | |
| Unit 18 south of the Yukon River | | No open season |
| Remainder of Unit 18 1 caribou | Feb 1 - Mar 31 | Feb 1 - Mar 31 |
| (14) | | |
| Unit 19 Residents domiciled in Lime Village only. | Feb. 1 - Mar. 31 | Feb. 1 - Mar. 31 |
| No bag limit, but no more than 100 caribou may be taken; cows and calves may not be taken from April 1 - Aug. 9 | July 1 - June 30 | |
| Unit 19(A) north of Kuskokwim River 1 caribou | Aug 10 - Sept. 30 Nov. 1 - Feb. 28 | Aug 10 - Sept. 30 Nov. 1 - Feb. 28 (Resident) Aug 10 - Sept. 30 (Nonresident) |
| Unit 19(A) south of the Kuskokwim River, and Unit 19(B) | | |
| SUBSISTENCE HUNTERS (excluding residents of Lime Village): 4 caribou; however, no more than 2 caribou may be taken Aug. 10 - Aug. 31 and no more than 1 caribou may be taken Sept. 1 - Nov. 30 | Aug 10 - Mar. 31 | |
| RESIDENT HUNTERS: 4 caribou; however, no more than 1 caribou may be taken Aug. 10 - Nov. 30 | | Aug. 10 - Mar. 31 |
| NONRESIDENT HUNTERS: 1 caribou | | Aug 10 - Mar 31 |
| Unit 19(C) 1 caribou | Aug. 10 - Oct. 10 | Aug 10 - Oct. 10 |
| Unit 19(D) south and east of the Kuskokwim River and North Fork of the Kuskokwim River | Aug. 10 - Sept. 30 | Aug 10 - Sept. 30 |

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|---|-------------------------|---|
| 1 caribou | Nov. 1 — Jan. 31 | (Resident) Aug. 10 — Sept. 30 (Nonresident) |
| Remainder of Unit 19(D) 1 caribou (15) | Aug. 10 — Sept. 30 | Aug. 10 — Sept. 30 |
| Unit 20(A) north of the Yanert Controlled Use Area, west of the Wood River Controlled Use Area, and south of the Rex Trail | | Aug. 10 — Aug. 25 |
| 1 caribou by drawing permit only; 200 permits will be issued | | Sept. 21 — Dec. 31 |
| Unit 20(A) within the Yanert Controlled Use Area | | Sept. 1 — Sept. 15 |
| 1 caribou; however, only bull caribou may be taken during the Sept. 1 — 15 season; the Jan. 1 — Feb. 28 season is by drawing permit only; up to 25 permits will be issued | | Jan. 1 — Feb. 28 |
| Remainder of Unit 20(A) | | Sept. 1 — Sept. 15 |
| 1 bull | | Aug. 10 — Sept. 20 |
| Units 20(B) and 25(C) | | Aug. 10 — Sept. 20 |
| 1 bull | | |
| Unit 20(C) | No open season. | |
| Unit 20(D) south of the Alaska Highway | | |
| SUBSISTENCE HUNTERS: 1 bull | Aug. 10 — Sept. 3 | |
| RESIDENT AND NONRESIDENT HUNTERS: 1 bull by drawing permit only; 150 permits will be issued | | Aug. 10 — Sept. 30 |
| Unit 20(E), that portion drained by the Yukon River downstream from and including the Seventy-mile and Charley Rivers, the North Fork Fortymile River upstream from and including Independence Creek, the Middle Fork Fortymile River upstream from Fish Creek, and the Mosquito Fork | | |

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|---|--|--|
| Fortymile River upstream from and including Ketchumatuck Creek | | |
| SUBSISTENCE HUNTERS: 1 caribou | Aug. 10 — Sept. 30 Dec. 1 — Feb. 28 | Aug. 10 — Sept. 20 |
| RESIDENT AND NONRESIDENT HUNTERS: 1 bull | | |
| Remainder of Unit 20(E) accessible by the Taylor Highway and associated trails, as described in the permit | | |
| SUBSISTENCE HUNTERS: 1 caribou by registration permit only; season will be closed when 325 caribou have been taken | Aug. 10 — Sept. 30 Dec. 1 — Feb. 28 | |
| RESIDENT HUNTERS: 1 bull by drawing permit only; up to 750 permits will be issued | | Aug. 10 — Sept. 20 |
| Unit 20(F), except the Tozitna River drainage | Aug. 10 — Sept. 30 | Aug. 10 — Sept. 30 |
| 1 bull | | |
| Unit 20(F), Tozitna River drainage | | |
| SUBSISTENCE AND RESIDENT HUNTERS: 1 caribou; only bull caribou may be taken during the Aug. 10 — Sept. 30 season; caribou of either sex may be taken during the Mar. 1 — Mar. 15 season | Aug. 10 — Sept. 30 Mar. 1 — Mar. 15 | Aug. 10 — Sept. 30 Mar. 1 — Mar. 15 (Resident) |
| NONRESIDENT HUNTERS: 1 bull | | Aug. 10 — Sept. 30 (Nonresident) |
| (16) | | |
| Unit 21, except Unit 21(D) west of the Yukon and Koyukuk Rivers | Aug. 10 — Sept. 30 | Aug. 10 — Sept. 30 |
| 1 caribou | | |
| (17) | | |
| Unit 21(D) west of the Yukon and Koyukuk Rivers, Units 22(A), 22(B), 23, and 26(A) (except the Nanushuk River drainage) | | |

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|--|-------------------------|---------------------------------------|
| only; up to 25 permits will be issued to Alaska residents only; no person may take a cow accompanied by a calf | | |
| (12) | | |
| Unit 14(A) | | Sept. 1 — Sept. 20 |
| 1 moose; however, antlerless moose may be taken by drawing permit only; up to 400 permits will be issued | | |
| Unit 14(B) | | Sept. 1 — Sept. 30 |
| 1 bull | | |
| Unit 14(C), that portion known as the Fort Richardson Management Area | | Day after Labor Day — Oct. 31 |
| 1 moose by drawing permit with bow and arrow only; up to 80 permits for antlerless moose and up to 45 permits for bulls will be issued | | Dec. 15 — Jan. 15 |
| Unit 14(C), that portion of the Fort Richardson Management Area north of Eagle River | | Day after Labor Day — Oct. 31 |
| 1 moose by drawing permit by black powder muzzle-loading rifle of 54 caliber or larger, using round ball or 390-grain or larger elongated slug; up to 35 permits will be issued | | |
| Unit 14(C), that portion known as the Anchorage Management Area | | Day after Labor Day — Nov. 30 |
| 1 moose by drawing permit by bow and arrow only; up to 30 permits will be issued; no person may take an antlered bull unless it has a spike-fork antler; this hunt will be held at the department's discretion | | |
| Unit 14(C), the Eklutna Lake Management Area | | Day after Labor Day — Sept. 30 |
| 1 moose by regular permit with bow and arrow only; up to 10 bulls | | |

| Units and Bag Limits | Subsistence Open Season | Resident and Non-resident Open Season |
|---|-------------------------|--|
| antlerless moose may be taken | | |
| Remainder of Unit 14(C) | | |
| RESIDENTS: 1 moose; however, antlerless moose may be taken by drawing permit only; up to 60 permits will be issued | | Day after Labor Day — Sept. 30 |
| NONRESIDENTS: 1 bull | | Day after Labor Day — Sept. 30 |
| (13) | | |
| Unit 15(A), the Skilak Loop Wildlife Management Area | | Sept. 21 — Sept. 30 |
| 1 antlerless moose by drawing permit only; up to 20 permits will be issued; the taking of calves and females accompanied by calves is prohibited | | |
| Remainder of Unit 15(A) | | Aug. 25 — Aug. 29 |
| 1 bull with a spike-fork antler or 60-inch antlers; during the Aug. 25 — Aug. 29 season, bulls may be taken by bow and arrow only | | Sept. 1 — Sept. 20 |
| Unit 15(B), that portion bounded by a line running from the mouth of Shantatalik Creek, Tustumena Lake, northward to the head of the west fork of Funny River; then downstream along the west fork of Funny River to the Kenai National Moose Range boundary; then east along the refuge boundary to its junction with the Kenai River; then eastward along the south side of the Kenai River and Skilak Lake; then south along the western side of Skilak River, Skilak Glacier and Harding Icefield; then west along the Subunit 15(B) boundary to the mouth of Shantatalik Creek | | Sept. 1 — Sept. 20 Sept. 26 — Oct. 16 |
| 1 bull with 60-inch antlers by drawing permit only; up to 100 permits will be issued | | |

| Units and Bag Limits | Substance Open Season | Resident and Non- resident Open Season |
|---|---------------------------------------|---|
| 21 — Sept. 25 and Feb. 1 — Feb. 5; moose may not be taken within one-half mile of the Yukon River during the February season | | |
| RESIDENT AND NONRESIDENT HUNTERS: 1 bull | | Sept. 5 — Sept. 25 |
| Unit 21(E) 1 bull | Sept. 5 — Sept. 25 | Sept. 5 — Sept. 25 |
| (20) | | |
| Unit 22(A) 1 bull | Aug. 1 — Sept. 30 Dec. 1 — Dec. 31 | Aug. 1 — Sept. 30 Dec. 1 — Dec. 31 (Residents only) |
| Unit 22(B) 1 moose; however, antlerless moose may be taken only from Dec. 1 — Dec. 31; no person may take a calf or a cow accompanied by a calf | Aug. 1 — Jan. 31 | Aug. 1 — Jan. 31 |
| Unit 22(C) 1 bull | Sept. 1 — Sept. 14 | Sept. 1 — Sept. 14 |
| Unit 22(D), drainages into the north side of Port Clarence, the north side of Grandley Harbor, and the north side of Imuruk Basin, excluding the Kuzitrin, Pilgrim and Kougarok River drainages | Aug. 1 — Jan. 31 | Aug. 1 — Jan. 31 |
| 1 moose; however, antlerless moose may be taken only from Aug. 1 — Dec. 31; no person may take a calf or a cow accompanied by a calf; only antlered moose may be taken Jan. 1 — Jan. 31 | | |
| Remainder of Unit 22(D) 1 moose; no person may take a calf or a cow accompanied by a calf | Aug. 1 — Dec. 31 | Aug. 1 — Dec. 31 |
| Unit 22(E) 1 moose. No person may take a calf or a cow accompanied by a calf | Aug. 1 — Mar. 31 | Aug. 1 — Mar. 31 |
| (21) | | |
| Unit 23, that portion on Seward Peninsula west of and including the Buckland River drainage, and that portion in the Nostak River drainage | Aug. 1 — Mar. 31 | Aug. 1 — Mar. 31 |

| Units and Bag Limits | Substance Open Season | Resident and Non- resident Open Season |
|---|--|---|
| 1 moose; however, antlerless moose may be taken only from Sept. 1 — Mar. 31; no person may take a cow accompanied by a calf | | |
| Remainder of Unit 23 1 moose; however, antlerless moose may be taken only from Sept. 15 — Oct. 31; no person may take a cow accompanied by a calf | Aug. 1 — Dec. 31 | Aug. 1 — Dec. 31 |
| (22) | | |
| Unit 24, that portion within the Koyukuk Controlled Use Area | Sept. 5 — Sept. 25 | Sept. 5 — Sept. 25 |
| 1 moose; however, antlerless moose may be taken only from Sept. 21 — Sept. 25, Dec. 1 — Dec. 10, and Mar. 1 — Mar. 10 | Dec. 1 — Dec. 10 Mar. 1 — Mar. 10 | Dec. 1 — Dec. 10 Mar. 1 — Mar. 10 (Resident) |
| | | Sept. 5 — Sept. 25 (Nonresident) |
| Unit 24, that portion that includes the John River drainage upstream from but excluding the Hunt Fork drainage | Aug. 1 — Dec. 31 | No open season. |
| 1 moose | | |
| Unit 24, the Alatna River drainage upstream from and including Helpmejack Creek drainage, the John River drainage upstream from and including the Malmute Fork drainage and downstream from and including the Hunt Fork drainage, the Wild River drainage upstream from and including the Michigan Creek drainage, and the North Fork Koyukuk River drainage north of the | | |
| Bettles/Coldfoot winter trail SUBSISTENCE AND RESIDENT HUNTERS: 1 moose; however, antlerless moose may be taken only from Sept. 21 — Sept. 25 and Mar. 1 — Mar. 10 | Aug. 25 — Sept. 25 Mar. 1 — Mar. 10 | Aug. 25 — Sept. 25 Mar. 1 — Mar. 10 (Residents) |
| NONRESIDENT HUNTERS: 1 moose; however, antlerless moose may be taken only from Sept. 21 — Sept. 25 | | Sept. 5 — Sept. 25 (Nonresidents) |

5 AAC 92.006. RADIO TELEMETRY FREQUENCIES. Repealed 8/20/89.

Editor's notes. — Effective 8/20/89, Register 111, the substance of repealed 5 AAC 92.006 appears in 5 AAC 93.040.

5 AAC 92.007. ELIGIBILITY FOR HUNTING IN GATES OF THE ARCTIC NATIONAL PARK. For federal regulations and information concerning who is qualified to hunt in the Gates of the Arctic National Park, see 36 C.F.R. Part 13, or contact the Superintendent, Gates of the Arctic National Park, P.O. Box 74680, Fairbanks, Alaska 99707, phone 456-0281. (Eff. 8/20/89, Register 111)

Authority: AS 16.05.255

Article 2. Licenses, Harvest Tickets, Harvest Reports, Tags, and Fees

| Section | Section |
|----------------------------------|--------------------------------|
| 10. Harvest tickets and reports | 16. Musk oxen tag fee |
| 12. Licenses and tags | 18. Waterfowl conservation tag |
| 14. Brown bear tag fee exemption | 19. Funeral potlatch report |

5 AAC 92.010. HARVEST TICKETS AND REPORTS. (a) Deer: no person may hunt deer, except in a permit hunt, unless the person has in possession a deer harvest ticket.

(b) Moose and sheep: no person may hunt moose or sheep, except in a permit hunt, unless the person has in possession a harvest ticket for the species and a harvest report (issued with the harvest ticket).

(c) Caribou: no person may hunt caribou, except in a permit hunt, unless the person has in possession a harvest ticket and has obtained a harvest report (issued with the harvest ticket); however, persons who reside north of the Yukon River and hunt north of the Yukon River are not required to use harvest tickets or harvest reports but must register to hunt caribou in the arctic.

(d) For a permit hunt, the permit takes the place of a harvest ticket and report.

(e) After killing an animal for which a harvest ticket is required, the hunter shall remove immediately, before leaving the kill site, the day and month of the kill from the harvest ticket without removing any other day or month, and shall keep the validated harvest ticket in possession until the animal has been delivered to the location where it will be processed for consumption.

(f) The number of each harvest ticket issued to a hunter must be entered on the hunter's license. A harvest ticket issued the previous calendar year and still valid must also be entered on the hunting license.

(g) Within 15 days after taking the bag limit for a species or, if the hunter does not take the bag limit, within 15 days after the close of the season, the hunter shall complete the harvest report and mail it to the department. (Eff. 7/5/85, Register 95; am 8/8/87, Register 103; am 8/20/89, Register 111)

Authority: AS 16.05.255
AS 16.05.370

5 AAC 92.012. LICENSES AND TAGS. (a) No hunting or trapping license is required of a resident under the age of 10. An appropriate license and big game tag are required of nonresidents, regardless of age, for hunting and trapping. No person 16 years of age or older may take waterfowl unless that person has a current, validated, federal migratory bird hunting stamp or "duck stamp" in possession.

(b) Upon request from a peace officer of the state, no person may refuse to present for inspection any license or tag, any game, or any apparatus designed to be, and capable of being, used to take game.

(c) No resident may take a brown bear (except as provided in 5 AAC 92.014), or a musk ox, without possessing a numbered, nontransferable, appropriate tag, issued to that person. The person taking game shall immediately affix the tag to the animal and the person shall keep the tag affixed until the animal is prepared for storage, consumed, or exported. (Eff. 7/5/85, Register 95; am 8/20/89, Register 111)

Authority: AS 16.05.255
AS 16.05.340

5 AAC 92.014. BROWN BEAR TAG FEE EXEMPTION. No resident tag is required for taking brown (grizzly) bear in Unit 20(E). (Eff. 7/5/85, Register 95; am 8/8/87, Register 103; am 7/14/88, Register 107; am 8/20/89, Register 111)

Authority: AS 16.05.255
AS 16.05.340(a)

5 AAC 92.016. MUSK OXEN TAG FEE. The resident tag fee for hunting musk oxen on Nelson Island and Unit 26(C), or cow musk oxen on Nunivak Island, is \$25. (Eff. 7/5/85, Register 95; am 8/8/87, Register 103)

Authority: AS 16.05.255
AS 16.05.340(a)

5 AAC 92.018. WATERFOWL CONSERVATION TAG. A person required to possess an Alaska waterfowl conservation tag or

(d) No person may permanently export a raptor from Alaska unless the person has legally possessed that raptor for at least two years. A person who holds a valid Alaska falconry permit may temporarily export a raptor for a period not to exceed 12 months, and after that may import it back to Alaska, if the person first obtains written approval from the commissioner.

(e) A falconer is liable for the actions of the raptor with respect to seasons, bag limits, and other applicable regulations. (Eff. 7/5/85, Register 95)

Authority: AS 16.05.255
AS 16.05.920

5 AAC 92.039. PERMIT FOR TAKING WOLVES FROM AIRCRAFT. No person may shoot a wolf from an airplane without first obtaining a permit from the department; a permit may only be issued and conditioned as follows:

(1) a permit for taking a wolf from an airplane may only be issued consistent with 5 AAC 92.110;

(2) a permit may be issued only to a licensed pilot; if a gunner is used in addition to the pilot, one permit will be issued;

(3) a permit is valid only for a time period specified by the department, or until a specified quota of wolves is taken in a specified area;

(4) the commissioner may limit the number of permits issued in any unit and the number of wolves authorized to be taken under each permit;

(5) a permittee shall return the permit to the nearest department office within five days after the expiration of the permit, unless otherwise specified;

(6) when a permittee returns a permit to the department, the permittee shall notify the department of the date when, and location where, each wolf was taken, and shall provide other information the department may request at the time the permit is issued;

(7) the department may require a permittee to check in and out at a specified location;

(8) a wolf taken under a permit becomes the property of the permittee only if the permittee has complied with all pertinent laws and regulations and the conditions of the permit;

(9) a nonresident is ineligible for a permit. (Eff. 7/5/85, Register 95)

Authority: AS 16.05.255
AS 16.05.920

5 AAC 92.041. PERMIT TO TAKE BEAVERS TO CONTROL DAMAGE TO PROPERTY. No person may take a beaver to control

damage to property or resources outside of the seasons and bag limits established in 5 AAC 84 without first obtaining a permit from the department, issued under the following conditions:

(1) the commissioner or the commissioner's designee may limit the area, time period, method and means, and number of beavers to be taken;

(2) a permit may only be issued at a time when, and for a place where, the commissioner has determined beavers are creating significant problems and that trapping otherwise authorized in 5 AAC 84 is unlikely to alleviate the problem;

(3) a person taking a beaver under this section shall submit the skin for sealing in accordance with 5 AAC 92.170. (Eff. 7/5/85, Register 95; am 8/20/89, Register 111)

Authority: AS 16.05.255
AS 16.05.920

5 AAC 92.043. PERMIT FOR CAPTURING WILD FUR BEARERS FOR FUR FARMING. The department may issue a permit for the capture, but not export, of an indigenous fur bearer for fur farming. The department may limit the number, sex, and species of the animal to be taken, and the area from which the animal may be taken. (Eff. 7/5/85, Register 95)

Authority: AS 16.05.255 AS 16.05.920
AS 16.05.340 AS 16.05.930

5 AAC 92.045. PERMIT FOR HUNTING BLACK BEAR WITH DOGS. Repealed 8/8/87.

5 AAC 92.049. PERMITS, PERMIT PROCEDURES, AND PERMIT CONDITIONS. (a) A registration or drawing hunting permit required by this title will be issued under 5 AAC 92.050 — 5 AAC 92.052.

(b) The department shall produce an annual registration permit supplement and drawing permit supplement. For each permit hunt the supplement must set out the permit application procedures and permit conditions authorized under 5 AAC 92.050 — 5 AAC 92.052. (Eff. 8/20/89, Register 111.)

Authority: AS 16.05.255

5 AAC 92.050. REQUIRED PERMIT HUNT CONDITIONS AND PROCEDURES. (a) The following conditions and procedures for permit issuance apply to each drawing or registration permit:

5 AAC 92.053. PERMIT TO TAKE MOOSE FOR NUCHALAWOYYA POTLATCH. The taking of up to three moose per regulatory year is allowed for the celebration known as the Nuchalawoyya Potlatch, under the terms of a subsistence permit issued by the department to the Native Village of Tanana. The Native Village of Tanana shall report to the department, division of wildlife conservation, Fairbanks, Alaska, within five days after the taking of each moose, the sex of the moose taken, and the location of taking. (Eff. 6/14/89, Register 110)

Authority: AS 16.05.255
AS 16.05.258
AS 16.05.330

5 AAC 92.054. PRIORITY FOR SUBSISTENCE HUNTING. Repealed 7/3/86.

5 AAC 92.056. POINT SYSTEM FOR CUSTOMARY AND DIRECT DEPENDENCE. Repealed 7/3/86.

5 AAC 92.058. POINT SYSTEM FOR LOCAL RESIDENCY. Repealed 7/3/86.

5 AAC 92.059. ELIGIBILITY FOR HUNTING. Repealed 7/13/86.

Editor's notes. — 5 AAC 92.059 was that section was automatically repealed adopted by emergency action on July 3, on July 13, 1986. Register 99. Under AS 44.62.250.

5 AAC 92.060. POINT SYSTEM FOR AVAILABILITY OF ALTERNATIVE RESOURCES. Repealed 11/5/86.

5 AAC 92.061. SPECIAL PROVISIONS FOR GENERAL PERMIT HUNTS. In the Unit 8 general brown bear drawing permit hunt, the department shall issue permits, and a hunter may apply for a permit, as follows:

(1) the department shall issue a maximum of 40 percent of the drawing permits to nonresidents and a minimum of 60 percent to residents;

(2) the department shall enter, in the resident drawing, each application from a nonresident accompanied by a resident relative within the second degree of kindred; for each season, the department shall issue a maximum of four permits to nonresident hunters accompanied by a resident relative within the second degree of kindred; however, the department may not issue, within one calendar year, more than one of these permits per individual hunt, as de-

scribed in the permit hunt guide published each year by the department;

(3) a nonresident guided hunter or the hunter's agent may apply for a registration permit for the general hunt, to be issued on a first-come, first-served basis at the Kodiak division of wildlife conservation office; the department shall issue a registration permit for the general hunt only to an applicant who presents proof that the applicant will be accompanied by a guide, as required in AS 16.05.407(a). (Eff. 7/6/85, Register 95; am 8/20/89, Register 111)

Authority: AS 16.05.255
AS 16.05.407

Editor's notes. — Before 8/20/89, Register 111, the substance of 5 AAC 92.061 was contained in former 5 AAC 81.230. The history note for 5 AAC 92.061 includes the history of the provision before 8/20/89.

5 AAC 92.065. PERMIT FOR ACCESS TO MCNEIL RIVER STATE GAME SANCTUARY. (a) A permit is required for access to McNeil River State Game Sanctuary; however, no permit is required for access to McNeil Spit or other land or water below mean high tide seaward of a line from an ADF&G regulatory marker on the north side of the mouth of McNeil River to an ADF&G regulatory marker at the campground on the eastern shore of McNeil Cove, or for access to other tidewaters of the sanctuary when open to commercial fishing by emergency order. The department may issue a single nontransferable permit to each individual who qualifies under the permit application and issuance procedures, and who pays the application and permit fees established by the department in 5 AAC 93.030.

(b) The department may issue an unlimited number of permits; however, from July 1 through August 25, a maximum of 10 drawing permits for access to bear viewing areas may be in effect for each day.

(c) The department shall issue and condition permits for access during the period July 1 through August 25 as follows:

(1) the department shall issue a permit to visit any bear viewing area through a lottery drawing, for a designated time period not to exceed four days; the department may not issue more than one drawing permit to the same person in a calendar year; the department may reserve permits for up to three parties of not more than three people each for scientific and educational purposes, but the department may not issue permits for more than one scientific or educational party for each four-day time period;

(2) the department may issue, to a person not holding a permit to visit a bear viewing area, a limited access permit, under which the person must remain in the immediate vicinity of the campground or beach;

and the Skilak Loop Road to its westernmost junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning;

(C) that portion of Unit 15(B) east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier is closed to the trapping of marten;

(5) Unit 17: all islands within the Walrus Islands State Game Sanctuary as described in AS 16.20.110 are closed to trapping. (Eff. 8/20/89, Register 111)

Authority: AS 16.05.250 AS 16.20.120
 AS 16.05.255 AS 16.20.170
 AS 16.20.040

Article 19. Endangered Species

Section
 800. (Repealed)

5 AAC 92.800. ENDANGERED SPECIES. Repealed 8/20/89.

Editor's notes. — Effective 8/20/89, Register 111, the substance of former 5 AAC 92.800 is contained in 5 AAC 93.020.

Article 20. Definitions

Section
 990. Definitions

5 AAC 92.990. DEFINITIONS. In addition to the definitions in AS 16.05.940, the following definitions apply to 5 AAC 84 — 5 AAC 92:

- (1) "airport" means an airport listed in the current Federal Aviation Administration Alaska supplement and aviation chart;
- (2) "animal" means any species with a vertebral column (backbone);
- (3) "bag limit" means the maximum number of animals of any one game species a person may take in the unit or portion of a unit in which the taking occurs;
- (4) "bait" means any material, including scent lures, that is placed to attract an animal by its sense of smell or taste; "bait" does not include those parts of legally taken animals that are not required to be salvaged as edible meat if the parts are not moved from the kill site;
- (5) "big game" means black bear, brown bear, bison, caribou, Sitka black-tailed deer, elk, mountain goat, moose, muskox, Dall sheep, wolf, and wolverine;

(6) "bow" means long bow, recurve bow, or compound bow, but not crossbow;

(7) "broadhead" means an arrowhead with two or more steel cutting edges having a minimum cutting diameter of not less than seven-eighths inch;

(8) "brow tine" means a tine on the front portion of a moose antler, typically projecting forward from the base of the antler toward the nose;

(9) "bull moose" means a male moose;

(10) "brown bear" means *Ursus arctos* including grizzly bears; the terms brown bear and grizzly bear are synonymous;

(11) "closed season" means the time when game may not be taken;

(12) "cub bear" means a brown (grizzly) bear in its first or second year of life, or a black bear (including the cinnamon and blue phases) in its first year of life;

(13) "dire emergency" means a situation in which a person

(A) is in a remote area;

(B) is involuntarily experiencing an absence of food required to sustain life;

(C) will be unable to perform the functions necessary for survival, leading to a high risk of death or serious and permanent health problems, if wild game food is not immediately taken and consumed; and

(D) cannot expect to obtain other food sources in time to avoid the consequences described in (C) of this paragraph;

(14) "domicile" means the location of a person's primary residence; evidence of domicile includes

(A) a statement made to obtain a license to drive, hunt, fish, or engage in an activity regulated by a government entity;

(B) an affidavit of the person, or of another person who may know of that person's domicile;

(C) the place of voter registration;

(D) the location of a residence owned, rented, or leased;

(E) the location where household goods are stored;

(F) the location of a business owned or operated;

(G) the residence of a spouse or minor children or dependents;

(H) a government to which a tax is paid; and

(I) evidence indicating whether the person has claimed residence in another location for the purpose of obtaining benefits provided by the government in that location;

(15) "drainage" means the area of land drained by a creek, stream, or river, unless further defined in regulation;

(16) "drawing permit" means a permit issued to a person who is one of a limited number of people selected by means of a lottery held

for people who have submitted a valid application for the permit and who agree to abide by the conditions specified for each hunt;

(17) "edible meat" means, in the case of a big game animal, the meat of the ribs, neck, brisket, front quarters as far as the juncture of the humerus and radius-ulna (knee), hindquarters as far as the distal joint of the tibia-fibula (stifle joint) and that portion of the animal between the front and hindquarters; in the case of wild fowl, the meat of the breast; however, "edible meat" of big game or wild fowl does not include meat of the head, meat that has been damaged and made inedible by the method of taking, bones, sinew, incidental meat reasonably lost as a result of boning or a close trimming of the bones, or viscera;

(18) "falconry" means the sport of taking game by means of a trained raptor;

(19) "full-curl horn" of a male (ram) Dall sheep means

(A) that the tip of at least one horn extends up to or above the level of the posterior base of the horn when viewed at a right angle from the side, or

(B) that both horns are broken, or

(C) that the sheep is at least eight years of age as determined by horn growth annuli;

(20) "fur animal" means a coyote, arctic fox, red fox, lynx, or red squirrel that has not been domestically raised; "fur animal" is a classification of animals subject to taking with a hunting license;

(21) "furbearer" means a beaver, coyote, arctic fox, red fox, lynx, marten, mink, least weasel, short-tailed weasel, muskrat, land otter, red squirrel, flying squirrel, ground squirrel, Alaskan marmot, hoary marmot, woodchuck, wolf, or wolverine; "furbearer" is a classification of animals subject to taking with a trapping license;

(22) "highway" means the driveable surface of a constructed road;

(23) "household" means that group of people domiciled in the same residence;

(24) "hunting area" for a species means that portion of a game management unit in which a season and a bag limit for that species are set out in 5 AAC 85;

(25) "jet aircraft" means an aircraft powered by an engine or engines that have no external propellers;

(26) "moose antler" definitions:

(A) "50-inch antlers" means the antlers of a bull moose with a spread of 50 inches or more, or with three or more brow lines on either side;

(B) "spike-fork antler" means an antler of a bull moose with only one or two lines; male calves are not spike-fork bulls;

(C) "36-inch antlers" means the antlers of a bull moose with a spread of 36 inches or more, or with three or more brow lines on either side;

(27) "motorized vehicle" means a motor-driven land, water, or air conveyance;

(28) "open season" means the time when game may be taken; an open season includes the first and last days of the period prescribed;

(29) "peace officer" means a police officer of the state or a person authorized by the commissioner of the Department of Fish and Game under AS 16.05.150;

(30) "permit hunt" means a hunt for which a permit is issued on a drawing or registration hunt basis;

(31) "person" means a natural person and does not include a corporation, company, partnership, firm, association, organization, business trust, or society;

(32) "poison" means a substance that is toxic or poisonous upon contact or ingestion;

(33) "registration permit" means a hunting permit issued to a person who agrees to the conditions specified for each hunt; permits are issued in the order applications are received; and are issued

(A) beginning on a date announced by the department and continuing throughout the open season, or until the season is closed by emergency order when a harvest quota is reached; or

(B) beginning on a date announced by the department and continuing until a predetermined number of permits have been issued;

(34) "regulatory year" means July 1 through June 30;

(35) "road-connected area" means the location of domiciles that are normally accessed by motorized highway vehicles operating on constructed roads that connect to the main highway system in the relevant area, including roads that can be negotiated during any portion of the year; in this paragraph, "normally accessed" means that it is reasonably feasible to transport persons, food, and other supplies to domiciles by motorized highway vehicles;

(36) "sealing" means the placement of an official marker or locking tag (seal) by an authorized representative of the Department of Fish and Game on an animal hide or skull, and may include

(A) collecting and recording biological information concerning the conditions under which the animal was taken;

(B) measuring the specimen submitted for sealing; and

(C) retaining specific portions of the animal for biological information, such as a pre-molar tooth from a bear;

(37) "1/8 curl horn" means the horn of a mature male Dall sheep, the tip of which has grown through seven-eighths of a circle (315°), described by the outer surface of the horn, as viewed from the side, or with both horns broken;

(38) "skin" means any tanned or untanned hide of an animal, including its claws;

(39) "small game" means all species of grouse, hare, ptarmigan, and waterfowl, crane and snipe;

(40) "tine" or "point" means any antler projection that is at least one inch long, and that is longer than it is wide, measured one inch or more from the tip;

(41) "transport" means to ship, carry, import, export, or receive or deliver for shipment, carriage, or export;

(42) "trophy" means a mount of a big game animal, including the skin of the head (cape) or the entire skin, in a lifelike representation of the animal; "trophy" also includes a "European mount" in which the horns or antlers and the skull or a portion of the skull are mounted for display;

(43) "unclassified game" means any species of game not otherwise classified in this section as "big game," "fur animal," "furbearer," or "small game";

(44) "unit" means one of the 26 geographical areas defined in 5 AAC 92.450;

(45) "within the second degree of kindred" means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, brother- or sister-in-law, son- or daughter-in-law, and father- or mother-in-law;

(46) "year" means calendar year unless another year is specified. (Eff. 7/5/85, Register 95; am 6/19/86, Register 98; am 7/3/86, Register 99; am 8/8/87, Register 103; am 4/24/88, Register 106; am 7/14/88, Register 107; am 8/20/89, Register 111)

Authority: AS 16.05.255
AS 16.05.258

Editor's notes. — The 8/20/89 amendment of 5 AAC 92.890 included renumbering of various definitions to present them in alphabetical order.

CHAPTER 93. DEPARTMENT PROGRAMS

Section

1. Application of this chapter
10. Rabbit Creek rifle range fee schedule
20. Endangered species
30. Permit application and fees for McNeil River State Game Sanctuary access permit

Section

40. Radio telemetry frequencies
50. Grant of lison and musk oxen to private ownership

5 AAC 93.001. APPLICATION OF THIS CHAPTER. The regulations in this chapter apply to fee schedules, endangered species, or other specific responsibilities of the commissioner. The regulations in this chapter are adopted by the commissioner of the Department of

Fish and Game rather than the Board of Game. (Eff. 8/20/89, Register 111)

Authority: AS 16.05.050

5 AAC 93.010. RABBIT CREEK RIFLE RANGE FEE SCHEDULE. (a) Except as provided in (b) of this section, the department will charge a fee for use of the shooting (including archery) facility at the Rabbit Creek Rifle Range, Mile 10, Seward Highway, in the amount of \$4 per day per person, or \$25 per person for a non-transferable calendar-year ticket.

(b) The fee established in (a) of this section does not apply to

(1) an instructor or a student participating in a hunter safety, marksmanship, or firearm safety training program approved by the department;

(2) a state, federal, or municipal law enforcement or military employee engaging in a training or firearm testing activity authorized by the department;

(3) a resident, as defined in AS 16.05.940, under 16 years of age;

(4) a resident, as defined in AS 16.05.940, 60 years of age or older.

(c) The department will, in its discretion, sell shooting accessories, such as paper targets, clay targets, ear protectors, or eye protectors at the range. If the department sells accessories, it will charge a reasonable price. (Eff. 1/19/86, Register 97; am 10/14/87, Register 104)

Authority: AS 16.05.020
AS 16.05.050
AS 16.55.010

5 AAC 93.020. ENDANGERED SPECIES. The following species are endangered in Alaska:

- (1) Eskimo curlew
- (2) Aleutian Canada goose
- (3) American Peregrine falcon
- (4) Arctic Peregrine falcon
- (5) Short-tailed albatross
- (6) Humpback whale
- (7) Right whale
- (8) Blue whale

Numenius borealis
Branta canadensis leucopareia
Falco peregrinus anatum
Falco peregrinus tundrius
Diomedea albatrus
Megaptera novaeangliae
Balaena glacialis
Balaenoptera musculus

(Eff. 7/5/85, Register 95; am 2/21/87, Register 101; am 8/20/89, Register 111)

Authority: AS 16.20.190

Editor's notes. — Before 8/20/89, Register 111, the substance of 5 AAC 93.020 was contained in former 5 AAC 92.800

The history note for 5 AAC 93.020 includes the history of the provision before 8/20/89.