

HJR

51

Alaska State Legislature



Representative Joe Green

District 13

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FINANCE SUBCOMMITTEE
DEPT. OF NATURAL RESOURCES
DEPT. OF COMMERCE & ECONOMIC DEVELOPMENT
DEPT. OF ENVIRONMENTAL CONSERVATION

Sponsor Statement

HJR 51 - Constitutional Amendment to Limit Sport Fish Guides

HJR 51 proposes a constitutional amendment to grant the state the authority to limit entry into the sport fish guide profession. HJR 51 is needed because the state's authority to impose such limits is not clear at this time. We believe that without a constitutional amendment, litigation is sure to follow any attempt to limit sport fish guides under current law.

While it is anticipated that such limits will be the conclusion of a public process, based on scientific data, HJR 51 does not address the specifics of implementing such restrictions. HJR 51 simply grants a clear and concise line of authority from the voters to the state.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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Juneau, Alaska 99801-2105

MEMORANDUM

December 4, 1995

SUBJECT: "Open access" provisions of the Alaska Constitution and restrictions on sport fish guides (Work Order No. 9-LS1353)

TO: Representative Joseph Green

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum briefly discusses the implications that the "open access" provisions of article VIII of the Alaska Constitution would have for any proposal to limit the number of sport fish guides.

Any proposal to limit the number of sport fish guides would infringe on the "open access" provisions of the Alaska Constitution, because it would have the effect of restricting free entry into the fishery. See, McDowell v. State, 785 P.2d 1 (Alaska 1989); Owsichek v. State, 763 P.2d 488 (Alaska 1988); Bozanich v. Noerenberg, Alaska Superior Court, First Judicial District, Juneau, Case No. 70-389, March 15, 1971. Even though they are not actually engaged in sport fishing while providing guide services, the Alaska Constitution protects the open access rights of sport fish guides to use fishery resources for professional purposes. "The common use clause makes no distinction between use for personal purposes and use for professional purposes." Owsichek, 763 P.2d at 497; see also, Tongass Sport Fishing Association, 866 P.2d 1314 (Alaska 1994); Alaska Fish Spotters Association, 838 P.2d 798 (Alaska 1992).

The "open access" provisions of article VIII of the Alaska Constitution are the "common use" section¹, "no exclusive right of fishery" clause², and the "uniform application" section³.

¹ Article VIII, sec. 3 states:

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

² Article VIII, sec. 15 states (emphasis added):

No Exclusive Right of Fishery. No exclusive right or special privilege of fishery shall be created or
(continued...)

Representative Joseph Green
December 4, 1995
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These provisions provide that all persons shall have an equal opportunity to participate in the use of fish and game resources.

The current limited entry system for commercial fisheries (AS 16.43) would violate the open access provisions of the Alaska Constitution, unless the constitution had been amended to allow limited entry. State v. Ostrosky, 667 P.2d 1343 (Alaska 1983), appeal dismissed sub nom. Ostrosky v. Alaska, 467 U.S. 1201, 81 L.Ed.2d 339 (1984). In 1972, article VIII, section 15 was amended to create a limited entry exception to the "no exclusive right of fishery" clause. The limited entry exception provides that "[t]his section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State." Article VIII, sec. 15, in relevant part.

In order to place a limit on the number of sport fish guides, it would be necessary for such limitations to fall under the limited entry exception. Though the limited entry exception was largely adopted in the context of commercial fisheries, the exception does not expressly limit itself to only commercial fisheries. The courts may construe "any fishery" to include sport fisheries as well as commercial fisheries. Thus there is a possibility that the limited entry exception would authorize some form of limitation on the number of sport fish guides.

Assuming that the limited entry exception is construed broadly to include limited entry for sport fish guides, the next obstacle to be overcome is to establish that limitations or restrictions on who may become sport fish guides achieves the three purposes of the limited entry exception: resource conservation, prevention of economic distress among fishermen and others, and promotion of aquaculture. When the Alaska Supreme Court approved the commercial fisheries limited entry program, the court did not examine in any detail whether the program satisfied all of the purposes that the limited entry exception was to achieve. Ostrosky, 667 P.2d at 1190-95. In other cases where the court had occasion to review commercial fisheries limited entry, the court did not rigorously examine whether the program achieved all three of the purposes, but instead seemed to accept a challenged provision if it furthered one or two of the purposes of the limited entry exception. Johns v. Commercial

²(...continued)

authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State.

¹ Article VIII, sec. 17 states:

Uniform Application. 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.

Representative Joseph Green

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Fisheries Entry Commission, 758 P.2d 1256, 1263-64 (Alaska 1988); Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d 1255, 1265 (Alaska 1980). The burden would fall upon the legislature to establish a substantial record in the legislative history that any legislation limiting the number of sport fish guides achieves those purposes.

If the limited entry exception cannot be construed to authorize a limitation on the number of sport fish guides, then the only remaining option is to amend the Alaska Constitution accordingly.

Please contact me, if I can provide additional information on the open access provisions of the Alaska Constitution or other issues relating to sport fish guides.

GU:glc

95-452.glc

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HJR 51

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...amendment to the Constitution of the State of Alaska relating to limited entry for sport fish guides..." BRU: Civil Division
 Sponsor: Representative Green Component: General Legal Services
 Requester: House State Affairs Committee COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

House Joint Resolution 51 proposes an amendment to the Constitution of the State of Alaska that, if approved by Alaska's voters, will permit the state to limit entry into the sport fish guiding profession and closely allied professions who are paid to assist others taking sport fish. Approval of the Resolution will place it on the ballot at the next general election for consideration by the voters. Therefore, approval of the Resolution will not have a fiscal impact for the Department of Law, because it simply places a ballot proposition before the voters. However, we caution that if the proposition is eventually approved by the voters, there will be some legal work for the Department of Law, depending upon the criteria that are established for entry into the sport fish guide profession.

The state's previous actions that established limited entry for commercial fishing resulted in substantial litigation which, until many of the basic issues raised by the program were resolved, took up to three attorneys

Prepared by: Richard I. Peques, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 1/22/96
 Date: 1/22/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HJR 51

ANALYSIS CONTINUATION:

to handle. There were about 1,547 sport fishing charter vessels registered in 1995, and there were about 1,835 fresh water fishing guides registered in 1995, or nearly 3,400 sport fish guides operating in the state last year. Based on these numbers, and based on past experience, it is not unreasonable to expect that litigation will arise from those who do not qualify under future entry rules. The department estimates the time of one full-time attorney may be required to defend the new limited entry program for a period of two or three years, beginning in FY98, if the voters amend the Constitution. The annual cost will be approximately \$150,000, including the outside cost of expert witnesses. These costs are not shown on the fiscal note, because they are outside the scope of the Resolution.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HJR 51

Revision Date: 1/23/96 Dept. Affected: Office of the Governor
 Title: Constitutional Amendment Re. limited entry f BRU: Elective Operations
 sport fish guides Component: General and Primary Elections
 Sponsor: Representative Green
 Requester: Representative Green COMPONENT SERIAL NO. 22

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	2.2					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2.2	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2.2					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	2.2	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet as required by AS 15.58, and the programming costs for counting votes cast on the measure. However, only four measures can be printed on a single ballot card. If this measure requires printing an additional ballot card, the costs will increase by \$53.4.

Prepared by: Dana LaTour Phone: 465-5347
 Division: Division of Elections Date: 1/23/96
 Approved by: _____ Date: _____
 Commissioner: Lt. Governor Fran Ulmer
 Agency: Office of the Lt. Governor

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1992 KENAI RIVER GUIDE SUMMARY
As of 10/15/92

March:	1 Res 0 NonRes	1 Fishing, 0 NFishing	1 Powerboat 0 Drift
April:	30 Res 1 NonRes	31 Fishing 0 NFishing	26 Powerboat 5 Drift
May:	98 Res 44 NonRes	120 Fishing 22 NFishing	113 Powerboat 29 Drift
June:	50 Res 25 NonRes	66 Fishing 9 NFishing	53 Powerboat 22 Drift
July:	13 Res 9 NonRes	19 Fishing 3 NFishing	18 Powerboat 4 Drift
August:	2 Res 1 NonRes	1 Fishing 2 NFishing	1 Powerboat 2 Drift
September:	0 Res 1 NonRes	0 Fishing 1 NFishing	0 Powerboat 1 Drift

275 GUIDES TOTAL:

194 Residents	238 Fishing	212 Powerboat
81 Non-Residents	37 NFishing	63 Drift

53 New guides registered in 1992

49 Brand new guides, 5 previously registered

93 1991 Guides did not re-register in 1992.

2 Guides went from Res. in 1991 to NRes in 1992

Steve Langston

Hal Borv

4 Guides went from NRes in 1992 to Res in 1992:

Terry King

Paul McMillen

C. Larry Mills

David VanLiere

134 Registered Drift boats on Kenai River in 1992

251 Registered Powerboats

Total: 385 Registered Kenai River Guide boats

124 Commercial Operators registered at Deep Creek, of those only 18 were not also registered for the Kenai River. (Note: 4 of the 18 were registered as Kenai River guides in previous years.)

127 Kenai River Guides also registered for Kasilof

24 Non-Competitive Commercial permits were issued for areas other than Deep Creek and Kenai River.

Total of 315 Non-Competitive Commercial Permits issued in 1992

1993 KENAI RIVER GUIDE SUMMARY
As of 10/11/93

February: 3	3 Res.	1 Fishing	3 Powerboat
	0 NonRes.	2 NFishing	0 Drift
March: 2	2 Res.	2 Fishing	1 Powerboat
	0 NonRes.	0 NFishing	1 Drift
April: 23	22 Res.	23 Fishing	20 Powerboat
	1 NonRes.	0 NFishing	3 Drift
May: 131	105 Res.	115 Fishing	99 Powerboat
	26 NonRes.	16 NFishing	32 Drift
June: 82	53 Res.	69 Fishing	58 Powerboat
	29 NonRes.	13 NFishing	24 Drift
July: 21	10 Res.	11 Fishing	13 Powerboat
	11 NonRes.	10 NFishing	8 Drift
August: 1	1 Res.	1 Fishing	0 Powerboat
	0 NonRes.	0 NFishing	1 Drift

263 GUIDES TOTAL:

196 Residents	222 Fishing	194 Powerboat
67 Non-Residents	41 Non-Fishing	69 Drift

57 New guides registered in 1993

48 Brand new guides, 9 previously registered

64 1992 Guides did not re-register in 1993

0 Guides went from Resident to Non-Resident in 1993

6 Guides went from Non-Resident in 1992 to Resident in 1993:

Dale Benson	Greg Brush
Catherine Campbell	Rolland LaFond
Pat Tolar	Bill Whitney

127 Registered Drift boats on the Kenai River in 1993

169 Registered Powerboats on the Kenai River in 1993

Total: 296 Registered Kenai River Guide boats in 1993

¹²⁴
135 Commercial Operators registered at Deep Creek, 109 are Kenai River Guides, ¹⁸26 are registered for Deep creek only.

122 Kenai River Guides were also registered for Kasilof

27 Non-Competitive Commercial permits were issued for areas other than Deep Creek and Kenai River.

Total of 316 non-Competitive Commercial Permits issued in 1993

1994 KENAI RIVER GUIDE SUMMARY
As of 10/12/94

February:	3	3 Res. 0 NonRes.	3 Fishing 0 NFishing	3 Powerboat 0 Drift
March:	11	11 Res. 0 NonRes.	8 Fishing 3 NFishing	8 Powerboat 3 Drift
April:	33	31 Res. 2 NonRes.	30 Fishing 3 NFishing	24 Powerboat 9 Drift
May:	162	121 Res. 41 NonRes.	138 Fishing 41 NFishing	126 Powerboat 36 Drift
June:	78	44 Res. 34 NonRes.	63 Fishing 15 NFishing	43 Powerboat 35 Drift
July:	15	13 Res. 2 NonRes.	13 Fishing 2 NFishing	9 Powerboat 6 Drift
August:	2	1 Res. 1 NonRes.	2 Fishing 0 NFishing	1 Powerboat 1 Drift

+41

304 GUIDES TOTAL:
 224 Residents ^{200,600}
 80 Non-Residents ^{212,400}
 257 Fishing ^{206R} _{51NR}
 47 Non-Fishing ^{17R} _{30NR}
 214 Powerboat
 90 Drift

- 76 New guides registered in 1994
- 59 Brand new guides, 18 previously registered
- 49 1993 Guides did not re-register in 1994
- 1 Guides went from Resident to Non-Resident in 1994
Rolland LaFond
- 5 Guides went from Non-Resident in 1993 to Resident in 1994:
David Anderson David Corey Jerry Strieby
Richard Fowler Mark Glassmaker

157 Registered Drift boats on the Kenai River in 1994
 182 Registered Powerboats on the Kenai River in 1994
 +43 **Total: 339 Registered Kenai River Guide boats in 1994**

- +64 219 Commercial Operators registered at Deep Creek, 187 are Kenai River Guides, 32 are registered for Deep creek only. ⁺⁶
- 210 Kenai River Guides were also registered for Kasilof
- 10 Boat Rental Commercial Operator permits were issued for rental operations from the banks of the Kenai River
- 44 Non-Competitive Commercial permits were issued for areas other than Deep Creek and Kenai River.

Total of 380 non-Competitive Commercial Permits issued in 1994

1995 KENAI RIVER GUIDE SUMMARY
As of 9/12/95

February:	3	3 Res. 0 NonRes.	3 Fishing 0 NFishing	3 Powerboat 0 Drift
March:	13	13 Res. 0 NonRes.	12 Fishing 1 NFishing	8 Powerboat 5 Drift
April:	40	38 Res. 2 NonRes.	39 Fishing 1 NFishing	33 Powerboat 7 Drift
May:	205	145 Res. 60 NonRes.	177 Fishing 28 NFishing	163 Powerboat 42 Drift
June:	77	49 Res. 28 NonRes.	66 Fishing 11 NFishing	48 Powerboat 29 Drift
July:	17	11 Res. 6 NonRes.	15 Fishing 2 NFishing	8 Powerboat 9 Drift
August:	2	1 Res. 1 NonRes.	2 Fishing 0 NFishing	0 Powerboat 2 Drift

357 GUIDES TOTAL:

260 Residents	314 Fishing	263 Powerboat
97 Non-Residents	43 Non-Fishing	94 Drift
of the 314 fishing guides, 243 are residents, 71 non-residents		
	77%	23%

94 New guides registered in 1995
84 Brand new guides, 10 previously registered
43 1994 Guides did not re-register in 1995

177 Registered Drift boats on the Kenai River in 1995
236 Registered Powerboats on the Kenai River in 1995
Total: 413 Registered Kenai River Guide boats in 1995

134 Commercial Operators registered at Deep Creek, 92 are Kenai River Guides, 42 are registered for Deep creek only.

174 Commercial Operators registered at Kasilof, 166 are Kenai River Guides, 8 are registered for Kasilof only.

10 Boat Rental Commercial Operator permits were issued for rental operations from the banks of the Kenai River. There are 51 rental boats under these permits.

54 Non-Competitive Commercial permits were issued for areas other than Deep Creek and Kenai River.

Total of 464 non-Competitive Commercial Permits issued in 1995

KENAI RIVER GUIDE TRENDS & NUMBERS
1982-1995 (As of 9/06/95)

YEAR	TOTAL GUIDES	RESIDENTS	NON RESIDENTS	MOTORIZED GUIDES	DRIFT GUIDES	TOTAL FISHING	NON FISHING
1995	357	260/ 73%	97/ 27%	263/ 74%	94/ 26%	314/ 88%	43/ 12%
1994	304	224/ 74%	80/ 26%	214/ 70%	90/ 30%	257/ 85%	47/ 15%
1993	263	196/ 75%	67/ 25%	194/ 74%	69/ 26%	222/ 84%	41/ 16%
1992	275	194/ 71%	81/ 29%	212/ 77%	63/ 23%	238/ 87%	37/ 13%
1991	315	214/ 68%	101/ 32%	229/ 73%	86/ 27%	290/ 92%	25/ 8%
1990	330	234/ 71%	96/ 29%	243/ 74%	87/ 26%	310/ 94%	20/ 6%
1989	312	212/ 68%	100/ 32%	215/ 69%	97/ 31%	292/ 94%	20/ 6%
1988	268	191/ 71%	77/ 29%	184/ 69%	84/ 31%	252/ 94%	16/ 6%
1987	232	188/ 81%	44/ 19%	155/ 67%	77/ 33%	222/ 96%	10/ 4%
1986	198	148/ 75%	50/ 25%	138/ 70%	60/ 30%	187/ 94%	11/ 6%
1985	171	131/ 77%	40/ 23%	131/ 77%	40/ 23%	160/ 94%	11/ 6%
1984	224					214/ 96%	10/ 4%
1983	208					198/ 95%	10/ 5%
1982	217					207/ 95%	10/ 5%

OPINION

PENINSULA CLARION 12-29-95 P.4

Number of river guides should be limited

A well-known, local Outdoors writer, one I have respect for, recently voiced his opinion concerning the number of guides operating on the Kenai River. I am excited to learn that his "second thoughts," as stated in Dec. 22, 1995, Outdoors section of the Peninsula Clarion, are finally more in line with my thinking. His fresh outlook will hopefully have an important impact on the Kenai River's future during 1996.

A writer's posture and comments made in print are always under attack. But make no mistake, they are important in a free society. On issues of grave importance such as overcrowding on the Kenai River, the "poison pen" carries an influential message that gives anyone an opportunity to make a darn fool out of themselves. And, I intend to make a darn fool out myself until something "realistic" is done to reduce the number of guides on this river!

I would like to clarify what that outdoor writer has recently, politely and carefully illustrated for you concerning Kenai River guides. I would like to allow you the opportunity to read selected parts of an important 1991 letter I wrote to Clem Tillion, the "fishing czar," who, by the way, was appointed by a governor to make recommendations concerning the river. No offense intended, but I question if Mr. Tillion even knows where Eagle Rock is located.

Before I do that, be aware of the fact that in 1974, I complained about too many Kenai River guides. I wrote a letter to Gov. Jay Hammond expressing my concern, and he responded by telling me he wasn't immediately concerned and that it was a local issue to be handled on the local level.

In 1976, I attended several meetings here and in Anchorage expressing my concern about the growing numbers of Kenai River guides. By 1978, I challenged the Coast Guard and demanded that all guides be licensed, registered and regulated. I won that battle which is another story. I never dreamed the guiding situation would be allowed to get so far out of hand.

In 1978, I retired my status as the "original Kenai River fishing guide" and elected to be no part of the guiding fraternity. I belong to no local fishing organizations, none of them represent me or speak for me. This information is much different than many have been led to believe. I was embarrassed to be put in the same category as some guides at the time. From that point, I constantly worked to control the number of guides working the Kenai River.

I have continued that mission ever since, in various ways. I sent several letters over the years to people who could have been influentially helpful but they proved useless. Now,



SPENCE
DE VITO

many of these folks are concerned. Toc late!

Following are the brief, selected excerpts from a long letter with a list of recommendations I made to Mr. Tillion and Gov. Walter Hickel's office in 1991.

Dear Mr. Tillion:

After our conversation last evening concerning the "Kenai River Guide Problem," I did a bit of brainstorming in an attempt to find and produce a more graceful solution in which to reduce the number of guides on the Kenai River.

I was pleased to learn that we are in concert with our thinking and that we both believe in the need for a drastic reduction of guides on the Kenai River. I anticipated problems in making a compatible solution concerning the number we could all live with. That number has been suggested to you in my letter of Jan. 4, 1991, concerning the lower river. I would hope that the number of guides for the entire river will not exceed 75, including the non-powered drift boats.

I realize there are many potential solutions, some better than others. Whatever you do:

a. Enforce an immediate moratorium on the number of fishing guides able to obtain guide permits for the Kenai River. Issue no more permits as of 9 a.m. ... today. Call Kenai Parks and Recreation and tell them to delay all new permits until further notice from the governor's office.

b. Establish the number of guides you want to operate on the Kenai River. Obtain a Kenai River map and count the well-known holes that are labeled on that map. The map can be obtained at the Moose Range Headquarters located as you enter Soldotna coming in from Homer. For example, from the Soldotna bridge downstream multiply each hole by two (two guides per hole). On the upper reaches, multiply the suggested holes by four (four guides per hole). This should help give you a starting point in which to determine numbers.

c. Once you have established a highly conservative number of guides, send notice to all Kenai River guides that were ever registered with Kenai Parks and Recreation. Try to be fair to meet the least resistance from as many folks as possible.

A sample of ideas for you to ponder for this notice to guides:

NOTICE:

1. One guide, one permit
2. Change the 6 o'clock starting time and

closing time to read 7 and 5. One beginning at 7 a.m. and ending at noon and the other beginning at 1 p.m. and ending at 5 p.m. This would give the non-guide folks an opportunity to fish before or after work for a change without having to get up at 2 a.m. to beat the guides on the river. Clem, this also means that the guides not be allowed on the river before 7 or 1, and that they will be off the river by noon and 5 p.m. A guide will fish either in the morning or the afternoon rotation but not both. (By doing this, already one can see that twice as many guides could operate. Sure it would be a burden but isn't all this mess a burden on the rest of us?)

This equates to \$650 per day per license, x 6 days = \$3,900 per week x 8 June and July weeks = \$31,200. The May, August, September, October (fishing) is "gravy frosting"! One boat, one guide, one license. A hard working guide could easily make \$50,000 and spend the winter months in Mexico.

d. ALL guides who once held permits will receive a form to be completed along with the appropriate requirements. However, a new set of rules will be sent along and a warning will also be enclosed stating that not all guides will have the opportunity to fish this year. If they are not awarded or selected by the computer, or in an annual drawing, they will have to apply again next year, much like I have to when I apply for my sheep and goat permit.

When the rules are being passed out, everyone must have an equal opportunity. I realize it is difficult to wade through my suggestions but call on me if you need questions answered. I have more ideas on the rotating schedule but would hope we never have to come to that sort of participation.

I strongly feel, by limiting the guides, and by giving all guides the opportunity to go through the selection process, guides should be able to raise their premiums to somewhat compensate, and also to be able to adjust to the new ruling. At the same time, they will make non-guided fishermen and local fishermen happier. Their reputation as a guide on the Kenai will have more credibility and possibly the economy will stabilize.

Good luck!

Finally, I agree, Mr. Outdoor Writer. Yes, the number of guides should be limited but there are only a handful of folks that can make it actually happen. I know! I have been working on it for over 20 years. One of those people is the governor. Another, is the head of the Department of Fish and Game and perhaps the borough mayor. Then there are guys who have the skill and power of the "poison pen." You know, guys like you. Keep up the good work!

Spence De Vito is a former guide and a retired educator.

JAN 19 1996



Jeff King
Kenai River Guide

Box 2711
Soldotna, Alaska 99669
(907) 262-4564

We're Not Small • We're Exclusive

Representative Joe Green
State Capital
Juneau AK.

Dear Joe:

I wanted to write and thank you for the introduction of HJR #51. Being a long time fishing guide here on the Kenai and seeing the industry grow from infancy I am heartened that someone is trying to help us nurture the guiding along into something the entire State can be proud of. I know you're aware of our unique problems here on the Kenai so I won't elaborate any more than to say that all the rationale behind the limited entry scheme of the early 70's pertains every bit as much to our current situation as it did then to the commercial industry.

I wish you success in this resolution and hope you understand that this legislation's introduction means we need it now more than ever. I'm sure you realize that speculation runs rampant anytime someone thinks they must get their "foot in the door" before the door closes. Now that we're having this discussion of limiting participation openly we are in a situation that if this program does not go to fruition its failure will have an entirely reverse effect on the industry.

This is certainly a complex issue with many questions about the administration of a limited entry scheme to be addressed. As of now I am of the thinking that limited entry has been a tremendous success for the state in the commercial fisheries and a guide / charter program should be patterned after it...entirely. After all, the infrastructure is in place for such a program and experience has been gained in identifying overused areas and utilizing our resources for the best value to the State, we should take advantage of this now and not expect our resources and our citizens to accommodate the guide industry from the entire west coast.

As you can imagine I could go on and on about reasons for this program so I will end this by thanking you again and making myself available for any discussions on this matter. I am a member of the statewide guide / charter task force and a 15 year veteran of guiding. I also talked to you two years ago after a resource committee meeting about the future of our industry and appreciated your interest then.

Sincerely,

A handwritten signature in black ink, appearing to be "Jeff King", written over a long horizontal line that extends across the page.

Second thoughts on the number of tourists and guides on the Kenai

Seven years ago, I said in this column that the number of Kenai River guides should be limited only by the law of supply and demand. If guides are to be limited, there must be a compelling reason for it, I opined. Our tourism industry is too immature to be putting on the brakes, I reasoned.

Well, I'm having second thoughts about guides and tourists.

I'm not alone either. Many Alaskans worry about the relentless growth of tourism. We worry that no one is keeping track of how tourists are exploiting our natural resources. We worry about the tons of fish and clams being taken out of Alaska in RVs and airplanes. We worry about wildlife viewers and other non-hunters becoming a political force with enough clout to stop hunting. We worry about whether we'll be able to get to the water, come salmon season.

An infinite number of tourists are stressing our finite resources. More and more, we see tourists and tourism not as an economic



LES PALMER
An Outdoor View

panacea, but as a threat to the reasons we live here. The numbers are scary. In 1977, resident anglers outnumbered non-residents by a ratio of 2-to-1. By 1990, Outsiders had caught up. Last year, they outnumbered us by 44,000. Every year, more come.

If tourism were any other business, it would be required to complete annual Environmental Impact Statements. Yet, no one measures its impacts on us Alaskans, or on our environment. Even as the state spends more of our money attracting more tourists and encouraging more tourism businesses, it spends

less enforcing fish and wildlife regulations.

Palmer resident Rod Arno, a guide-outfitter who is also president of the Alaska Outdoor Council, agrees with me that Alaska needs to get a handle on what he calls "commercial users." These include fishing and hunting guides, eco-tour and wildlife-watching outfits, river rafters, transporters, air-taxi operators—everyone who exploits Alaskan's natural resources.

Arno says all users are "consumptive users," even those who just watch. And commercial users can be highly consumptive.

"Wildlife viewers exploit wildlife by their presence and by sheer numbers," Arno says. "All commercial users disturb and displace animals."

They can also exert enough political pressure to impact hunting, he says. Every viewing area exploited for "tourist green" is one less where hunters and other users are tolerated.

"If all these commercial uses were licensed, there could be some control on their encroachment into the habitat," Arno says. "There would be money to pay for monitoring their impacts on fish and game populations, and those impacts could be limited."

"I don't know anyone who wants things to get any worse than they are right now. There has to be some limit on commercial users."

For years, some hunting and fishing guides have asked for limited entry. It's high time that idea received serious consideration.

On the conflict-besieged Kenai River, 357 guides registered in 1995, up 53 from the previous year, an all time record.

All is not well, on the Kenai. The price of a half day king salmon trip is about what it was 10 years ago, indicating that the value of those trips has been steadily dropping.

Soldotna resident and Kenai River guide Jeff King has wanted to limit guides on the Kenai for sever-

al years, and he has plenty of company. In a carrying-capacity study of the Kenai, limiting the number of guides was what the public wanted most.

But any talk of regulating guides makes them jittery as a chinook in a creek. King is on the Guide Task Force, directed by the Board of Fisheries earlier this year to develop recommendations for managing the development of the fishing guide industry. Getting guides to even admit they should be licensed, let alone limited, is a chore, he says.

"You've got to crawl before you walk, and we're having a helluva time convincing people they ought

to crawl," says King.


Statewide limits aren't necessary, he says. In many parts of Alaska, guiding would be beneficial, and it should be allowed to develop. But in places like the Kenai River, where some professionalism would be desirable, and where users would like to keep some "quality of experience" in their fishing, the number of guides should be limited, he says.

I don't know how best to limit or regulate commercial users. All I know is that it needs doing. Otherwise, we'll soon find that every lowbush cranberry has its own little price tag.

**CITY OF KENAI
NO PARKING**
"Section 13.30.030 After October 1 of each fall until May 1 of the following year, no person shall leave any vehicle unattended on any City street between the hours of 4 a.m. and 8 a.m. of any day." Violators subject to vehicle impoundment
NO DEPOSITING OF SNOW
"Section 13.30.065 It shall be a violation for any person to deposit or cause to be deposited any snow or ice on or against a fire hydrant or on any sidewalk, roadway or any loading or unloading areas of a public transportation system."
D620211


**Nikiski
Pool Hours**
For Dec. 19th thru Dec. 30th 1995

**WILDERNESS
WAY**
Join Us
Book Signing/ Canoe Q & A Session
Friday, Dec. 22 & Saturday, Dec. 23
1:00 pm - 6:00 pm
"The Kenai Canoe Trails"
The Guidebook to Alaska's Premier
Hiking and Canoeing System



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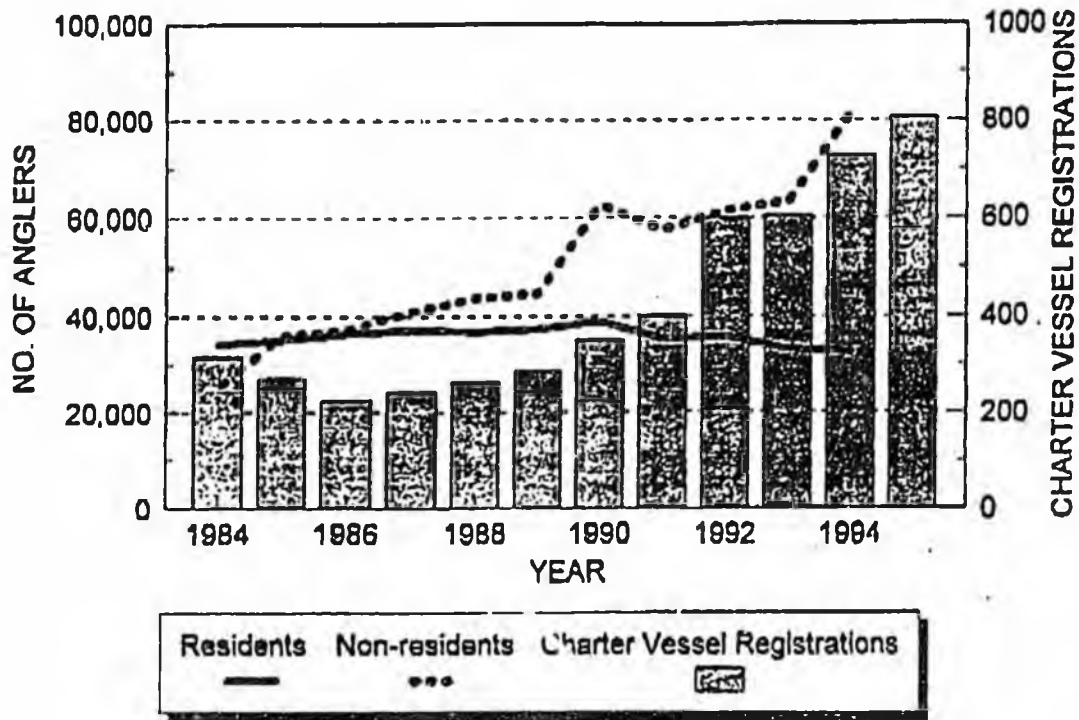


Figure 1. Estimated number of Alaska resident and non-resident anglers fishing in Southeast Alaska during 1984-1994 and number of charter vessel registrations, 1984-1995.

Sport fish harvest of king salmon from charter and private boats in Southeast Alaska (including Yakutat)

	charter boat	private boat
1993	13,977 (30%)	32,412 (70%)
1994	19,007 (48%)	20,770 (52%)

Sport fish harvest of coho salmon from charter and private boats in Southeast Alaska (including Yakutat)

	charter boat	private boat
1993	40,727 (40%)	61,611 (60%)
1994	43,083 (26%)	123,712 (74%)

Sport fishing effort (in angler days) from charter and private boats in Southeast Alaska (including Yakutat)

	charter boat	private boat
1993	77,161 (23%)	261,240 (77%)
1994	109,375 (27%)	295,104 (73%)



Alaska State Legislature

Please enter into the record my testimony to the HOUSE STATE AFFAIRS
committee name
committee on HJR No. 51, dated 12/29/95
bill/subject

I AM OPPOSED TO HJR NO. 51 TO LIMIT THE SPORT FISH GUIDE PARTICIPATION. I AM A LODGE OWNER AND CHARTER BOAT OPERATOR IN KODIAK. I WOULD PREFER THAT THE STATE LIMIT PLACE LIMITS ON THE DAILY CATCH AS OPPOSED TO LIMITING ENTRY FOR GUIDES. IF THE STATE WANTS TO LIMIT THE RESOURCE THAT SEEMS LIKE A MORE APPROPRIATE METHOD. WHY ARE SPORT GUIDES BEING SINCELED OUT WHEN RECREATIONAL FISHERMAN WERE NOT?

Signed: JOHN WITTEVEEN
Testifier
WILD CREEK LODGE & CHARTERS
Representing (Optional)
Box 2239 Kodiak, AK. 99615
Address
907-486-3853
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House STATE AFFAIRS
 committee name
 committee on HJR 51 , dated 2/13/98
 bill/subject

Madame Chair:

I strongly urge that you allow the process to move forward. We, the state of Alaska are rapidly approaching a crossroads

The department of Fish & Game and the board of Fisheries can not deal with this issue under regulatory change. This resolution allows the exploration of "limited Entry" Allow this industry - "Sport Fish Guides" the opportunity to explore this issue as a management option:

Respectfully: ERIC C STIRRVUP
 Signed: Eric C Stirrvup

Testifier

KODIAK WESTERN CHARTERS

Representing (Optional)

Box 4123

Address

907-486-2200

Phone No.

Ketchikan Marine Charters, Inc.

KETCHIKAN MARINE CHARTER'S POSITION REGARDING KING SALMON ALLOCATION

The king salmon restrictions of the U.S./Canada treaty and the potential ramifications of the Endangered Species Act have created a king salmon resource management problem for the State of Alaska.

Ketchikan Marine Charters maintains that a comprehensive king salmon fisheries management plan is necessary to avoid continued conflict between user groups in order to maximize the socio-economic benefits of the king salmon fishery resource.

Ketchikan Marine Charters proposes the following as a "best-use" management scenario:

1. Limit the growth of the guided sport fishery by establishing a moratorium for charter vessels.
2. Allocate the U.S./Canada Southeast king salmon allocation as follows:
 - 33-1/3% to the sport fishery;
 - 33-1/3% to the guided sport fishery;
 - and 33-1/3% to the commercial fisheries (Proposal #248).
3. Terminal hatchery area exclusions for all king salmon fisheries (Proposal #226)
4. Barbless hooks for all hook and line salmon fisheries (Proposal #214 sport; Proposal #289 & #290 troll)
Proposal #214 amended to read: "In waters where live release is required by regulation or order because of size or possession limits only barbless single hooks may be used."
5. Ketchikan Marine Charters supports an export limit but does not feel proposals #202 & 203 adequately address the problem.
Ketchikan Marine Charters opposes #202 & #203 on the grounds that neither proposal adequately addresses the problem without also negatively impacting the harvest opportunity of honest sport anglers.
6. Ketchikan Marine Charters supports a harvest record card reporting system to eliminate the expensive on-site creel census.
7. Ketchikan Marine Charters maintains that King Salmon Stamp money be used in area the stamp was sold, for enhancement.
8. Ketchikan Marine Charters supports directing a portion of Federal funds received by the State to private non-profit hatcheries to enhance King Salmon.
9. Ketchikan Marine Charters supports a "window of opportunity" for the use of bait by fresh water coho sport anglers.

I SUPPORT THIS KING SALMON MANAGEMENT PLAN

Name _____ Signature _____
PLEASE PRINT

Address _____ City _____ Zip _____

Return to: Ketchikan Marine Charters, Inc., P.O. Box 7896, Ketchikan, Alaska 99901