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**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

VOLUME II OF II

MANAGING ALASKA'S COMMERCIAL USERS OF BIG GAME

A Report to the Legislature by

THE LEGISLATIVE TASK FORCE ON GUIDING AND GAME

APPENDICES, CONTINUED FROM VOLUME I

LEGISLATION

Appendix G

- *Copy of House Bill 112 - signed into law by the Governor May, 1989.
- *Copy of letter from Alaska Attorney General to Governor Steve Cowper reviewing the legislation - dated 5-10-89.
- *Copy of Legislative Affairs Agency sectional of HB 112 - dated 6-27-89.
- *Copy of draft legislation from task force - dated 1-11-90
- *Copy of sectional of SB422 - 1-31-90

OWSICHEK DECISION BY ALASKA SUPREME COURT

Appendix H

- *Letter of Intent for HCS CS SB 139 (Res)
- *Alaska Attorney General letter to Senator Bettye Fahrenkamp providing a synopsis of the court decision in the Owsichuk case - dated 2-14-88.
- *Attorney General letter to Senator Faiks providing an update on the Owsichuk case dated 6-28-89.
- *see also under Birch Horton title "memo to all task force members - Options to the Owsichuk decision" dated 7-19-89.
- *Letter from Ken Owsichuk requesting task force information under Alaska's open records law (also included under the title Correspondence) - dated 12-6-89 & 1-5-90 & 1-20-90 with response

BIRCH HORTON BITTNER & CHEROT

Appendix I

- *Copy of Memorandum to Legislative Task Force on Guiding and Game from William Horn and Steven Pradell, Retained Counsel with Birch Horton on "Options to the Owsichuk Decision" dated 7-19-89
- *Copy of memorandum to the task force from Birch Horton titled "Outline of Initial Program Proposal" - dated 9-11-89
- *Copy of "Process Options" from Birch Horton - dated 10-6-89

- *Work Sheets - "Game Management Proposal-Questions & Checklist" - undated.
- *Copy of memorandum to the task force from Birch Horton titled "Outline of Proposed Game Management Area Allocation Program" - dated 11-2-89.
- *Work Sheets - "How the Game Management Proposal Works" - undated (goes with 11-2-89 Birch Horton memo)
- *Copy of Memorandum to the task force from Birch Horton titled "Unresolved Policy Issues" - dated 11-30-89.
- *Copy of Memorandum to the task force from Birch Horton titled "Fee Proposals" - dated 11-30-89.
- *Copy of Memorandum to the task force from Birch Horton titled "Criteria for Sale or Joint Use Determination" - dated 12-7-89.

ALASKA DEPARTMENT OF FISH AND GAME GUIDE AREA MAPPING PROJECT

Appendix J

- *Copy of memo from staff to Senator Faiks Subject: RSA funds to Fish and Game - dated 7-89
- *Copy of memo from Senator Faiks to Alison Elgee, Director of Budget Review on Appropriation of Program Receipts - dated 7-28-89
- *Copy of memo from Senator Faiks to Tam Cook, Director of Division of Legal Services. Subject: Appropriation of Program Receipts. Dated 7-28-89
- *Copy of memo from Legislative Counsel (Utermohle) to Senator Faiks. Subject: Authorization of the Department of Fish and Game to expend program receipts from the commercial use permit fee - dated 8-8-89.
- *Copy of letter from Lew Pamplin of the Alaska Department of Fish and Game to Senator Faiks regarding hiring of staff to complete the mapping project - dated 8-30-89
- *Copy of letter from Lew Pamplin of Fish and Game to Regional Director Walter Stieglitz of the U.S. Fish and Wildlife Service regarding the task force efforts and alluding to the mapping project dated 8-30-89
- *Copy of memo from Warren Wiley, Department of Fish and Game to Alison Elgee, Division of Budget Review - Subject: RPL to receive and expend program receipts - dated 8-30-89
- *Copy of letter from Commissioner Don Collinsworth of the Department of Fish and Game to the task force - dated 9-11-89.
- *Copy of handout at task force meeting of 10-6-89 - Criteria for Developing the Guide-Outfitter Resource Area Maps - Distributed by Lew Pamplin - dated 10-6-89

- *Department of Fish and Game update on Mapping Project - dated 11-3-89.
- *Copy of letter from Regional Director Walter Stieglitz of U.S. Fish and Wildlife Service to Lew Pamplin of Alaska Department of Fish and Game - dated 12-7-89.

INTERAGENCY

Appendix K

- *Briefing paper on interagency staff meeting - dated 10-18-89
- *Copy of letter from Task Force Chairman to Congressional delegation with notification/staff invitation to meeting in Washington, D.C. with federal agencies - dated 11-1-89

GUIDE-OUTFITTING MANAGEMENT PROGRAMS IN CANADA

Appendix L

- *Briefing paper: Final Report of the Fish and Wildlife Outfitter-Guide Task Force in Alberta, Canada - dated 11-17-88

DIVISION OF OCCUPATIONAL LICENSING

Appendix M

- *Copy of letter from Occupational Licensing to guide-outfitters pointing out aspects of House Bill 112 which had been newly signed into law - dated 6-21-89.
- *Copy of memo from Occupational Licensing to the task force detailing the groups which are regulated by the Big Game Commercial Services Board - dated 6-26-89.
- *Copy of letter to guide-outfitters from Occupational Licensing - dated 7-20-89

MEETING MINUTES

Appendix N

- *Meetings List
- *Meeting minutes from 6-29-89.
- *Meeting minutes from 7-19-89
(due to legislative work load Senate Records was unable to transcribe minutes from subsequent meetings. Tape recordings of each of the meetings were made and are on file.
- *List of meetings held by the task force.
- *Transcription of Statement before the Task Force by Gary Gustafson, Director of the Alaska Department of Natural Resources - 12-11-89

PETITION TO THE TASK FORCE

Appendix O

- *Petition to the task force to recommend that all guides licensed since 1974 be afforded the same opportunity to operate throughout the state as are those licensed prior to 1974.

BIRCH HORTON BITTNER and CHEROT CONTRACT

Appendix P

- *Memo from staff to Senator Jan Faiks regarding the proposed contract with Birch Horton dated 7-5-89.
- *Letter from Bill Horn of Birch Horton to Senator Faiks concerning the proposed contract dated 7-11-89
- *Memo from Senator Faiks to Warren Endicott, Legislative Affairs, on Justification of Sole Source Contract with Birch Horton dated 7-13-89
- *Memo from Senator Faiks to Warren Endicott, Legislative Affairs, Request for Professional Services Contract with "Contract Information" sheet attached, dated 7-14-89
- *Copy of Professional Services Contract Between Birch Horton Bittner and Cherot and Alaska Legislative Council for \$30,000
- *Copy of Memorandum from staff to Senator Faiks on phone conversation with Steve Pradell of Birch Horton dated 7-31-89
- *Copy of memo from Senator Faiks to the Legislative Council. Subject: Contract with Birch Horton, dated 8-3-89

CORRESPONDENCE

Appendix Q

- *Additional letters and comments from members of the public
- *Copy of memo from Senator Jan Faiks to Task Force Members notifying them of the first meeting of the task force - dated 6-8-89
- *Memo from Senator Jan Faiks to All Legislators announcing first meeting of task force - dated 6-12-89
- *Copy of contents of task force press release dated 6-29-89
- *Memo from Task Force Chairman Jan Faiks to members Gayle Ranney and Nick Pierskalla updating them on the first meeting - dated 7-5-89
- *Copy of memorandum from Task Force Chairman Senator Jan Faiks to Senate President Tim Kelly and House Speaker Sam Cotton - dated 7-21-89
- *Copy of letter from the Alaska Professional Sportsmen's Association to the Alaska Congressional delegation - dated 5-23-89

- *Copy of letter of resignation from former Task Force member Gayle Ranney - dated 7-22-89
- *Copy of memo from staff to Senator Faiks regarding public input process for the task force - dated 7-27-89
- *Copy of guide-outfitter management plan proposed by guide-outfitter Joe Want of Fairbanks - dated 7-27-89
- *Copy of letter from Task Force Chairman Jan Faiks to all native corporations and federal agencies who are significant landowners in Alaska - dated August 18, 1989
- *Copy of letter to the Task Force Chairman from member Lew Pamplin suggesting a process for receiving public input with attached sample plan - dated 9-5-89
- *Copy of letter to Task Force member Lew Pamplin from the federal Division of Lands and Renewable Resources - dated 9-14-89
- *Copy of Alaska Attorney General's response to task force question about allocation of fees from a concession-type management system - dated 11-7-89.
- *Copy of memorandum from Task Force Chairman Senator Jan Faiks to Senate President Tim Kelly and House Speaker Sam Cotton - dated 12-1-89
- *Copy of letter to Senator Faiks from Senator Ted Stevens - dated 2-19-90

TASK FORCE ON
GUIDING AND GAME

TASK FORCE MEMBERS

Peter R. Buist

Mr. Peter Buist
Alaska Guide Board

Vernita Cassidy

Ms. Vernita Cassidy
Public Member

Janice O. Faiks

Senator Janice O. Faiks
Alaska State Senate

Phil Gilson

Mr. Phil Gilson
Alaska Department of
Public Safety

Lyman Hoffman

Rep. Lyman Hoffman
Alaska State House of
Representatives

Paul Johnson

Mr. Paul Johnson
Guide-Outfitter Member

Lew Pamplin

Mr. Lew Pamplin
Alaska Department of
Fish and Game

Richard Stern

Mr. Richard Stern
Air Taxi Member

Randall P. Burns

Mr. Randall Burns
Alaska Dept. of Commerce &
Economic Development

Ralph K. Eluska

Ralph K. Eluska
Native Village Landholder

Ken Fanning

Senator Ken Fanning
Alaska State Senate

Robert A. "Bob" Hinman

Mr. Robert A. "Bob" Hinman
Research/Analysis

Matthew Iya

Mr. Matthew Iya
Public Member

Mike Navarre

Rep. Mike Navarre
Alaska State House of
Representatives

Nick Pierskalla

Mr. Nick Pierskalla
Non Guide-Outfitter Member

APPENDIX

G



LAWS OF ALASKA

1989

Source

SCS CSHB 112(R1s) am S

Chapter No.

37

AN ACT

Relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting, transportation, and other commercial services for big game hunters; creating the Big Game Commercial Services Board; relating to presumptive sentences for violation of certain big game commercial services statutes; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 15

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: May 11, 1989
Actual Effective Date: AS 08.54.310(b)(1), as enacted by sec. 3, is conditional; secs. 14(j), 14(k), 15, and AS 08.54.395 as enacted by sec. 3, take effect July 15, 1989; remainder of Act takes effect May 12, 1989

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AN ACT

Relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting, transportation, and other commercial services for big game hunters; creating the Big Game Commercial Services Board; relating to presumptive sentences for violation of certain big game commercial services statutes; and providing for an effective date.

* Section 1. AS 08.01.010(10) is repealed and reenacted to read:

(10) Big Game Commercial Services Board (AS 08.54.300);

* Sec. 2. AS 08.03.010(c)(20) is repealed and reenacted to read:

(20) Big Game Commercial Services Board (AS 08.54.300) --

June 30, 1993.

* Sec. 3. AS 08.54 is amended by adding new sections to read:

ARTICLE 4. BIG GAME COMMERCIAL SERVICES BOARD.

Sec. 08.54.300. CREATION AND MEMBERSHIP OF BOARD. (a) For the purposes of licensing and regulating the activities of providers of commercial services to big game hunters in the interest of the state's wildlife resources there is created the Big Game Commercial Services Board. For administrative purposes, the board is in the Department of Commerce and Economic Development.

(b) The board consists of nine members:

(1) two members who are licensed guide-outfitters;

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(2) two members who are licensed transporters, one of whom must be engaged in the business of providing air transportation services;

(3) one member who holds a commercial use permit, but does not hold any class of guide-outfitter license or a transporter license;

(4) one member of the Board of Game who is chosen by the Board of Game and who does not hold a commercial use permit;

(5) one member who represents Native landholders; and

(6) two public members.

Sec. 08.54.310. DUTIES AND POWERS. (a) The board shall

(1) prepare, grade, and administer

(A) a written and oral examination of an applicant for a guide-outfitter license that requires demonstration that the applicant is qualified generally to provide guide-outfitted hunts and, in particular, to guide-outfit in each game management unit the applicant has selected; if an applicant demonstrates limited ability to read or write the English language, the entire examination shall be administered orally; and

(B) an oral examination of a guide-outfitter who seeks an amendment of a game management unit certification; the examination must require demonstration that the guide-outfitter is qualified to provide guide-outfitted hunts in each new game management unit for which the guide-outfitter seeks to be certified;

(2) determine qualifications of applicants for class-A assistant guide-outfitter, marine mammal guide-outfitter, and assistant guide-outfitter licenses and authorize the issuance of licenses to those who qualify;

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(3) establish performance standards for providers of big game commercial services and regulate the activities of these providers;

(4) compile, maintain, and publish an annual register of big game commercial service providers subject to this chapter who have not been convicted of a violation of a state or federal statute or regulation relating to the provision of big game commercial services; a big game commercial services provider listed in the register whose license or permit is revoked or suspended shall be removed from the register while the provider's license or permit is revoked or suspended;

(5) prohibit guide-outfitting, transporting, and other big game commercial services activities that are unsportsmanlike, unethical, unsafe, against principles of game conservation, degrading to a profession subject to this chapter, or that adversely affect natural resources;

(6) after a hearing, revoke, suspend, or deny renewal of a license or permit under AS 08.54.500 - 08.54.510;

(7) authorize issuance of transporter licenses;

(8) authorize issuance of commercial use permits;

(9) meet at least twice annually, once in Anchorage and once in another municipality;

(10) provide for registration of base camps and facilities used by persons who are licensed or who hold a permit under this chapter.

(b) The board may

(1) establish, subject to the prior approval of the commissioner of fish and game, a resource-based management system for allocating access to big game hunting opportunities among guide-outfitters

licensed under this chapter;

(2) establish the level of supervision that a guide-outfitter shall provide for class-A assistant guide-outfitters and assistant guide-outfitters who are employed by the guide-outfitter.

Sec. 08.54.320. BOARD REGULATIONS. The board shall adopt procedural and substantive regulations required by this chapter or reasonably necessary for its administration.

Sec. 08.54.330. BOARD ASSISTANCE. The Department of Fish and Game, Department of Natural Resources, and Department of Public Safety shall provide the board with information, data, or technical assistance requested by the board for the purposes of licensing and regulating the activities of providers of commercial services to big game hunters.

ARTICLE 5. LICENSING.

Sec. 08.54.350. GUIDE-OUTFITTER LICENSE. (a) A natural person is entitled to a guide-outfitter license if the person

(1) is 21 years of age or older;

(2) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of meat and trophies, first aid, photography, and related guide-outfitting activities;

(3) is familiar with the terrain and transportation problems in the game management unit for which the license is requested;

(4) has passed the qualification examinations prepared and administered by the board;

(5) has demonstrated to the board sufficient standards of competence and ethical conduct and has not been convicted of a state or federal hunting or guide-outfitting statute or regulation within the last five years for which the person was fined more than \$500 or

imprisoned for more than five days;

(6) has legally hunted in the state for part of each of any five years in a manner directly contributing to the person's experience and competency as a guide-outfitter;

(7) has been licensed as and performed the services of a class-A assistant guide-outfitter or assistant guide-outfitter in the state for a part of each of three years, or has guide-outfitted in the state for a part of each of three years under a marine mammal guide-outfitter license issued under AS 08.54.360;

(8) has demonstrated a current knowledge of fishing, hunting, and guide-outfitting regulations;

(9) is capable of performing the essential duties associated with guide-outfitting;

(10) has been favorably recommended in writing by six big game hunters, two for each year of the person's most recent three years as a class-A assistant guide-outfitter or assistant guide-outfitter, when the person has guide-outfitted or assisted in guide-outfitting as a class-A assistant guide-outfitter or assistant guide-outfitter, whose recommendations have been solicited by the board from a list provided by the applicant;

(11) possesses a business license to provide guide-outfitting services; and

(12) has paid the license fee and commercial use permit fee.

(b) A person who receives a master guide-outfitter license under sec. 12 of this Act may use the title master guide-outfitter and may annually renew the license unless the license has been revoked or suspended or has lapsed under AS 08.54.440. A master guide-outfitter license is for all purposes under this chapter a guide-outfitter

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license.

(c) A guide-outfitter may contract to guide-outfit hunts for big game and may provide transportation to, from, or in the field that is incidental to a guide-outfitted hunt.

Sec. 08.54.360. MARINE MAMMAL GUIDE-OUTFITTER LICENSE. (a) The board may issue a marine mammal guide-outfitter license to a natural person who applies to guide-outfit a hunt for a specific species of marine mammal in a specifically designated area if the person

(1) is 21 years of age or older;

(2) has, for at least 10 years, resided and hunted in the area of the state in which the applicant is to guide-outfit;

(3) is able to perform the duties of a marine mammal guide-outfitter;

(4) has demonstrated knowledge of the following areas to an extent and degree satisfactory to the board:

(A) current fish and game laws and regulations;

(B) relevant characteristics of the specific species

to be hunted;

(C) field preparation of trophies;

(D) care of game meat;

(E) use of guide-outfitting gear;

(F) firearm safety;

(G) practical first aid; and

(H) booking and contracting hunts;

(5) has not been convicted of violating a state or federal game or guide-outfitting statute or regulation during the previous five years for which the person was fined more than \$500 or imprisoned for more than five days;

(6) possesses a business license to provide guide-

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outfitting services; and

(7) has paid the license fee and commercial use permit fee.

(b) A marine mammal guide-outfitter may contract to guide-outfit hunts for species of marine mammals for which the marine mammal guide-outfitter license is issued.

Sec. 08.54.370. RENEWAL OF GUIDE-OUTFITTER LICENSE AND MARINE MAMMAL GUIDE-OUTFITTER LICENSE. (a) An applicant for renewal of a guide-outfitter license or a marine mammal guide-outfitter license shall submit with the application for renewal

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

(2) the license fee for the next licensing period; and

(3) the commercial use permit fee for the next licensing period.

(b) The department may not renew a license under this section unless all fees have been paid in full and the hunt record has been filed.

Sec. 08.54.380. CLASS-A ASSISTANT GUIDE-OUTFITTER LICENSE. (a) A natural person is entitled to a class-A assistant guide-outfitter license if

(1) the person

(A) has been employed for at least one season as a licensed assistant guide-outfitter; and

(B) has had at least 10 years hunting experience in the game management units in which the person is to be employed; military service outside the state for not more than three years shall be accepted as part of the required 10 years hunting experience; or

(2) the person

(A) physically resides in the game management unit in which the person is to be employed;

(B) has had at least 15 years hunting experience in the game management unit in which the person is to be employed; military service outside of the state for not more than three years shall be accepted as part of the required 15 years hunting experience; and

(C) has passed qualification examinations prepared and administered by the board.

(b) A class-A assistant guide-outfitter

(1) may not contract to guide-outfit hunts;

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

(3) may take charge of a camp and conduct guide-outfitter activities from it without the guide-outfitter being present in the area if the guide-outfitter is supervising the guide-outfitting activities.

Sec. 08.54.390. ASSISTANT GUIDE-OUTFITTER LICENSE. (a) A natural person is entitled to an assistant guide-outfitter license if the person

(1) is 18 years of age or older;

(2) passes an examination administered by the board;

(3) has hunted in the state in two of the last five years;

(4) has demonstrated practical knowledge of first aid and cardiopulmonary resuscitation;

(5) is in sound physical condition; and

(6) meets additional qualifications that the board may establish.

(b) An assistant guide-outfitter

(1) may not contract to guide-outfit hunts; and

(2) shall be employed by a guide-outfitter and under the supervision of a guide-outfitter or class-A assistant guide-outfitter at all times while the assistant guide-outfitter is in the field on guide-outfitted hunts.

Sec. 08.54.395. INSURANCE AND OTHER REQUIREMENTS FOR GUIDE-OUTFITTERS. (a) A guide-outfitter or marine mammal guide-outfitter, while engaged in providing big game commercial hunting services shall carry, as a minimum, comprehensive general liability insurance of \$300,000 per occurrence or \$500,000 per annual aggregate or post a financial bond in those amounts.

(b) If a guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or an assistant guide-outfitter personally pilots an aircraft to transport clients during the provision of big game commercial hunting services, the guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or assistant guide-outfitter shall have a commercial pilot's rating or a minimum of 250 hours of flying time in the state.

(c) During the provision of big game commercial hunting services, an aircraft used by a guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or assistant guide-outfitter to transport clients must carry aviation passenger liability insurance of at least \$100,000 per seat or must be subject to a financial bond in that amount.

Sec. 08.54.400. TRANSPORTER LICENSE. (a) A person is entitled to a transporter license if the person

(1) applies on a form provided by the department;

(2) pays the license fee;

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(3) pays the commercial use permit fee;

(4) provides proof of

(A) an air taxi/commercial operator certificate issued by the Federal Aviation Administration under 14 C.F.R. Part 135, if the person provides air transportation services to big game hunters;

(B) licensure by the Coast Guard to carry passengers for hire, if the person provides water transportation services to big game hunters and if licensure is required by the Coast Guard; and

(5) has a business license to transport big game hunters.

(b) A transporter may provide transportation services for compensation to big game hunters and accommodations in the field at a permanent lodge, house, or cabin owned by the transporter or on a boat with permanent living quarters located on salt water. A transporter may also provide, under authority of a commercial use permit, other big game commercial services as defined under AS 08.54.460. A transporter may not provide big game commercial hunting services without holding the appropriate license.

(c) An applicant for renewal of a transporter license shall submit with the application for renewal

(1) an activity report on a form provided by the department for the period covered by the current license; an activity report shall contain information required by the board by regulation;

(2) the license fee for the next licensing period;

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

(4) proof of

(A) an air taxi/commercial operator certificate issued

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by the Federal Aviation Administration under 14 C.F.R. Part 135, if the applicant provides air transportation services to big game hunters;

(B) licensure by the Coast Guard to carry passengers for hire, if the applicant provides water transportation services to big game hunters and if licensure is required by the Coast Guard.

(d) The department may not renew a transporter license unless all fees have been paid in full and the activity report required under (c)(1) of this section and the proof required under (c)(4) of this section have been filed.

(e) A transporter shall place a decal provided by the department on each plane, boat, vehicle, or other equipment used by the transporter to provide transportation services to big game hunters. The decal must bear the transporter's license number. The decal is valid only for the plane, boat, vehicle, or other equipment for which the decal is issued.

Sec. 08.54.410. APPEAL TO COMMISSIONER FROM BOARD ON DENIAL OF LICENSE. The commissioner of commerce and economic development may order that an applicant for an initial license under AS 08.54.350 - 08.54.400 be allowed to take the license examination or be issued the license if, after reviewing a petition filed by the applicant, the commissioner finds that

(1) the board denied the applicant an opportunity to take the license examination or refused to approve issuance of the license;

(2) the board's denial or refusal has been upheld by a final administrative order and the order has not been appealed to the superior court under AS 44.62.560;

(3) the board's denial or refusal was based on

(A) an error of fact by the board; or

(B) the applicant's failure of the license examination due to faulty or unfair examination questions or procedures;

(4) the applicant is otherwise qualified to take the examination or to be issued the license; and

(5) sustaining the board's denial or refusal would work a substantial injustice on the applicant.

Sec. 08.54.420. RENEWAL OF LICENSES. Notwithstanding AS 08.01.100(a), guide-outfitter, marine mammal guide-outfitter, and transporter licenses shall be renewed annually on dates set by the department with the approval of the board.

Sec. 08.54.430. EXAMINATIONS FOR GUIDE-OUTFITTER LICENSES. (a) The board shall administer the qualification examinations required under this chapter at least twice a year. An examination may not be given within 90 days after the previous examination. At least once every other year the board shall give the examination at a location other than Anchorage.

(b) The board shall regularly disseminate information regarding examinations and other qualifications for all classes of guide-outfitter licenses to residents of the rural areas of the state.

Sec. 08.54.440. FAILURE TO RENEW. (a) A license may not be issued to a guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or assistant guide-outfitter who has failed to renew a license issued under this chapter for two consecutive years unless the guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or assistant guide-outfitter again meets the qualifications for initial issuance of the license.

(b) Notwithstanding (a) of this section, a guide-outfitter who fails to renew a license is not required to requalify under

AS 08.54.350(a)(7), unless the license has been lapsed for three or more years.

Sec. 08.54.450. LICENSE AND EXAMINATION FEES. (a) The department shall set license fees under AS 08.01.065 for each of the following:

- (1) guide-outfitter
- (2) class-A assistant guide-outfitter;
- (3) assistant guide-outfitter;
- (4) marine mammal guide-outfitter;
- (5) transporter.

(b) The license fee for the guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or assistant guide-outfitter license is in addition to the fee required for a hunting license.

(c) An applicant for a qualifying examination for any class of guide-outfitter license shall pay a fee established by regulations adopted under AS 08.01.065.

Sec. 08.54.460. COMMERCIAL USE PERMIT HOLDER. (a) A person, other than a guide-outfitter, marine mammal guide-outfitter, or a transporter, who provides other big game commercial services for compensation shall register with the board on a form provided by the board and shall obtain a commercial use permit and pay the annual commercial use permit fee set under AS 08.54.470. In this section "other big game commercial services" includes provision of accommodations in the field at a permanent lodge, house, or cabin owned by the commercial use permit holder, hunt broker services, gear rental services, photographic or videographic services, and services as defined by the board by regulation.

(b) A commercial use permit may not be issued to a hunting club.

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A hunting club may not provide other big game commercial services for compensation.

Sec. 08.54.470. COMMERCIAL USE PERMIT AND FEE. (a) A person who is licensed under this chapter as a guide-outfitter, marine mammal guide-outfitter, or transporter shall obtain an annual commercial use permit and pay an annual commercial use permit fee.

(b) The department, in consultation with the board, shall set the amount of the commercial use permit fee.

(c) A guide-outfitter, marine mammal guide-outfitter, and transporter shall pay the commercial use permit fee at the time of application for issuance or renewal of a guide-outfitter license, marine mammal guide-outfitter license, or transporter license.

(d) The commissioner of administration shall separately account for commercial use permit fees deposited in the general fund by the department. The annual estimated balance in the account may be used by the legislature to make appropriations to the Department of Fish and Game and the Department of Public Safety to carry out their respective responsibilities for management of game resources and enforcement of game laws.

ARTICLE 6. PENALTIES.

Sec. 08.54.500. DISCIPLINE OF GUIDE-OUTFITTERS. (a) The board may hold a hearing to determine whether disciplinary action is necessary if a written complaint concerning the guide-outfitting activities of a licensee who holds any class of guide-outfitter license is filed with the board. The board shall hold a hearing to determine whether a licensee should be disciplined within a reasonable time after

(1) written complaints concerning a licensee's guide-outfitting activities are filed with the board within a two-year period by three or more of the licensee's clients from separate hunting

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parties:

(2) a written complaint concerning a licensee's conduct during a life-threatening situation is filed with the board; or

(3) a licensee has been convicted of a violation of a federal or state statute or regulation relating to hunting or provision of big game commercial services.

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

(1) engaged in unethical activity, unsafe activity, or activity that adversely affects the natural resources of the state when the activity is related to the purposes of providing guide-outfitting services, however the board may not discipline a licensee under this paragraph for unsafe operation of an aircraft; or

(2) violated a provision of a federal or state statute or regulation relating to hunting or provision of big game commercial services.

(c) After a hearing, the board shall revoke any class of guide-outfitter license if the board finds that the licensee

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

(2) is incompetent as a guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or assistant guide-outfitter; or

(3) during the five years immediately preceding the hearing has been convicted of a violation of a federal or state statute or regulation prohibiting

(A) waste of a wild food animal;

(B) hunting on the same day airborne;

(C) hunting during a closed hunting season; or

(D) hunting in an area closed by state or federal regulation.

(d) If a certified copy of a judgment of conviction of a licensee who holds any class of guide-outfitter license for an offense described under (c)(3) of this section is filed with the board, the board shall immediately suspend the licensee's license. The suspension may be ordered even if the conviction resulted from a plea of nolo contendere or if the conviction is under appeal. The suspension remains in effect until after the final disposition of the disciplinary proceeding under this section.

Sec. 08.54.505. DISCIPLINE OF TRANSPORTERS AND COMMERCIAL USE PERMITTEES. (a) The board may hold a hearing to determine whether disciplinary action is necessary if a written complaint concerning the big game commercial service activities of a transporter who is licensed under AS 08.54.400 or a commercial use permittee who holds a permit issued under AS 08.54.460 is filed with the board. The board shall hold a hearing to determine whether a licensee or permittee should be disciplined within a reasonable time after

(1) written complaints concerning a licensee's or permittee's activities are filed with the board within a two-year period by three or more of the licensee's or permittee's clients from separate hunting parties; or

(2) a licensee or permittee has been convicted of a violation of a federal or state statute or regulation relating to hunting or provision of big game commercial services.

(b) After a hearing, the board may revoke, suspend, or deny renewal of a transporter license or commercial use permit issued under this chapter, if the board finds that the licensee or permittee

(1) engaged in unethical activity, unsafe activity, or activity that adversely affects the natural resources of the state when the activity is related to the purposes of providing big game commercial services, however the board may not discipline a licensee or permittee under this paragraph for unsafe operation of an aircraft; or

(2) violated a provision of a federal or state statute or regulation relating to hunting or provision of big game commercial services.

(c) The board may not revoke, suspend, or deny renewal of a transporter license or commercial use permit for a violation of a federal or state statute or regulation relating to game or provision of big game commercial services committed by an employee of the licensee or permittee unless the licensee or permittee participated or aided in the violation.

(d) After a hearing, the board shall revoke a license or permit if the board finds that the licensee or permittee

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

(2) during the five years immediately preceding the hearing has been convicted of a violation of a federal or state statute or regulation prohibiting

(A) waste of a wild food animal;

(B) hunting on the same day airborne;

(C) hunting during a closed hunting season; or

(D) hunting in an area closed by state or federal regulation.

(e) If a certified copy of a judgment of conviction of a licensee or permittee for an offense described under (d)(2) of this section

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is filed with the board, the board shall immediately suspend the licensee's or permittee's license or permit. The suspension may be ordered even if the conviction resulted from a plea of nolo contendere or if the conviction is under appeal. The suspension remains in effect until after the final disposition of the disciplinary proceeding under this section.

Sec. 08.54.510. DISCIPLINE: GENERAL PROVISIONS. (a) A person who is disciplined under AS 08.54.500 or 08.54.505 may not engage in the provision of big game commercial services during the period of license or permit revocation or other disciplinary action. A person who is licensed under this chapter, or who holds a permit issued under this chapter, may not hire a person whose license or permit to provide big game commercial services is suspended or revoked under AS 08.54.500 or 08.54.505. A person whose license or permit is suspended or revoked may not be employed by a person who is licensed or who holds a permit under this chapter.

(b) If the board revokes a license or permit under AS 08.54.500 or 08.54.505, the person whose license or permit has been revoked shall surrender immediately the license or permit to the department.

(c) A certified copy of a judgment of conviction of a licensee or permittee for an offense is conclusive evidence of the commission of that offense in a disciplinary proceeding instituted against the licensee or permittee under AS 08.54.500 or 08.54.505 based on that conviction, regardless of whether the conviction resulted from a plea of nolo contendere or the conviction is under appeal, unless the conviction is overturned on appeal.

(d) Within 30 days after conclusion of a hearing under AS 08.54.500 or 08.54.505, the board shall notify the complainant of the results of the hearing, including written reasons justifying a

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decision not to take disciplinary action.

Sec. 08.54.520. UNLAWFUL ACTS. (a) It is unlawful for a

(1) person who is licensed or who holds a commercial use permit under this chapter to knowingly fail to timely report to the Department of Public Safety, division of fish and wildlife protection, and in no event later than 30 days, a violation of a state fish, game, or big game commercial services statute or regulation that the person reasonably believes was committed by a client or an employee of the person;

(2) person who is licensed or who holds a commercial use permit under this chapter to knowingly

(A) commit or aid the commission of a violation of this chapter, a regulation adopted under this chapter, or a state fish or game statute or regulation; or

(B) permit the commission of a violation of this chapter, a regulation adopted under this chapter, or a state fish or game statute or regulation that the person knows or reasonably believes is being or will be committed without

(i) attempting to prevent it, short of using force; and

(ii) reporting it;

(3) person without a current commercial use permit issued under this chapter to knowingly provide big game commercial services;

(4) person who is licensed or who holds a commercial use permit issued under this chapter to intentionally obstruct or hinder or attempt to obstruct or hinder lawful hunting engaged in by a person who is not a client of the person;

(5) class-A assistant guide-outfitter or an assistant guide-outfitter to knowingly guide-outfit a hunt except while employed

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and supervised by a guide-outfitter;

(6) person who holds any class of guide-outfitter license to knowingly enter or remain on state, federal, or private land without prior authorization during the course of providing guide-outfitting services;

(7) person to knowingly guide-outfit without having a current guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or assistant guide-outfitter license and hunting license in actual possession;

(8) person without a current guide-outfitter or marine mammal guide-outfitter license to knowingly advertise as or represent to be a guide-outfitter;

(9) person to knowingly provide transportation services to big game hunters without holding a transporter license;

(10) class-A assistant guide-outfitter or an assistant guide-outfitter to knowingly contract for a hunt; or

(11) person to knowingly engage in a big game commercial services activity during the period for which the person's license to conduct that activity is suspended or revoked.

(b) A person who commits an offense set out in (a)(1) - (6) of this section is guilty of a misdemeanor and is punishable by a fine of not more than \$30,000 or by imprisonment up to one year, or both.

(c) A person who commits an offense set out in (a)(7) - (10) of this section is guilty,

(1) for a first offense, of a misdemeanor and is punishable by a fine of not more than \$30,000 or by imprisonment up to one year, or both;

(2) for a second or subsequent offense, of a class C felony.

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(d) A person who violates (a)(11) of this section, is guilty of a class C felony.

(e) In addition to the penalties set out in (b), (c) and (d) of this section,

(1) the court may revoke the person's license to provide guide-outfitting or transportation services for not more than five years; and

(2) all guns, fishing tackle, boats, aircraft, automobiles or other vehicles, camping gear, and other equipment and paraphernalia used in, or in aid of, a violation of (a) of this section may be seized by persons authorized to enforce this chapter and may be forfeited to the state as provided under AS 16.05.195.

(f) Upon conviction of a person for committing an offense set out in (a) of this section, the execution of sentence may not be suspended and probation may not be granted except on the condition that the minimum term of imprisonment is served. Imposition of sentence may not be suspended.

Sec. 08.54.530. INJUNCTION AGAINST UNLAWFUL ACTION. When in the judgment of the board a person has engaged in an act in violation of AS 08.54.380(b), 08.54.390(b), 08.54.400(b), 08.54.510(a), and 08.54.-520 or the regulations adopted under them, the board may apply to the appropriate court for an order enjoining the action. Upon a showing by the board that the person is engaging in the act, the court shall grant injunctive relief or other appropriate order without bond.

Sec. 08.54.540. RESPONSIBILITY OF GUIDE-OUTFITTER FOR VIOLATIONS. A guide-outfitter who contracts to guide-outfit a hunt is equally responsible under AS 08.54.500 for a violation of a federal or state game or guide-outfitting statute or regulation committed by a class-A assistant guide-outfitter or an assistant guide-outfitter

while in the course of the class-A assistant guide-outfitter's or assistant guide-outfitter's employment for the guide-outfitter.

ARTICLE 7. GENERAL PROVISIONS.

Sec. 08.54.550. HUNT RECORDS; CONFIDENTIALITY OF HUNT RECORDS AND ACTIVITY REPORTS. (a) The department shall collect and maintain hunt records provided by guide-outfitters and marine mammal guide-outfitters. A hunt record must include a list of all big game hunters who used the services of the guide-outfitter or marine mammal guide-outfitter, the number of each big game species taken, and other information required by the board. The department shall provide forms for reporting hunt records.

(b) The department shall make hunt records, and activity reports received under AS 08.54.400, available to state and federal agencies charged with the enforcement of statutes and regulations relating to guide-outfitting or game or with management of game if requested for game management or law enforcement purposes. Aggregated data compiled from hunt records and activity reports may be included in reports by the department. For all other purposes, the hunt records and activity reports are confidential and are not subject to inspection or copying under AS 09.25.110 - 09.25.125.

Sec. 08.54.590. DEFINITIONS. In this chapter

(1) "base camp" means a guide-outfitter's or marine mammal guide-outfitter's primary base of operations in the field; "base camp" does not include a spike camp;

(2) "big game" means brown bear, grizzly bear, caribou, mouse, black bear, bison, Sitka blacktail deer, elk, mountain goat, musk-ox, wolf, wolverine, mountain or Dall sheep;

(3) "big game commercial hunting service" means a service for which the provider of the service must obtain a guide-outfitter,

marine mammal guide-outfitter, class-A assistant guide-outfitter, or assistant guide-outfitter license;

(4) "big game commercial service" means a service for which the provider of the service must obtain a commercial use permit;

(5) "board" means the Big Game Commercial Services Board;

(6) "compensation" means payment for services including wages or other remuneration but not including reimbursement for actual expenses incurred;

(7) "department" means the Department of Commerce and Economic Development;

(8) "field" means : area outside of established year-round dwellings, businesses, or other developments usually associated with a city, town, or village; "field" does not include permanent hotels or roadhouses on the state road system or state or federally maintained airports;

(9) "game management unit" means one of the 26 geographic areas defined by the Board of Game for game management purposes;

(10) "guide-outfit" means to provide, for compensation or with the intent or with an agreement to receive compensation, big game commercial hunting services in the field; "guide-outfit" includes accompanying or being present with a big game hunter in the field either personally or through an assistant; "guide-outfit" does not include the provision of transportation to, from, or in the field if the person providing the transportation and the person being transported do not stalk, pursue, track, kill, or attempt to kill big game during the provision of transportation;

(11) "hunting club" means an organization that offers use of property or services to individuals who pay a membership fee for the privilege of using the property or services for hunting;

(12) "spike camp" means a camp in the field other than a base camp and includes a fly camp or an overnight camp;

(13) "transportation services" means the carriage for compensation of big game hunters, their equipment, or big game animals harvested by hunters to, from, or in the field; "transportation services" does not include the carriage by aircraft of big game hunters, their equipment, or big game animals harvested by hunters

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

(B) by an air taxi operator or air carrier for which the carriage of big game hunters, their equipment, or big game animals harvested by hunters is only an incidental, as defined by the board, portion of its business;

(14) "unethical activity" means

(A) deception or misrepresentation involving prospective or actual clients either before, during, or following the provision of big game commercial services, including misrepresentations through private or public advertising of the type, duration, cost, or conditions of the services;

(B) making a guaranty that a species or certain number of species of game will be taken on a hunt;

(C) engaging in unsafe or unsportsmanlike activities that are detrimental to the game resources of the state, as defined by regulations of the board, including violations of state hunting or big game commercial services statutes or regulations; or

(D) accepting a deposit for big game commercial services without providing before the services are rendered a signed written contract to provide the services.

* Sec. 4. AS 12.55.125(e) is amended to read:

(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a second felony conviction, two years;

(2) if the offense is a third felony conviction, three years;

(3) if the offense is a first felony conviction, and the defendant knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional officer, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, one year;

(4) if the offense is a first felony conviction, and the defendant violated AS 08.54.520(a)(7) - (10), one year.

* Sec. 5. AS 16.05.407(a) is amended to read:

(a) It is unlawful for a nonresident to hunt, pursue, or take brown bear, grizzly bear, mountain goat [POLAR BEAR], or sheep in this state, unless personally accompanied by

(1) a person who is licensed as a guide-outfitter [MASTER GUIDE, REGISTERED GUIDE], class-A assistant guide-outfitter, [GUIDE] or assistant guide-outfitter [GUIDE] by the Big Game Commercial Services [GUIDE] Board; or

(2) a resident over 19 years of age who is

(A) the spouse of the nonresident; or

(B) related to the nonresident, within and including the second degree of kindred, by marriage or blood.

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* Sec. 6. AS 16.05.407(d) is amended to read:

(d) A nonresident who violates (a) of this section, or who fails to furnish an affidavit under (b) [OR (e)] of this section, is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than \$5,000, or by both.

* Sec. 7. AS 16.05.407 is amended by adding a new subsection to read:

(f) An applicant for a nonresident hunt permit for the taking of an animal specified in (a) of this section shall, if requested by the department, first furnish to the department proof of prior authorization to use state, federal, or private land where the permit hunt will occur. The authorization shall be provided to the applicant by the guide-outfitter with whom the applicant has contracted to guide-outfit the permit hunt.

* Sec. 8. AS 16.05.408(a) is amended to read:

(a) It is a class A misdemeanor for a nonresident alien

(1) to hunt, pursue, or take marine mammals unless personally accompanied by a licensed marine mammal guide-outfitter [GUIDE]; or

(2) to hunt, pursue, or take a big game animal as defined by the Board of Game unless personally accompanied by a guide-outfitter, a [LICENSED MASTER GUIDE, REGISTERED GUIDE, OR] class-A assistant guide-outfitter, or an assistant guide-outfitter licensed [GUIDE] under AS 08.54.

* Sec. 9. AS 16.05.408 is amended by adding a new subsection to read:

(c) Before obtaining a nonresident hunt permit for the taking of an animal specified in (a) of this section, a nonresident alien shall, if requested by the department, first furnish to the department proof of prior authorization to use state, federal, or private land where

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the permit hunt will occur. The authorization shall be provided to the nonresident alien by the guide-outfitter or marine mammal guide-outfitter with whom the nonresident alien has contracted to guide-outfit the permit hunt.

* Sec. 10. AS 39.50.200(b)(48) is amended to read:

(48) Big Game Commercial Services [GUIDE] Board AS 08.54.-300) [(AS 08.54.010)]; and

* Sec. 11. AS 41.23.420(d) is amended to read:

(d) The provisions of AS 41.23.400 - 41.23.510 do not affect the authority of

(1) the Department of Fish and Game, the Board of Fisheries, the Board of Game, or the Big Game Commercial Services [GUIDE LICENSING AND CONTROL] Board under AS 08.54, AS 16, or AS 41.99.010;

(2) the Department of Environmental Conservation under AS 46.03; or

(3) state agencies and municipalities under AS 44.19.145(a)-(11) and AS 46.40.100.

* Sec. 12. AS 44.62.333(a)(35) is amended to read:

(35) Big Game Commercial Services [GUIDE LICENSING AND CONTROL] Board

* Sec. 13. TRANSITION; GUIDE-OUTFITTER LICENSES. (a) Notwithstanding the repeal of AS 08.54.010 - 08.54.240, all licenses issued under AS 08.54.010 - 08.54.240 are valid for the period for which the licenses were issued.

(b) For the purposes of AS 08.54.300 - 08.54.590 as enacted by sec. 3 of this Act, until new licenses are issued under this section, a

(1) master guide license issued under former AS 08.54.100 and a registered guide license issued under former AS 08.54.110 shall be considered a guide-outfitter license issued under AS 08.54.350;

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(2) class-A assistant guide license issued under former AS 08.54.120 shall be considered a class-A assistant guide-outfitter license issued under AS 08.54.380;

(3) an assistant guide license issued under former AS 08.54.140 shall be considered an assistant guide-outfitter license issued under AS 08.54.390.

(c) At the time of the next license renewal following the effective date of this Act, each person licensed as

(1) a master guide shall receive a master guide-outfitter license if the person

(A) is in good standing at the time of issuance of the license; and

(B) has paid the guide-outfitter license fee and the commercial use permit fee;

(2) a registered guide shall receive a guide-outfitter license if the person

(A) is in good standing at the time of issuance of the license; and

(B) has paid the guide-outfitter license fee and the commercial use permit fee;

(3) a class-A assistant guide shall receive a class-A assistant guide-outfitter license if the person

(A) is in good standing at the time of issuance of the license; and

(B) has paid the class-A assistant guide-outfitter license fee;

(4) an assistant guide shall receive an assistant guide-outfitter license if the person

(A) is in good standing at the time of issuance of the

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license; and

(B) pays the assistant guide-outfitter license fee.

(d) Notwithstanding (c) of this section, the Department of Commerce and Economic Development may issue a new license under AS 08.54.300 - 08.54.590, without an additional fee, to a person licensed under former AS 08.54.010 - 08.54.240 before the next renewal period following the effective date of this Act, if the person satisfies the requirements for the license and the license is valid only for the same period for which the replaced license was issued.

* Sec. 14. TRANSITION; OUTFITTERS. (a) Notwithstanding AS 08.54.350, as enacted by sec. 3 of this Act, a natural person is entitled to receive a guide-outfitter license if the person

(1) applies on a form provided by the Department of Commerce and Economic Development;

(2) lawfully registered a camp, cabin, or lodge under AS 16.05.787 during 1988;

(3) provides evidence satisfactory to the Big Game Commercial Services Board that the person has legally engaged in the business of big game outfitting in 1986, 1987, and 1988;

(4) passes the guide-outfitter examination administered by the Big Game Commercial Services Board within two years after the effective date of this Act;

(5) has not been convicted of violating a state or federal game or guide-outfitting statute or regulation during the previous five years for which the person was fined more than \$500 or imprisoned for more than five days;

(6) has legally hunted in the state for part of each of any five years in a manner directly contributing to the person's experience and competency as a guide-outfitter;

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(7) has been favorably recommended in writing by six big game hunters, two for each year of the person's most recent three years as a big game outfitter, whose recommendations have been solicited by the Big Game Commercial Services Board from a list provided by the applicant;

(8) pays the guide-outfitter license fee and the commercial use permit fee; and

(9) possesses a business license to provide recreational services.

(b) A person who is denied a guide-outfitter license under (a) of this section by the Big Game Commercial Services Board may appeal to the commissioner of commerce and economic development. The commissioner may order that the applicant be allowed to take the license examination or be issued the license if, after reviewing a petition filed by the applicant, the commissioner finds that

(1) the board denied the applicant an opportunity to take the license examination or refused to approve issuance of the license;

(2) the board's denial or refusal has been upheld by a final administrative order and the order has not been appealed to the superior court under AS 44.62.560;

(3) the board's denial or refusal was based on

(A) an error of fact by the board; or

(B) the applicant's failure of the license examination due to faulty or unfair examination questions or procedures;

(4) the applicant is otherwise qualified to take the examination or to be issued the license; and

(5) sustaining the board's denial or refusal would work a substantial injustice on the applicant.

(c) A guide-outfitter license issued under (a) of this section is for all purposes a license issued under AS 08.54.350, as enacted by sec. 3 of

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this Act.

(d) A person who satisfies (a)(1) - (3) of this section, holds a business license as a big game outfitter, and pays a license fee set by the Department of Commerce and Economic Development and the commercial use permit fee is entitled to receive an interim outfitter license pending a final determination of a person's eligibility for a guide-outfitter license under (a) of this section. The right to receive and hold an interim outfitter license terminates on the earlier of

(1) the date of issuance of a guide-outfitter license to the person;

(2) a final determination under (a) of this section that the person is not eligible to receive a guide-outfitter license; or

(3) two years from the effective date of this Act.

(e) A person who holds an interim outfitter license, notwithstanding contrary provisions of AS 08.54, may provide transportation to, from, and in the field to big game hunters and supply other services in the field to big game hunters. The person may not provide guiding services.

(f) A person who holds an interim outfitter license shall promptly report to the Department of Public Safety, division of fish and wildlife protection, but not later than 30 days after the violation, a violation of a state fish, game, or big game commercial services statute or regulation that the person reasonably believes was committed by a client or employee of the person.

(g) A person who holds an interim outfitter license may accompany or be present with a hunter at a base camp, cabin, or permanent lodge in connection with a big game hunt for compensation only if the person has furnished an affidavit to the Department of Public Safety, division of fish and wildlife protection, at least two weeks in advance. The person may not register more than two base camps. The affidavit must be signed by the

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person and must provide the following information:

- (1) the specific location of the camp, cabin, or lodge;
- (2) the number of big game hunters in each party that will use the camp, cabin, or lodge; and
- (3) the kinds or species of big game that will be hunted.

(h) A person who furnishes an affidavit under (g) of this section shall notify the Department of Public Safety of the amount and kinds or species of big game taken by each hunter who uses the base camp, cabin, or permanent lodge to which the affidavit relates. Notice shall be given within 30 days after the game is taken. The Department of Public Safety shall provide the information received under this subsection to the Department of Fish and Game.

(i) A person who

(1) violates (f) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both; or

(2) falsifies an affidavit under (g) of this section is guilty of unsworn falsification under AS 11.56.210.

(j) A person who holds an interim outfitter license shall

(1) carry, while engaged in providing outfitting services, comprehensive general liability insurance of at least \$300,000 per occurrence or at least \$500,000 per annual aggregate or post a financial bond in those amounts; and

(2) if the person personally pilots aircraft to transport clients during the provision of outfitting services, have a commercial pilot's rating or a minimum of 250 hours of flying time in the state.

(k) During the provision of outfitting services, an aircraft used by a person who holds an interim outfitter license or that person's employee to transport clients of the outfitter must carry aviation passenger

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liability insurance of at least \$100,000 per seat or must be subject to a financial bond in that amount.

(1) In this section,

(1) "base camp" does not include spike camp, fly camp, or overnight camp;

(2) "big game" and "field" have the meaning given in AS 08.54.-590, as enacted by sec. 3 of this Act;

(3) "guiding" means accompanying or being present with a big game hunter in the field, personally or through an assistant, for compensation or with the intent or an agreement to receive compensation; "guiding" does not include

(A) providing transportation to or from the field, if the person providing transportation and the persons being transported do not stalk, pursue, track, kill, or attempt to kill big game during the transportation; or

(B) selling, leasing, or renting goods, if the transaction does not take place in the field;

(4) "outfitting" means the provision of services, other than guiding services, to big game hunters in the field for compensation.

* Sec. 15. Section 14(d) of this Act is repealed and reenacted to read:

(d) A person who satisfies (a)(1) - (3), (j), and (k) of this section, holds a business license as a big game outfitter, and pays a license fee set by the Department of Commerce and Economic Development and the commercial use permit fee is entitled to receive an interim outfitter license pending a final determination of a person's eligibility for a guide-outfitter license under (a) of this section. The right to receive and hold an interim outfitter license terminates on the earlier of

(1) the date of issuance of a guide-outfitter license to

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the person;

(2) a final determination under (a) of this section that the person is not eligible to receive a guide-outfitter license; or

(3) two years from the effective date of this Act.

* Sec. 16. INITIAL APPOINTMENTS TO BIG GAME COMMERCIAL SERVICES BOARD. Notwithstanding AS 08.54.300(b), as enacted by sec. 3 of this Act, the initial appointments to the Big Game Commercial Services Board under

(1) AS 08.54.300(b)(1) may also be filled by the appointment of a master guide or registered guide licensed under former AS 08.54.010 - 08.54.240 or a person who lawfully registered a camp, cabin, or lodge under AS 16.05.787 during 1988 and legally engaged in the business of big game outfitting in 1986, 1987, and 1988;

(2) AS 08.54.300(b)(2) may also be filled by the appointment of a person who engaged in the business of providing transportation to big game hunters in 1986, 1987, and 1988.

* Sec. 17. TRANSITION. Litigation, hearings, investigations, and other proceedings pending under a law amended or repealed by this Act continue in effect and may be continued and completed notwithstanding an amendment or repeal provided for in this Act. Licenses, orders, and regulations issued or adopted under authority of a law amended or repealed by this Act remain in effect for the term issued or until revoked, vacated, or otherwise modified under the provisions of this Act.

* Sec. 18. AS 08.54.010, 08.54.030, 08.54.035, 08.54.040, 08.54.045, 08.54.050, 08.54.060, 08.54.070, 08.54.100, 08.54.110, 08.54.120, 08.54.130, 08.54.140, 08.54.141, 08.54.150, 08.54.160, 08.54.170, 08.54.180, 08.54.186, 08.54.190, 08.54.195, 08.54.200, 08.54.210, 08.54.220, 08.54.230, 08.54.240; AS 16.05.370(b), 16.05.370(c), 16.05.407(e), 16.05.786, and 16.05.787 are repealed.

* Sec. 19. Sections 4, 6, 12, and 13, ch. 160, SLA 1988 are repealed.

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* Sec. 20. AS 08.54.310(b)(1), as enacted by sec. 3 of this Act, takes effect on the earlier of

(1) January 15, 1990; or

(2) the date of submission to the legislature of a recommendation by the Task Force on Guiding and Game for a resource-based management system for allocating access to big game hunting opportunities among guide-outfitters licensed under AS 08.54.

* Sec. 21. AS 08.54.395, as enacted by sec. 3 of this Act, and secs. 14(j), 14(k), and 15 of this Act take effect July 15, 1989.

* Sec. 22. Except for AS 08.54.310(b)(1) and 08.54.395, as enacted by sec. 3 of this Act, and secs. 14(j), 14(k), and 15 of this Act, this Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act providing for retroactive
extension of the termination date of the Task...
Sponsor: House Resources
Requestor: House Resources

Affect Agency Legislative Affairs Agency
BRU: Legislative Council
Components Council & Subcommittees

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services	5.1	10.1	0	0	0	0
Travel	10.5	10.5	0	0	0	0
Contractual	3.0	3.0	0	0	0	0
Supplies	0	0	0	0	0	0
Equipment	0	0	0	0	0	0
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	*18.6	23.6	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	*18.6	23.6	0	0	0	0
Federal Fund						
Other						
TOTAL	*18.6	23.6	0	0	0	0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	1	1	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

* FY 89 funding will be requested in the supplemental bill.

The Task Force on Guiding and Game was established under the jurisdiction of the Legislative Council Committee. This bill version will add 2 members to the Task Force and extend the termination date of the Task Force to Jan. 15, 1990. The Task Force will be composed of 15 members, 3 from the Executive Branch, 2 legislators from the Legislative Branch and 10 public members.

Prepared By: Pamela Stoops, Director
Division: Administrative Services

Phone: 465-3850
Date: 3/8/89

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency

Date: 3/8/89

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT & BUDGET
AGENCY (IES)

CONTINUATION OF FISCAL ANALYSIS

It is assumed that travel funds for this task force will be paid as follows:

3 Executive Branch members - absorbed within existing executive branch departments.

2 Legislative Branch members - absorbed within existing Legislative Operating Budget or Session Expenses.

10 Public members - paid by Legislative Council funds as projected below.

Projected expenses for the Task Force on Guiding and Game are as follows:

	FY 89		FY 90
Personal Services - Staff for the Task Force:			
Secretary, Range 14, Step A--3 months 1/2 time	5,100	full-time	10,100
Travel- 2 trips @ 366 x 10 members	7,320		7,320
2 days per diem (\$80)			
2 trips x 10 members	3,200		3,200
Contractual- Advertising-Public Notices	3,000		3,000
	18,600		23,620

Supplies- Will come from existing Legislative Council and Legislative Operating supplies.

Equipment- Will come from existing Legislative Council and Legislative Operating equipment.

FY 89 costs are for one-half year.

FY 90 costs are for one-half year.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 485-3800

May 10, 1989

The Honorable Steve Cowper
Governor
State of Alaska
P.O. Box A
Juneau, Alaska 99811

Re: SCS CSHB 112(Rls) am S
-- big game guides
Our file: 883-89-0032

Dear Governor Cowper:

At Shari Kochman's request on your behalf, we have reviewed SCS CSHB 112(Rls) am S, which deals with the regulation of guide-outfitting, transportation, and other commercial services provided to big game hunters. Although the bill raises a couple of constitutional and interpretation questions, we do not believe that they require a veto. A quick synopsis of the bill's highlights follows.

Sections 1 -- 3 of this bill replace the current Guide Board with a new entity, the Big Game Commercial Services Board. The new, nine-member board's activities will be administered by the Department of Commerce and Economic Development; the board will license and regulate the providers of commercial services to big game hunters. Proposed AS 08.54.300(b)(4), providing for one member of this board to be chosen by the Board of Game from that board's own membership, raises a question of validity under the governor's broad grant of executive-branch appointment authority in art. III of the Alaska Constitution. Proposed AS 08.54.030(b)(5), requiring one member "who represents Native landholders," does not make clear whether that member must be a Native, a Native landholder, or just someone who represents their interests, such as an attorney.

In particular, the board will examine license applicants to test to determine whether they are qualified to provide guide-outfitted hunts in state game management units that

The Honorable Steve Cowper, Governor
Our file: 883-89-0032

May 10, 1989
Page 2

they initially select or for which they later wish to be certified. The board will establish qualifications for other classes and types of guide-outfitters and will issue two new kinds of licenses, i.e., transporters licenses and commercial use permits.

The new board may by regulation establish, with the prior approval of the commissioner of fish and game, a resource-based management system for allocating access to big game hunting opportunities among licensed guide-outfitters. This authority, however, will not be effective until the earlier of July 15, 1990, or the submission to the legislature of a recommendation for this system by the Task Force on Guiding and Big Game that was extended by ch. 10, SLA 1989 (derived from HCS CSSB 139(Res)).

Proposed AS 08.54.350, 08.54.360, 08.54.380, and 08.54.390 establish the prerequisites for various types of guide licenses. Beside different requirements for licensing, class-A and assistant guide-outfitters are distinguished by the guiding activities they may pursue. Although both must be supervised by the employing guide-outfitter, the class-A assistant will also be authorized to take charge of and guide from a camp even if his employer is not present.

Two licensing prerequisites raise a constitutional issue. Proposed AS 08.54.360(a)(2) and 08.54.380(a)(2)(A) require state residency as a condition for receiving a marine mammal guide-outfitter license or a class-A assistant guide-outfitter license respectively. In 1986, we concluded that the requirement of having an Alaska resident hunting license in order to act as a guide was a violation of the privileges and immunities clause of art. IV, sec. 2, cl. 1, of the United States Constitution. 1986 Op. Att'y Gen. No. 2 (Sept. 29; 661-87-0063). The rationale developed in that opinion applies here. As in the earlier situation, we believe that these conditions can be severed from the remaining requirements that are valid. AS 01.10.030; Lynden Transport, Inc. v. State, 532 P.2d 700, 711 (Alaska 1975).

Proposed AS 08.54.395 sets minimum liability insurance requirements for guide-outfitters and sets pilot licensing, and passenger liability insurance requirements for licensees who plan to transport clients by aircraft. Section 21 of the bill gives

The Honorable Steve Cowper, Governor
Our file: 883-89-0032

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these requirements a delayed effective date of July 15, 1989. (Under sec. 22, most of the rest of the Act is to take effect immediately, under AS 01.10.070(c).)

Two types of commercial service providers who were previously unregulated by the state will be required to obtain a license or permit. Proposed AS 08.54.400 establishes conditions for issuing and renewing a transporters license for persons who carry big game hunters in aircraft or boats. Proposed AS 08.54.460 requires all other persons who provide commercial services to big game hunters to obtain a permit and pay an annual fee. This group includes lodge owners and persons who rent equipment and provide photographic services, but it does not include hunting clubs, which are specifically prohibited from providing commercial services for compensation. Proposed AS 08.54.470 will require all other licensees to obtain the commercial use permit and pay the fee. These fees will be separately accounted for and may be appropriated by the legislature to the Department of Fish and Game and the Department of Public Safety (i.e., this is the standard "program receipts" language).

Proposed AS 08.54.500 -- 08.54.540 deal with procedures for disciplining guide-outfitters, transporters, and commercial use permittees. They also describe unlawful acts by these persons, and establish penalties for violations. These provisions authorize the enjoining of certain unlawful acts, and establish a guide-outfitter's vicarious liability for violations committed by class-A and assistant guide-outfitters employed by the guide-outfitters.

Section 5 adds mountain goats and deletes polar bears from the list of species for which nonresident hunters must be accompanied by either a class of guide-outfitter or by a resident Alaska relative.

Sections 7 and 9 require accompanied nonresident and nonresident alien hunters to provide proof of authority to use land where their hunt will occur.

Section 14 allows for licensing as guide-outfitters certain persons who have provided unregulated outfitting services during the past three years and who meet other qualifications, including passing the guide-outfitter exam within two years. It also establishes an appeal process for applicants who have been denied a license under this scheme. For the next two years or

The Honorable Steve Cowper, Governor
Our file: 883-89-0032

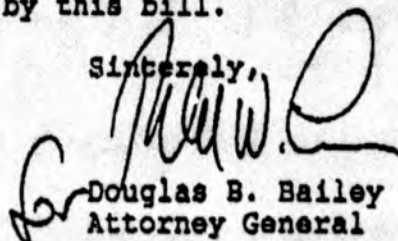
May 10, 1989
Page 4

until the person receives or is denied a guide-outfitter license, a former outfitter may hold an "interim outfitter license." This license will enable the outfitter to provide transportation and services other than guiding if the person registers up to two base camps with the Department of Public Safety and reports the game taken by clients. After July 15, 1989, an applicant for an interim outfitter license must also satisfy certain liability insurance and aircraft pilot licensing requirements. Sections 15 and 21 of the bill.

A "letter of intent" offered by Representative Navarre (1989 House Jour., p. 917-18) was adopted by the House (1989 House Jour., p. 919). A Senate Finance Committee letter (1989 Senate Jour., p. 1307) was adopted by the Senate (1989 Senate Jour., p. 1422). Both versions declared an "intent" that the new board consider the implications of the Alaska Supreme Court's decision in Owaichek v. State, Guide Licensing and Control Board, 763 P.2d 488 (Alaska 1988) when establishing the management system authorized in proposed AS 08.54.310(b)(1) (sec. 3 of the bill). And both versions of the letter set out several features that the respective houses of the legislature believe should be in this system. Such letters can provide helpful guidance, but they are not binding. South Central Health Planning and Development, Inc. v. Commissioner of Administration, 628 P.2d 551, 553 (Alaska 1981).

Other than the constitutional and other issues that we have noted above, such as the residency requirements for licensing and the board-member appointment system, we spot no legal problems presented by this bill.

Sincerely,



Douglas B. Bailey
Attorney General

DDB:SKW:jf

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

RECEIVED

MEMORANDUM

June 27, 1989

JUN 28 1989

JAN FAIKS
SENATE OFFICE

SUBJECT: Sectional Summary of SCS CSHB 112 (Rules) am S; An Act relating to big game hunting and to the regulation of big game and marine mammal guide-outfitting, transportation, and other commercial services for big game hunters, creating the Big Game Commercial Services Board; relating to presumptive sentences for violation of certain big game commercial services statutes; and providing for an effective date.

TO: Senator Jan Faiks

FROM: George Utermohle *GU*
Legislative Counsel

The following is a sectional summary of SCS CSHB 112 (Rules) am S, as requested by Mark Riehle of your staff.

Please note that a summary of a bill should not be considered an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill repeals and reenacts AS 08.01.010(10) to provide that the Big Game Commercial Services Board is subject to and benefits from centralized licensing procedures under AS 08.01

Section 2 of the bill repeals and reenacts AS 08.03.010(c)-(20) to provide that the Big Game Commercial Services Board terminates on June 30, 1993 under the "sunset" provisions of AS 08.03.

Section 3 of the bill amends AS 08.54 by adding new sections creating the Big Game Commercial Services Board and providing for the regulation of guide-outfitting, transportation, and other commercial services for big game hunters.

ARTICLE 4. BIG GAME COMMERCIAL SERVICES BOARD.

Sec. 08.54.300 establishes the Big Game Commercial Services Board (Board) in the Department of Commerce and Economic Development. The Board consists of nine members. Two members of the board are licensed guide-outfitters. Two members of the Board are licensed transporters. One member of the Board is a commercial use permit holder who is not a guide-outfitter or transporter. One member of the Board is a member of the Board of Game who is chosen by the Board of Game. One member is a person who represents Native landholders. Two members of the Board are public members. The guide-outfitter, transporter, commercial use permit holder, and public members of the Board, as well as the representative of Native landholders, are appointed by the governor.

Sec. 08.54.310 sets out the duties and powers of the Board. The Board shall prepare, grade, and administer examinations for guide-outfitters licenses and for game management unit certifications; determine qualifications for class-A assistant guide-outfitter, marine mammal guide-outfitter, and assistant guide-outfitter licenses; establish performance standards for providers of big game commercial services and regulate the activities of these providers; publish an annual list of big game commercial services providers; prohibit big game commercial services that are unsportsmanlike, unethical, unsafe, etc; revoke, suspend, or deny renewal of licenses and permits; authorize issuance of transporter licenses and commercial use permits; meet at least twice each year; and provide for registration of base camps and other facilities.

The Board may establish a management system for guide-outfitters and establish standards of supervision that a guide-outfitter must exercise over class-A assistant guide-outfitters and assistant guide-outfitters.

Sec. 08.54.320 provides that the Board shall adopt regulations as required by this chapter and as necessary for administration of this chapter.

Sec. 08.54.330 provides that the Department of Fish and Game, Department of Natural Resources, and Department of Public Safety shall provide the Board with information necessary to regulate providers of big game commercial services.

ARTICLE 5. LICENSING.

Sec. 08.54.350 sets out the minimum qualifications necessary for a guide-outfitter license. A person who currently holds a master guide license may receive a master guide-outfitter license, but is in all other respects treated as a guide-outfitter. A guide-outfitter may contract to guide-outfit hunts for big game.

Sec. 08.54.360 sets out the minimum qualifications necessary for a marine mammal guide-outfitter license. A marine mammal guide-outfitter may contract to guide-outfit hunts for marine mammals.

Sec. 08.54.370 sets out the requirements for renewal of guide-outfitter and marine mammal guide-outfitter licenses. The department may not renew a license unless these requirements are satisfied.

Sec. 08.54.380 sets out the minimum qualifications necessary for a class-A assistant guide-outfitter license. A class-A assistant guide-outfitter may not contract to guide-outfit hunts. A class-A assistant guide-outfitter must be under the supervision of a guide-outfitter but may take charge of a camp in the absence of a guide-outfitter.

Sec. 08.54.390 sets out the minimum qualifications necessary for an assistant guide-outfitter license. An assistant guide-outfitter may not contract to guide-outfit hunts and must be employed by a guide-outfitter and supervised by a guide-outfitter or class-A assistant guide-outfitter while in the field on a hunt.

Sec. 08.54.395 sets out additional requirements for guide-outfitters. This section takes effect July 15, 1989.

Guide-outfitters and marine mammal guide-outfitters must carry a minimum amount of comprehensive general liability insurance or post a financial bond.

Any guide-outfitter, marine mammal guide-outfitter, class-A assistant guide-outfitter, or assistant guide-outfitter who pilots an aircraft to transport clients shall have a commercial pilot's rating or a minimum of 250 hours of flying time in the state.

All aircraft that transport clients of guide-outfitters during the provision of big game commercial hunting services must carry a minimum amount of aviation passenger liability insurance or be subject to a financial bond in the required amount.

Sec. 08.54.400 sets out the requirements for obtaining and renewing a transporter license.

A transporter may provide transportation services to big game hunters. A transporter may also provide accommodations to big game hunters in the field in certain situations. A transporter must place a decal provided by the department on each piece of transportation equipment that the transporter uses in providing transportation services to big game hunters.

Sec. 08.54.410 provides for an appeal to the commissioner of commerce and economic development if an applicant for any class of guide-outfitter license or transporter license is denied a license by the Board. Specific criteria that an appellant must satisfy in order to file an appeal under this section are set out.

Sec. 08.54.420 provides that guide-outfitter, marine mammal guide-outfitter, and transporter licenses are renewed annually.

Sec. 08.54.430 provides for examinations for any class of guide-outfitter license that may be required under this chapter. The Board shall administer qualification examinations at least twice a year and at least once each two years shall administer the examinations at a location outside of Anchorage. The examinations must be administered at least 90 days apart.

The Board shall regularly provide information on examinations and qualifications for all classes of guide-outfitter licenses to residents of rural areas.

Sec. 08.54.440 provides for renewal of all classes of guide-outfitter licenses after the license has lapsed. If any class of guide-outfitter license has lapsed for two consecutive years, the applicant must satisfy the requirements for initial issuance of the license.

A guide-outfitter who fails to renew a license does not have to repeat the three year apprenticeship as a class-A assistant guide-outfitter or an assistance guide-outfitter unless the guide-outfitter license has been lapsed for three years or more.

Sec. 08.54.450 provides that the department shall set fees for examinations and licenses required under this chapter. A license fee for any class of guide-outfitter license is in addition to the fee paid for a hunting license.

Sec. 08.54.460 requires that a person, other than a licensed guide-outfitter, marine mammal guide-outfitter, or transporter, who provides other big game commercial services for compensation register with the Board, obtain a commercial use permit, and pay the commercial use permit fee. Examples of "other big game commercial services" are listed.

A commercial use permit may not be issued to a hunting club. A hunting club may not provide other big game commercial services for compensation.

Sec. 08.54.470 requires guide-outfitters, marine mammal guide-outfitters, and transporters to obtain an annual commercial use permit and pay the commercial use permit fee.

The department, in consultation with the Board, shall set the amount of the commercial use permit fee.

A guide-outfitter, marine mammal guide-outfitter, or transporter shall pay the commercial use permit fee with the application for issuance or renewal of their license.

The commissioner of administration shall separately account for the fees received for commercial use permits. The legislature may use the money received for commercial use permits to make appropriations to the Department of Fish and Game and the Department of Public Safety for game management and enforcement of game laws.

ARTICLE 6. PENALTIES.

Sec. 08.54.500 sets out the procedures for discipline of a person who holds any class of guide-outfitter license.

The Board may hold a disciplinary hearing upon receiving a written complaint about the guide-outfitter licensee. The

Board shall hold a disciplinary hearing upon receiving three written complaints from members of three separate hunting parties about a licensee's activities or a written complaint about a licensee's conduct in a life-threatening situation or if the licensee is convicted of certain state or federal laws.

The Board may revoke, suspend, or deny renewal of any class of guide-outfitter license after a hearing if the Board finds that the licensee engaged in certain proscribed activities or violated certain state or federal laws.

The Board shall revoke any class of guide-outfitter license after a hearing if the Board finds that the licensee is not qualified for the license held, is incompetent, or has been convicted of certain state or federal laws during the preceding five years.

The Board shall immediately suspend any class of guide-outfitter license if a certified copy of a judgment of conviction of a licensee for certain state or federal crimes is filed with the Board.

Sec. 08.54.505 provides for the discipline of transporters and commercial use permittees.

The Board may hold a disciplinary hearing regarding the activities of a transporter or commercial use permittee upon receipt of a written complaint about the transporter or commercial use permittee. The Board shall hold a disciplinary hearing upon receiving three written complaints from members of three separate hunting parties about the transporter's or permittee's activities or if the transporter or permittee is convicted of certain state or federal laws.

The Board may revoke, suspend, or deny renewal of a transporter license or commercial use permit after a hearing if the Board finds that the licensee or permittee engaged in certain proscribed activities or violated certain state or federal laws.

The Board shall revoke a transporter license or commercial use permit after a hearing if the Board finds that the licensee or permittee is not qualified for the license or permit or has been convicted of certain state or federal laws during the preceding five years.

The Board shall immediately suspend a transporter license or commercial use permit, if a certified copy of a judgment of conviction of licensee or permittee for certain state or federal crimes is filed with the Board.

Sec. 08.54.510 sets out general provisions applicable to disciplinary proceedings.

A person who is disciplined under AS 08.54.500 or 08.54.505 may not engage or be employed in the business of providing big game commercial services during a period of license or permit revocation or other disciplinary action. A person who is licensed under this chapter or who holds a commercial use permit may not employ a person whose license or permit under this chapter is suspended or revoked.

A license or permit that has been revoked must be surrendered immediately to the department.

A certified copy of a judgment of conviction is conclusive evidence of the commission of the offense in a disciplinary proceeding of the Board, regardless of whether the conviction resulted from a plea of nolo contendere or the conviction is under appeal, unless the conviction is overturned on appeal.

The Board shall notify a complainant of the result of the Board's hearing within 30 days after the hearing. The Board must also notify a complainant of its reasons for not taking disciplinary action.

Sec. 08.54.520 sets out unlawful acts involving the provision of big game commercial services and establishes the penalties for those acts.

A person may be punished by a fine of not more than \$30,000 or imprisonment for not more than one year or both for

- (1) failing to report violations of certain laws by a client or employee if the person holds a license or permit issued under this chapter;
- (2) committing, aiding in the commission of, or allowing a violation of certain fish and game laws if the person holds a license or permit issued under this chapter;

- (3) providing big game commercial services without holding a commercial use permit;
- (4) obstructing the lawful hunting activities of hunter who is not a client of the person, if the person holds a license or permit under this chapter;
- (5) providing guide-outfitting services except while employed and supervised by a guide-outfitter, if the person is a class-A assistant guide-outfitter or assistant guide-outfitter;
- (6) entering or remaining on state, federal, or private land without prior authorization, if the person holds any class of guide-outfitter license.

A person may be punished by a fine of not more than \$30,000 or imprisonment for not more than one year or both for a first offense or by a fine of not more than \$50,000 or imprisonment for not more than five years for a second or subsequent offense for

- (1) providing guide-outfitter services without having an appropriate class of guide-outfitter license and hunting license in actual possession;
- (2) advertising or to representing to be a guide-outfitter without holding a guide-outfitter or marine mammal guide-outfitter license;
- (3) providing transportation services to a big game hunter without holding a transporter license;
- (4) contracting to lead a hunt, if the person is a class-A assistant guide-outfitter or assistant guide-outfitter.

A person who provides big game commercial services while the person's license to provide those services is suspended or revoked is punishable by a fine of not more than \$50,000 or by imprisonment for not more than five years.

A person who is convicted of an act set out in this section may also be subject to revocation of the person's license to provide guide-outfitter and transportation services for not more than five years and forfeiture of guns, boats, aircraft, and other equipment used in committing the act.

If a person is convicted of an act set out in this section, a court may not suspend imposition or execution of sentence and the person may not be granted probation until the minimum sentence is served.

Sec. 08.54.530 provides that the Board may obtain an injunction to stop a person from violating certain provisions of this chapter.

Sec. 08.54.540 provides that a guide-outfitter is subject to discipline by the Board under AS 08.54.500 for violations of certain state and federal laws committed during the course of employment by a class-A assistant guide-outfitter or assistant guide who is employed by the guide-outfitter.

ARTICLE 7. GENERAL PROVISIONS.

Sec. 08.54.550 provides for the collection of certain information and reports from guide-outfitters, marine mammal guides, and transporters. This information is confidential except that aggregated information may be released in reports by the department.

Sec. 08.54.590 established definitions for "base camp", "big game", "big game commercial hunting services", "big game commercial service", "board", "compensation", "department", "field", "game management unit", "guide-outfit", "hunting club", "spike camp", "transportation services", and "unethical activity".

Section 4 of the bill amends AS 12.55.125(e), by establishing a one year presumptive sentence for a first felony conviction if the offender is convicted of AS 08.54.520(a)(7) - (10).

Section 5 of the bill amends AS 16.05.407(a) by adding mountain goat to and deleting polar bear from the list of species for which a nonresident hunter is required to utilize the services of a guide-outfitter and by making certain technical changes that are necessary to conform with the remainder of the bill.

Section 6 of the bill amends AS 16.05.407(d) by making a technical change that is necessary to conform to the repeal of AS 16.05.407(e).

Section 7 of the bill amends AS 16.05.407 by adding a new subsection to require that nonresident hunters provide proof of prior authorization to use the land where the hunt will occur, when the nonresident hunter applies for a hunt permit for a big game species listed in AS 16.05.407(a). (See Section 5 of the bill.)

Section 8 of the bill amends AS 16.05.408(a) by making technical changes necessary to conform with Section 3 of the bill.

Section 9 of the bill amends AS 16.05.408 by adding a new subsection to require that nonresident alien hunters provide proof of prior authorization to use the land where the hunt will occur, when the nonresident alien hunter applies for a hunt permit for a big game animal.

Section 10 of the bill amends AS 39.50.200(b)(48) in order that the members of the Big Game Commercial Services Board are subject to the conflict of interest law.

Section 11 of the bill amends AS 41.23.420(d) by making a technical change that is necessary to conform to section 3 of the bill.

Section 12 of the bill amends AS 44.62.330(a)(35) to provide that the Big Game Commercial Services Board is subject to certain provisions of the Administrative Procedure Act.

Section 13 of the bill provides for the transition from the existing classes of guide licenses to the new classes of guide-outfitter licenses.

All classes of guide licenses that are in effect on the effective date of this bill continue to be valid for the period for which the licenses were originally issued.

Persons who currently hold master guide licenses shall be issued master guide-outfitter licenses. Persons who currently hold registered guide licenses shall be issued guide-outfitter licenses. Persons who currently hold class-A assistant guide licenses shall be issued class-A assistant guide-outfitter licenses. Persons who currently hold assistant guide licenses shall receive an assistant guide-outfitter license. The new licenses shall be issued to the current licensee at the time of the next license renewal following the effective date of this bill, if the person is

in good standing at the time of issuance and pays the appropriate fees.

If the Department of Commerce and Economic Development can issue new licenses sooner than is required by this section, the department may do so without charge to the licensee.

Section 14 of this bill provides that natural persons who have provided big game outfitting services in the past may qualify for a guide-outfitter license.

In order to qualify for a guide-outfitter license under this section, the person must have registered a camp, cabin, or lodge under AS 16.05.787 during 1988, engaged in the business of big game outfitting in 1986, 1987, and 1988, passed the guide-outfitter examination within two years from the effective date of this bill, and satisfied other requirements.

A person who is denied a guide-outfitter license under this section by the Big Game Commercial Services Board may under certain circumstances appeal the action of the Board to the commissioner of commerce and economic development.

A person who provides sufficient proof of past history as a big game outfitter may receive an interim outfitter license that is valid for a period not to exceed two years from the effective date of this bill.

A person who holds an interim outfitter license may provide transportation and other big game commercial services to hunters in the field, except that the person may not provide big game guiding services.

A person who holds an interim outfitter license must promptly report violations of certain laws committed by a client or employee of the person.

A person who holds an interim outfitter license must register base camps, cabins, and lodges that the person uses in providing big game outfitting services. The person must report the amount and kinds of big game taken by each hunter who uses the registered camp, cabin, or lodge.

A person who holds an interim outfitter license and who fails to report violations of certain laws by clients and employees is punishable by a fine of not more than \$2,000 or

imprisonment for up to one year or both. Falsification of an affidavit of registration for a base camp, cabin, or lodge constitutes the crime of unsworn falsification under AS 11.56.210.

A person who holds an interim outfitter license must carry a minimum amount of comprehensive general liability insurance or post a financial bond. If a person who holds an interim outfitter license pilots an aircraft to transport clients, then the person must have a commercial pilot's rating or 250 hours of flying time in the state.

An aircraft used to carry clients of an interim outfitter during the provision of outfitting services must carry a minimum amount of aviation passenger liability insurance or be subject to a financial bond.

The terms "base camp", "big game", "field", "guiding", and "outfitting" are defined.

Section 15 of the bill amends Section 14(d) of the bill in order to require that, after July 15, 1989, applicants for an interim outfitters license comply with the insurance and flight training or experience requirements set out in Section 14(j) and (k) of the bill.

Section 16 of the bill allows certain extraordinary appointments to fill the initial vacancies on the Big Game Commercial Services Board.

The guide-outfitter seats on the Board may initially be filled by persons who are either a master guide or registered guide under current law or who registered a camp, cabin, or lodge under AS 16.05.787 during 1988 and engaged in the business of big game outfitting in 1986, 1987, and 1988.

The transporter seats on the Board may initially be filled by persons who engaged in the business of providing transportation to big game hunters in 1986, 1987, and 1988.

Section 17 of the bill provides for the continuance of legal proceedings, hearings, investigations, and regulations during the transition from the current guide statutes (AS 08.54.010 - 08.54.240) to the guide-outfitter statutes contained in this bill.

Section 18 of the bill provides for the repeal of the current guide statutes (AS 08.54.010 - 08.54.240); the requirement for big game tag harvest reports and big game transporter reports (AS 16.05.370(b) and (c)); the requirement that nonresident hunters provide information on big game hunting services used in taking moose and caribou (AS 16.05.-407(e)); provisions relating to the duty of big game transporters to report violations of certain state law (AS 16.05.-786); and the requirement for registration of big game hunting base camps, cabins, and lodges (AS 16.05.787).

Section 19 of the bill provides for the repeal of certain amendments to AS 08.54 and AS 16.05 that are scheduled to take effect on July 1, 1989.

Section 20 of the bill provides that the power of the Big Game Commercial Services Board to develop a resource based management system for allocating access to big game hunting opportunities among guide-outfitters under AS 08.54.310(b)(1) does not take effect until the earlier of January 15, 1990 or the date of submission of a report on this subject by the Task Force on Guiding and Game.

Section 21 of the bill provides that those provisions of the bill relating to insurance and flight training or experience requirements for all classes of guides-outfitters and interim outfitters take effect July 15, 1989.

Section 22 of the bill provides that the remainder of the bill takes effect immediately after it is signed by the governor.

Except for those provisions of the bill that are subject to secs. 20 and 21 of the bill, the bill took effect May 12, 1989.

GU:mi
wkmi4/039

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

RECEIVED

POUCH Y. STATE CAPITOL
NOV 13 1989
JUNEAU, ALASKA 99811
907.465.3800
JAN FAIKS
SENATE OFFICE

MEMORANDUM

November 8, 1989

SUBJECT: Legislation implementing the proposals of
the Task on Guiding and Game
(Work Order No. 6-1718)

TO: Steven Pradell
Birch, Horton, Bittner, and Cherot

FROM: George Utermohle *GU*
Legislative Counsel

Yesterday morning I received your fax of material relating to the legislation that will be proposed by the Task Force on Guiding and Game. I should begin drafting the bill today. Considerable work will be involved in translating the proposal into bill form. It is not possible to make a firm commitment as to when a draft will be available for your review, but I would hope to have something for you by Friday, November 17.

Please let me know if the Task Force decides to change parts of the proposal at its meeting today.

I am sure that I will have to consult with you on a number of issues as the bill is drafted. Please feel free to contact me at any time.

GU:lmb
L3/019

cc: Senator Faiks

Mark F.I.

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

COPY

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

November 17, 1989

SUBJECT: Legislation implementing the proposals of the
Task Force on Guiding and Game
(Work Order No. 6-1718)

TO: Steven Pradell
Birch, Horton, Bittner and Cherot

FROM: George Utermohle
Legislative Counsel

This memorandum accompanies the first draft of a bill to implement the proposals of the Task Force on Guiding and Game.

The bill includes those items discussed in your memorandum to the Task Force and in the revisions of the memorandum by the Task Force. The bill is not complete. The changes to existing law that are necessary in order to accommodate the new law added by the bill have not been included because at this early stage it is not clear what those changes will be.

In some parts of the bill I have attempted to flesh out the proposals of the Task Force. I tried not to exceed the scope of the proposals of the Task Force.

This is only a first draft of the bill. Changes are expected. It is still possible to significantly change the bill and the concepts underlying the bill, if the changes are made in the near future.

For the lack of another term to describe the areas being established by the bill, I have called them "guide-outfitter use areas."

The bill does not address the interaction between the rights given to guide-outfitters under a use area licenses and those of sport and subsistence hunters. It may be useful to mention that the rights of sport and subsistence hunters are not affected by the issuance of a use area license.

The bill is mostly silent on when the decision to issue a sole use area license or a joint use area license is to be made. The notice of offering of use areas must include a statement of whether the use area is available for sole or joint use, but that is the only reference to a decision being made as to which use is preferred in a use area. If it is important that this decision be made at a particular point in the application process, then the bill should address this issue and specify the criteria that the board should use in making the decision. However, it is not essential that the bill address this issue because the board can decide when to make the decision on sole and joint use areas, provided that the board is given authority to make the decision.

In order to obtain a guide-outfitter use area license, the applicant must have authorizations to use the land within the use area or obtain the authorizations soon after receiving the license. The bill presently requires that the successful applicant for a use area license obtain the necessary authorizations within 90 days after first receiving the license. The advantage of a fixed deadline for obtaining the necessary authorizations is that the final status of the license can be established sooner than under a system of unspecified and flexible deadlines. Conceivably the successful applicant may not be able to reach an quick agreement with land owners in the use area even though the applicant is earnestly seeking an agreement. Such a situation may justify an extension of time to obtain the authorizations, but in the meanwhile the use area may be closed to use by the successful applicant as well as all other guide-outfitters, some of whom may be able to obtain the necessary authorizations.

The use of a fixed deadline, as proposed in the bill, should not impose a hardship on the successful applicant. Under the criteria for ranking the applicants, the applicant should have some experience in or knowledge of the use area. Thus the applicant would have already obtained the necessary authorizations or at least be familiar with the land owners and know whether it is reasonable to expect to obtain the authorizations within the time permitted.

Should the applicant be required to obtain authorizations from all land owners in the use area? Should the applicant be disqualified because he or she can obtain land use authorizations for only half of the land in the use area?

What if the half of the land for which the guide-outfitter can get approval is the only land on which big game can be found? AS 08.54.520(a)(6) requires only that a guide-outfitter have an authorization to use state, federal, or private land if the guide-outfitter is knowingly present on such land. To require a guide-outfitter to obtain authorizations for land that the guide-outfitter will never use during the course of providing guide-outfitted hunts exceeds the requirements of AS 08.54.520(a)(6) and will make the application process for use area licenses unnecessarily rigorous.

Should the applicant obtain authorizations for small parcels of land in the use area, such as homesteads, Native allotments, mining claims? Should the applicant obtain approval from occupiers of land who hold less than fee or unvested rights, such as leaseholders, adverse possessors, and holders of contested Native allotments and unpatented mining claims? Will the applicant be responsible for searching land records to determine all of the landowners within the use area? Will the board be responsible for determining that the applicant has actually received authorizations from all landowners and other persons who have a right to control access to land in the use area?

Either the bill can set out the criteria to be used in determining whether the applicant has satisfied the requirement for obtaining prior land use authorizations or it can establish criteria that the board will apply in making that determination. Each guide-outfitter use area is potentially a unique area that is not susceptible to fixed, uniform criteria, so some discretion should be conferred on the board in order to achieve fair and reasonable resolutions of land use authorization issues in unusual situations.

In many instances under the former exclusive guiding areas, the guides made physical improvements to their areas in order to enhance their operations, such as tent camps and, conceivably even, cabins. Would the guide-outfitters who make such improvements be entitled to any additional credit for the improvements when they reapply for a license for that use area? Such credit would make it easier for a guide-outfitter to retain a license for the use area and thus would be counter to the goal of maximizing competition for use areas, however, it would encourage a guide-outfitter to make capital investments in his or her use area. Any competitive advantage that is created could be offset by giving

Steven Pradell
Page 4
November 17, 1989

additional credit in some manner to guide-outfitters who do not have use area licenses.

The bill allows guide-outfitter use area licenses to be transferred without going into any detail as to the conditions that may apply. May the transfer be temporary, in effect being a lease of the license? May the license be transferred for valuable consideration, i.e. sold? Can the transfer of the licenses be used to circumvent the application and ranking procedures for obtaining use area licenses?

The bill makes the Department of Commerce and Economic Development responsible for setting the use area license issuance fee and establishes conceptual guidelines under which the amount of the fee is established. As the bill is drafted, the department determines

- (1) whether there will be a flat fee for all use area licenses or a variable fee based on the availability of big game resources in each use area;
- (2) how the fee will be set in regards to recovering a fair return (economic rent) for the use of state wildlife resources;
- (3) whether the fee will be paid in a lump sum at the time of issuance of the use area license or annually during the term of the license.

The bill is silent on what powers the department will have to ensure collection of the license issuance fee or to revoke the license for nonpayment of the fee.

The bill relates only to guide-outfitters. There are no references to marine mammal guide-outfitters. AS 08.54 provides for the issuance of marine mammal guide-outfitters licences in anticipation that the state will at some time in the future receive authority to manage marine mammals. Should the board have the authority to establish marine mammal guide-outfitter use areas in the event that marine mammal hunting becomes possible?

Please contact me at (907) 465-2450, if you need me to elaborate on some part of the bill or on my foregoing comments or if I can provide further assistance.

GU:lmb:mi
L8/048
~~cc: Senator Faiks~~

Enclosure

AKI

AKHIOK KAGUYAK, INC.

December 8, 1989

Honorable Jan Faiks, Chairman
Legislative Task Force on Guiding and Game
3111 C Street, Suite 525
Anchorage, AK 99503

RE: Amendment to Guide-Outfitter Legislation

Dear Senator Faiks:

I am hereby submitting a proposed amendment to the November 17, 1989 Work Draft of the Senate Bill for "An Act relating to guide-outfitter use Areas." This amendment clarifies the types of landowner authorizations required to satisfy license criteria number 5. The proposed action would amend criteria (5) on page five, line 9, by removing the words "on land" after the word "hunts" and replacing the removed words with "from all significant landowners." The amended criteria (5) would read as follows:

(5) the applicant's history of compliance with AS 08.54.520(a) in regard to prior authorization to enter or remain on state, federal, or private land, and whether the applicant has obtained the prior authorizations necessary to guide-outfit hunts from all significant land owners within the use area or has demonstrated the ability to acquire the necessary prior authorizations;

This amendment clarifies the intent of criteria (5) by making it clear that a guide does not need authorization from all the owners of small inholdings to acquire his license or permit for a guide area but does need the authorization of all significant land owners within the guide area. By requiring such authorizations, trespass problems will be minimized; game will be taken from throughout the guide area resulting in balanced management; cooperation between the area's landowners and guides would be encouraged; land ownership boundaries, except small inholdings, would not be arbitrary barriers to the fair chase of the hunt; and significant private landowners would be encouraged to keep their lands open to guided hunting due to their involvement in the system.

I look forward to discussing this amendment with you and the Task Force on Monday, December 11, 1989.

Sincerely,

Ralph L Eluska

Ralph Eluska
President

DH/laf

WORK DRAFT

WORK DRAFT

WORK DRAFT

** Jan, amendment
Location of our ~~language~~ on new
draft of legislation*

see is certified by the board.

(b) The board shall evaluate and rank applications for guide-outfitter use area permits according to the following criteria:

(1) the applicant's experience in or knowledge of the use area;

(2) the economic viability of the applicant's proposed guide-outfitting operation in the use area;

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

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

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

(6) whether the applicant has obtained those prior authorizations to use state, federal, or private land that are reasonably necessary to conduct guide-outfitted hunts within the use area or has demonstrated the ability to acquire those authorizations;

(7) whether the applicant holds all permits and licenses necessary to guide-outfit hunts in the use area or has demonstrated the ability to obtain the necessary permits and licenses;

(8) whether the applicant holds any other use area permits; an applicant who does not hold a use area permit shall receive additional preference in ranking of the applicant's application;

(9) whether the applicant is seeking the first renewal of a use area permit for a specific use area and whether the applicant complied with the terms of the use area permit; an applicant for a first renewal of a use area permit for a specific use area who has complied with the terms of the use area permit shall receive

*from all significant
land owners.*

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

December 15, 1989

SUBJECT: Revision of legislation relating to guide-outfitter use area permits following the Task Force meetings of December 11 - 12, 1989 (Work Order No. 6-1718)

TO: Senator Jan Faiks
Chair, Task Force on Guiding and Game

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum accompanies the Task Force bill as revised subsequent to the December 11 - 12 meetings of the Task Force. The bill contains those changes made by the Task Force.

Page 1, lines 10 - 18: Section 1(a)(1) and (a)(2) as adopted by the Task Force have been combined in a single paragraph.

Page 1, lines 22 - 24: The language adopted by the Task Force was revised to maintain consistent form and style. The Task force should review the new language to ensure that the intended meaning has not been altered.

Page 4, lines 17 - 26: This subsection has been rewritten to require that in a joint use area all big game species are included under the use area permits granted for the use area when all of the use area permits are considered together.

Page 7, lines 5 - 12: The Task Force language relating to reevaluation of applications to determine the best qualified applicants has been rewritten to simplify the language.

The attached amendment is included for the consideration of the Task Force. The amendment moves those provisions relating to preferences for use area permits out of the subsection relating to qualifications to receive use area permits and into a new subsection. This amendment eliminates the confu-

Senator Jan Faiks
Page 2
December 15, 1989

sion of preferences with qualifications that exists in the present draft and addresses each issue separately.

GU:mi
wkmi5/056

Enclosure

A M E N D M E N T

TO: W.O. 6-1718A (dated 12/15/89)

Page 6, line 24:

Delete ";

Insert "."

Page 6, line 25 through page 7, line 4:

Delete all material

Insert a new subsection to read:

"(c) An applicant shall receive a preference for a use area permit if the applicant

(1) is determined to be qualified by the board; and

(2) does not hold a use area permit or is seeking the first renewal of a use area permit for a specific use area."

Reletter the following subsections accordingly.



Kelly Vrem Registered Guide & Outfitter

P.O. Box 670742 • Chugiak, AK 99567 • (907) 688-3736

Senator Jan Faiks
Members of the Guiding and
Outfitting Task Force

December 12 1989

Chairman Faiks,

First let me express my thanks for the time and effort you and the members of the Task Force have put forth during the last months. Yours is a thankless and underappreciated job. The complexities of the Guiding business would be enough without the problems generated by the "Supremes" you have a difficult job to balance the needs of the various players in the commercial hunting business. It has been my pleasure to observe that the Task Force has what I see to be a pretty clear understanding of nature of the business. I know guiding will never be the same as it was but I am confident that you are taking the proper amount of time and research to come as close to as you can to a fair settlement within the constraints placed on you.

At this time I would like to once again request that you would allow Guides to prequalify for several Game Management Units. I would propose that a Guide might only be permitted to operate in 3 GMU's at any one time. The Guide could notify the proper authorities of his or her intentions 60 to 90 days in advance of the guiding activities.

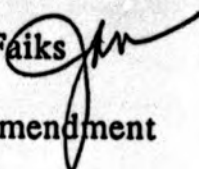
Under the present system There is 6 to 12 months of lag time to exchange GMU'S. This results in a large number of people clustered id some of the choice units myself included. I have my eye on many open areas that were unclaimed under the old area system. To prospect one of these now would expose me to risks of losing up to a year of time. I am ready and willing to prospect new areas if I can make the proper adjustments in a timely manner. I do not think this would result in stampedes of guides charging around the state. All the proven "Plums" are spoken for. This type of system would would allow the newly licensed guides to do some exploration and still retain the option of trying to obtain one of these "plum" areas.

Thanks again for your efforts.

Kelly Vrem

December 22, 1989

MEMORANDUM

TO: George Utermohle
FROM: Senator Jan Faiks 
SUBJECT: Guide Bill Amendment

Good

Please prepare an amendment for the Guide Task Force's consideration at its January 4th and 5th meeting which would allow guides to prequalify for several Game Management Units as described in the attached letter.

Because my Anchorage office is closed for the move to Juneau, I can be reached at my Anchorage home should you have any questions. That number is 346-1556.

Thank you.

Amendment #2

1-4

A M E N D M E N T

TO: 6-1718A (dated 12/15/89)

BY FAIKS

Page 1, line 6, after "permit":

Insert ", guide-outfitters,"

Page 10, after line 26:

Insert a new bill section to read:

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

Sec. 08.54.355. GAME MANAGEMENT UNIT CERTIFICATION. (a) The board shall certify guide-outfitters licensed under AS 08.54.350 to guide-outfit hunts within a game management unit. The board may not certify a guide-outfitter to guide-outfit hunts in more than three game management units at one time.

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

(c) The board shall allow a guide-outfitter to prequalify for certification for each game management unit in which the guide-outfitter is competent to guide-outfit hunts. The board shall allow a guide-outfitter to ~~readily~~ transfer a certification between game management units."

Renumber the following bill sections accordingly.

STATE OF ALASKA



LYMAN F. HOFFMAN
CO-CHAIRMAN
HOUSE FINANCE COMMITTEE

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3706

HOUSE OF REPRESENTATIVES

DISTRICT 25

AKIACHAK
AKIAK
ATMAUTLUAK
BETI IEL
CHEFORNAK
EEK
GOODNEWS BAY
KASIGLUK
KIPNUK
KONGIGANAK
KWETHLUK
KWIGILLINGOK
MEKORYUK
NAPAKIAK
NAPASKIAK
NEWTOK
NIGHTMUTE
NUNAPITCHUK
OSCARVILLE
PLATINUM
QUINHAGAK
TOKSOOK BAY
TUNTUTULIAK
TUNUNAK

M E M O R A N D U M

TO: Senator Jan Faiks
Chairperson, Guiding & Big Game Task Force

FROM: Representative Lyman Hoffman *Lyman*
Co-Chairman, House Finance Committee

DATE: January 19, 1990

SUBJ: Proposed amendments to Final Draft

=====

Please find attached an amendment I wish to offer to the final draft of the Task Force's legislation that will be discussed on Monday, January 22 at the scheduled 9:00 am meeting.

If there are any questions concerning these amendments, please contact my office.

Thank you.

A M E N D M E N T

BY REP. HOFFMAN

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

Page 11, lines 17 - 18:

Delete "or a marine mammal guide-outfitter license"

Insert "[OR A MARINE MAMMAL GUIDE-OUTFITTER LICENSE]"

Page 12, lines 1 - 2:

Delete ", marine mammal guide-outfitter,"

Insert "[, MARINE MAMMAL GUIDE-OUTFITTER]"

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

January 31, 1990

SUBJECT: Sectional Summary of SB 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

TO: Senator Jan Faiks

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is a sectional summary of SB 422.

A sectional summary or analysis of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the findings of the Legislature and the purpose of the bill.

Section 2 of the bill amends AS 08.54 by adding new sections relating to guide-outfitter use areas and use area permits.

Sec. 08.54.610 authorizes the Big Game Commercial Services Board to establish guide-outfitter use areas based on recommendations made by the Department of Fish and Game.

The board may amend the boundary of an established use area if the Department of Fish and Game concurs in the change and affected guide-outfitters are given an opportunity to comment on the proposed boundary.

Sec. 08.54.620 provides that the board shall offer available use areas to qualified guide-outfitters each year. The board may request recommendations from the public for use areas to be offered.

The board shall determine whether use areas will be offered for sole or joint use by guide-outfitters before the offering is made. Use areas for which permits have expired, been relinquished by the permittee, or revoked by the board may be offered at the next offering of use areas.

The notice of offerings must include specific information regarding each use area.

Sec. 08.54.630 establishes the privileges conferred by use area permits and registration permits and the duties of guide-outfitters under use area permits and registration permits.

A use area permit or registration permit authorizes a guide-outfitter to guide-outfit hunts in the use area for those species listed in the permit. A use area permit or registration permit may limit the number of clients that a guide-outfitter may guide-outfit in the use area.

Use area permits may authorize joint or sole use of the use area. Guide-outfitted hunts for all big game species within a use area must be authorized under joint use area permits, when all use area permits for the use area are considered together.

Use areas for which use area permits have not been awarded are open to use by qualified guide-outfitters who obtain registration permits. Registration permits are valid for one calendar year.

A guide-outfitter may not guide-outfit hunts in a use area unless the guide-outfitter has a use area permit or registration permit authorizing guide-outfitted hunts in the use area.

A guide-outfitter shall physically participate in field operations conducted under the authority of a use area permit or registration permit.

Sec. 08.54.640 establishes eligibility and application procedures for guide-outfitter use area permits. The Department of Commerce and Economic Development shall set the application fee for a use area permit.

Sec. 08.54.650 sets out the procedures for evaluating applications and awarding guide-outfitter use area permits. The

board shall evaluate applications for use area permits under criteria listed in the bill.

The board shall determine which applicants are qualified to receive a use area permit and shall award the available use area permits to the best qualified guide-outfitters. The board may not award a use area permit to an applicant who does not satisfy the minimum requirements.

The board shall allow a successful applicant for a use area permit 120 days to obtain any additional permits, licenses, and land use authorizations that are necessary to guide-outfit hunts in the use area. If the successful applicant cannot obtain the permits, licenses, and land use authorizations within 120 days, the successful applicant loses the use area permit and the board shall award the use area permit to the next best applicant.

Sec. 08.54.660 sets out the provisions relating to the term of use area permits, suspension and revocation of use area permits, and operations plans.

The term of a guide-outfitter use area permit is 10 years, unless the board and the Department of Fish and Game agree that a longer term would further promote wildlife conservation and management. The maximum possible term of a use area permit is 15 years.

The board may suspend or revoke a use area permit in specified situations. Use area permits are automatically suspended or revoked when specified events occur. Hearings to suspend or revoke a use area permit may be combined with other disciplinary proceedings involving the permittee.

A use area permit may be revoked and the terms of a use area permit or operations plan may be altered by the board for wildlife management and conservation considerations.

A guide-outfitter may not conduct guide-outfitted hunts except as provided under an operations plan approved by the board. The board must approve changes to the operations plan before the guide-outfitter may change the manner in which the guide-outfitting operation is conducted.

Sec. 08.54.670 provides for the assignment of use area permits by the board.

The board may assign a use area permit if certain conditions are met.

The sale of guide-outfitter facilities and equipment between the former use area permittee and the assignee of the permit is subject to review by the board and may cause the assignment of the permit to be voided.

An assigned use area permit is valid only for the period for which the use area permit was originally issued.

Use area permits may not be assigned if the use area permit or the permittee's guide-outfitter license has been suspended or if proceedings in which the permittee's guide-outfitter license or use area permit may be suspended are pending against the permittee.

Sec. 08.54.680 provides that the board shall maintain and publish a list of unawarded use areas that are potentially available for use by qualified guide-outfitters.

The board shall maintain an information center where information on use areas and guide-outfitters, transporters, and providers of other big game commercial services can be obtained.

Sec. 08.54.690 sets out the definitions of "joint use" and "sole use".

Section 3 of the bill amends AS 08.54.310(a) by enlarging the duties of the Big Game Commercial Services Board. The board, in addition to its existing duties, shall establish a procedure for certifying guide-outfitters to guide-outfit hunts within game management units and a system of guide-outfitter use areas to allocate big game hunting opportunities among guide-outfitters.

Section 4 of the bill amends AS 08.54 by adding a new section establishing a procedure for certifying guide-outfitters to guide-outfit hunts within a game management unit. Guide-outfitters must obtain a certification for a specific game management unit before guide-outfitting hunts in that game management unit.

Section 5 of the bill amends AS 08.54.370(a) by requiring guide-outfitters and marine mammal guide-outfitters to submit additional information and fees at the time of applying

for renewal of their licenses. A guide-outfitter shall submit an amended operations plan if the guide-outfitter intends to change the nature of the guide-outfitter's guide-outfitting operation during the next year. A guide-outfitter must also pay the wildlife conservation fee that is due for the past year.

Section 6 of the bill amends AS 08.54 by adding a new section establishing the wildlife conservation fee. Guide-outfitters and transporters are required to pay the wildlife conservation fee. The amount of the fee is \$25 for each big game animal, except deer, that was taken by a client of a guide-outfitter or that was taken by a customer of a transporter on a non-guide-outfitted hunt and transported by the transporter. The fee for each deer is \$5.

The funds generated by this fee may be used by the legislature to support game management and game law enforcement programs.

Section 7 of the bill amends AS 08.54.590(13). The definition of "transportation services" is amended to include air taxis and air carriers who advertise hunting services to the public regardless of whether the provision of hunting services is only an incidental portion of their business.

Section 8 of the bill sets out a detailed process for the identification of proposed guide-outfitter use areas by the Department of Fish and Game. The department shall submit its proposals to the Big Game Commercial Services Board. The process followed by the department is exempt from the Administrative Procedure Act.

Section 9 of the bill provides for preliminary determination of eligibility for guide-outfitter use area permits. During the interim between the passage of this bill and the full implementation of the guide-outfitter use area program, guide-outfitters may apply for a preliminary determination of eligibility to receive a use area permit in those game management units in which the guide-outfitter is certified to guide-outfit hunts. A preliminary determination of eligibility for a use area permit does not guarantee that the guide-outfitter will receive a use area permit when the permits are actually awarded.

Section 10 of the bill requires the Big Game Commercial Services Board to offer all use areas created by the board dur-

Senator Jan Faiks
Page 6
January 31, 1990

ing the first five years that offerings of use areas are made.

Section 11 of the bill is a severability clause.

Section 12 of the bill repeals AS 08.54.310(b)(1) which is the power of the Big Game Commercial Services Board to establish a resource-based management system for allocating access to big game hunting opportunities among guide-out-fitters. This provision has been moved from a power of the board to a duty of the board by sec. 3 of the bill.

GU:pl
WKP1/047

APPENDIX

H



Alaska State Legislature

HOUSE OF REPRESENTATIVES/
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 488-3718

HAND DELIVERED

RECEIVED
Department of Law

MAR 16 1989

AM 7,8,9,10,11,12,1,2,3,4,5,6 PM

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 Owsichuk 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.

February 14, 1989

The Honorable Bettye Fahrenkamp, Chairwoman
Senate Resources Committee
P.O. Box V
Juneau, Alaska

Dear Senator Fahrenkamp:

To assist your committee in its consideration of Senate Bill 140, I am writing to provide a synopsis of the Owsichuk decision and its implications for creating an area management system for allocating guide access to big game.

1. SYNOPSIS OF THE OWSICHEK DECISION.

On October 21, 1988, the Alaska Supreme Court decided that the statutes and regulations that underlie the state's exclusive guide area system ("EGA") are unconstitutional. 1/

On December 8, the court granted the state's request that the effect of this decision be postponed until June 1, 1989. Therefore, the EGA system is currently enforceable. Beginning in June, the system will have no legal effect, and any licensed person may guide hunters in a game management unit for which he or she is certified. 2/

1/ The court uses the term "exclusive guide areas" to describe not only ~~joint~~ use areas but also "restricted guide areas," a term used to describe EGA's since 1986 when the term appeared in AS 08.54.195.

2/ When a guide is licensed by the Division of Occupational Licensing, he or she is "certified" to conduct hunts in only those game management units where the guide has experience. Except for older guides who were "grandfathered" into more units, most guides are limited by regulation to certification in not more than three game management units. 12 AAC 38.200.

(Footnote Continued)

The Honorable Bettye Fahrenkamp
Chairwoman, Senate Resources Committee

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The supreme court based the Owsichuk decision on its interpretation of the "common use clause," i.e., article VIII, section 3 of the Alaska Constitution. This clause says, "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use."

This was the first time the court was called on to interpret the common use clause with respect to wildlife. In earlier decisions, it had discussed the clause in the context of state waters (Wernberg and CWC Fisheries) and in the context of fish (Ostrosky and Johns). In light of its earlier decisions, the court declared that the "common use clause was intended to guarantee broad public access to natural resources."

In order to further clarify the meaning of the common use clause, the court looked at the constitutional history of this clause and at the historic development of wildlife law in general. Concerning the constitutional history, the court said that the purpose of the clause was "anti-monopoly." It also found that the framers of the constitution intended to prohibit "exclusive grants or special privileges" and intended that the public "retain broad access to fish, wildlife and water resources."

In discussing the development of wildlife law, the court said that the common use clause "constitutionalized" the state's public trust duty toward wildlife. This is a duty to manage these resources for the benefit of all the people.

The court summarized its interpretation of the common use clause by stating that the clause was intended to put into the constitution "certain trust principles guaranteeing access to

(Footnote Continued)

At the time of the court's decision, 256 licensed guides had been assigned either exclusive or joint use guide areas. One hundred and eighty four licensed guides had no area to guide in. Therefore, after June 1 the Owsichuk decision means that 184 more guides will be able to guide hunts in any of the game units for which they are certified. The additional hunting pressure, of course, varies from unit to unit. For example, the number of eligible guides in units 1, 2, 3, and 4 (southeast Alaska) will increase three-fold (from 13 to 33) while the number of eligible guides in unit 17 (Togiak - Dillingham area) will increase over six fold (from 17 to 129).

The Honorable Bettye Fahrenkamp
Chairwoman, Senate Resources Committee

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Page 3

the fish, wildlife and water resources of the state" and, at a minimum, this meant a "prohibition against any monopolistic grants or special privileges." It also stated that the clause makes no distinction between use for personal purposes and use for professional purposes; common use applies to commercial guiding as well as recreational hunting.

In deciding that the EGA's violated these principles, the court noted the following features of the system:

1. The EGA system gave one guide the right to exclude all other guides from conducting hunts in his or her EGA. This right was based on the area holder's seniority, that is, his or her use, occupancy, and investment in the area.
2. EGA rights had no time limit, and the system of transferring them, based as it was on the selling of "improvements" and a holder's designation of his or her successor, allowed the selling of areas as if they were a property interest.
3. The assignment of EGA's was not based primarily on wildlife management concerns. The system could not be justified as a game management tool and therefore was unlike licensing requirements, bag limitations, and seasonal restrictions which were proper and "time-honored methods of conserving the resources." In this regard, it is important to note that the court said that even if used as a wildlife management tool, this would not "save the EGA system from unconstitutionality under the anti-monopolistic common use clause."

Finally, the court had made a distinction between the EGA's on one hand and state leases and exclusive concessions on the other. The latter are permissible because they are of limited duration, because they are subject to competitive bidding, because they are limited by contract terms and restrictions, and because the state receives compensation for them.

II. IMPLICATIONS FOR A NEW AREA MANAGEMENT SYSTEM

The Legislative Task Force on Guiding and Big Game has recommended that the state develop a new area management system for allocating access to guiding opportunities among licensed guides. It has recommended the establishment of a land-based concession system. While the Department of Law could defend this type of system, we believe that it would ultimately fail a legal challenge.

The Honorable Bettye Fahrenkamp
Chairwoman, Natural Resources Committee

February 14, 1989
Page 4

We may be able to defend a concession system based on an analogy to the state's current shore fisheries lease program. That program enables the Department of Natural Resources to lease small tracts of shoreline for use by persons who hold set net permits under the state's fisheries limited entry program. For a guide area system to qualify for this analogy and answer some of the concerns raised by Owsichuk, the concessions would have to be limited to state owned lands, would have to involve small tracts of land, would have to be limited in duration (one to three years), and would have to provide equal opportunity of access for all qualified guides when the concession was available for reassignment.

Even with these features, we believe that a concession system would still be found unconstitutional because of the severe manner that it would impinge on the common use guarantee as expressed in Owsichuk. The analogy to the shore fisheries lease program is weakened by several factors. That program is tied directly to the state's limited entry program, a system of limiting access to fishery resources that has constitutional underpinning. A guide concession would limit access to game opportunities without an equivalent constitutional basis. 3/

State concessions and leases, as such, are not included in the common use clause. When their purpose is to allocate access to resources like timber and grazing land, the state is freer to grant exclusive rights. When allocating exclusive access to fish, wildlife, or waters, however, a land-based system would conflict with the principle of broad public access guaranteed by the common use clause.

3/ In 1972 the Alaska Constitution was amended to allow the state to limit entry into fisheries. Ak. Const. art. VIII, §15. In a later case, the Supreme Court held that although fisheries limited entry is inconsistent with the "common use" clause, this system was validated by the 1972 amendment. State v. Ostrosky, 667 P.2d 1184 (Alaska 1983), appeal dismissed 467 U.S. 1201, 81 L.Ed. 2d 339 (1984).

There is no provision in the constitution that allows for limiting entry to game resources, and currently there is no proposal for such an amendment. (Amendments to the constitution are accomplished by a proposal by each house, passed by at least a 2/3 vote, followed by a majority vote of the public at the next general election. Ak. Const. art. XIII, §1.)

The Honorable Bettye Fahrenkamp
 Chairwoman, Senate Resources Committee

February 14, 1989
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Even if a system were developed that served only game management purposes and not the economic welfare of a segment of the guiding industry, it would not be safe. The Owsichuk court noted that the common use clause precluded exclusive guide areas even if they could be justified as a wildlife management tool. 4/ In the court's view, the traditional game management tools -- licensing requirements, bag limits, and seasonal restrictions -- apparently are sufficient to protect the resource without conflicting with the clause. A court would recognize that the state can respond to any increased pressure on game resources by requiring hunter registration, permit drawing, or other methods now available to the Board of Game. Although these techniques may bring unpredictability to the business of guiding, we believe that a court would favor them over a system that has inherent constitutional problems.

In conclusion, a constitutional amendment is the only certain step that will guarantee a stable, long-term system that allows some, but not all qualified guides to have access to game resources in a particular area. We believe that any statutory, land-based system that does not have explicit constitutional underpinning and that resembles even remotely the EGA scheme that was struck down in Owsichuk will be destined to the same fate.

Sincerely yours,

GRACE BERG SCHAIBLE
 ATTORNEY GENERAL

By:

Stephen M. White

Stephen M. White
 Assistant Attorney General

SMW:jf

4/ Owsichuk v. State, Guide Licensing and Control Board, 763 P.2d 488, 497 n.14 (Alaska 1988).

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

☐ 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

☐ 1st NATIONAL CENTER
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

☒ P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3800
FAX: (907) 463-5295

June 28, 1989

The Hon. Jan Faiks
Alaska State Legislature
3111 C Street, Suite 525
Anchorage, Alaska 99503

Dear Senator Faiks:

Mark Riehle of your staff has asked me to provide a brief update on the Owsichuk decision for the Interim Task Force on Guiding and Big Game.

As you may recall, the state obtained a stay of the Alaska Supreme Court's decision that struck down the restricted guide area system. The stay expired at the beginning of this month. Therefore since June 1, the restricted guiding areas that were formerly administered by the Guide Board are no longer enforceable. A licensed guide may now legally guide in any of the game management units for which he or she has been certified by the Board.

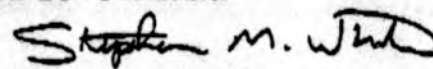
The state did not seek a rehearing on the Owsichuk decision and did not appeal it to a higher court. There are several collateral issues concerning attorneys fees and court costs that are still being disputed by this department and Mr. Owsichuk's attorney. Otherwise, the substantive part of this decision stands as published last October.

Please do not hesitate to contact me if I can provide further assistance to the Task Force.

Sincerely yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By:



Stephen M. White
Assistant Attorney General

SMW:jf

Dear Senator Fails

RECEIVED

DEC 1989

12/6/89

RECEIVED

DEC 5 1989

JAN FAIKS

SENATE OFFICE

DEC 1 1989

RECEIVED

Under Federal and State Freedom of Information acts I request the following

1. All legal opinions, formal and informal on the "Owsich decision" and guide areas.
2. All letter notes, memoranda ^{etc} dealing with Guide areas, the Owsich decision and the Alaska Constitution.
3. All legal opinions from Bill Horn, his associates or law firm on Guide areas, and the Owsich decision, and our constitution.
4. ~~Was~~ was the State's attorney general's offices used and if so why was ~~an~~ a private outside firm hired?
 - A. Who authorized hiring a private outside firm.
 - B. Do you know Bill Horn.
 - C. Do you know the principles at Bush Horton.
 - D. Why was their firm selected
 - E. How much have the private law

1/2/61/87

firms charged and how much
will their total bill be? Who
is paying for the private law firm
used in the Guide area plan?

5. a list of all persons who traveled to
other states, or countries, ^{in working with} ~~all~~ task forces,
game boards etc

A. Their exact business

B. length of trip

C. who they met with

D. Cost of each trip.

E. Where is this money coming from?

6. Was this Travel necessary to benefit the
state?

\$

Please send to Ken Owsichek

Box 190 301

Anch AK 99519

or call for a pick up 243 5899

Thank you

Ken Owsichek



Alaska Professional Sportsmen's Association

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

RECEIVED

JAN 17 1990

January 5, 1990

JAN FAIKS
SENATE OFFICE

Senator Jan Faiks
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator Faiks,

Under the State and Federal Freedom of Information requests,
I request the following;

1. A list of all the private attorneys and or law firms that have been used, are being used or will be used by the task force and game board or other entities for developing a big game management plan and how they were selected.
2. Please list the fees paid to these attorneys or law firms for their services and future services. Please include the hourly rate and the total paid. Also please list where these monies came from and who authorized the these expenditures.
3. For each attorney retained by the state for the "big game management plan", please state the areas these people or firms are working in or list their clients and credentials and what their objectives are for the state.
4. What is the authority for state agencies to hire private attorneys? Please specify and include copies of authority.
5. Was the state's attorney general's office contacted to help formulate the "big game plan"? Please list those attorneys contacted and provide the copies of memos, letters and material that they furnished in reference to the constitutionality of the issues and/or management plans.
6. Were local hire preferences used before going outside the state to hire attorneys or firms.

7. Who authorized the funds and who selected the people to go to several Canadian provinces to study their game management systems. Who went on these trips, what were their objectives, how long did the trips last and how much did these trips cost. Where did this money come from?

8. What was the reason for studying a foreign system when that country has a different constitution than ours?

9. What persons are responsible for the drafting of a proposed bill by Utermohle, 11/17/89?

10. Did the A.G.'s office go over this draft before it was approved? If so, who reviews it and what were their comments?

11. Please supply all legal opinions, formal and informal, memos, notes and letters used to develop the new E.G.A. scheme.

12. What authority is used to exempt the department from the administrative procedure act as listed on page 10 of the work draft dated 12/6/89 by Utermohle?

13. Section 1, Page 1 of the work draft bill dated 12/6/89 says that the legislature has found that unregulated access to game management units by guide-outfitters has hindered management of guided hunters. Please provide copies of these "findings of fact" by the legislature.

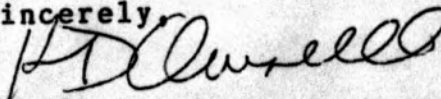
14. Please provide copies of mailing lists used when informing the public of task force public hearing. What professional groups were included? Who compiled these lists. Were all guides, assistant guides and inactive guides included?

15. I request a copy of "the findings" by the legislature of all the conflicts among guides as stated in Section 1, Page 1, 11/17/89.

16. I request the "findings of fact" by the legislature as in Section 1, Page 1 of 11/17/89 draft that unregulated access decreases the quality of the hunting experience.

Thank you very much.

Sincerely,



Ken Owsichuk
Vice President

Alaska Professional Sportsmen's Assn.



Alaska Professional Sportsmen's Association

**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 Owsichuk 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 Owsichuk 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 effected. 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 unconstitutional; IT DOES NOT WORK. The government control that had become necessary to keep the EGA system going was indeed creating chaos long before the Owsichuk 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 throughout 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.

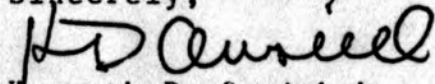
8. The Federal government likes the limited entry concept. It fits right in with their efforts to eventually stop all consumptive uses on park and refuge lands. The task force should recommend that the legislature demand, of the Federal government, the return of control of all fish and game management 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

k1f/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

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 Riehle (Senator Faiks)
Steve White (Assistant Attorney General)

Birch, Horton representatives:

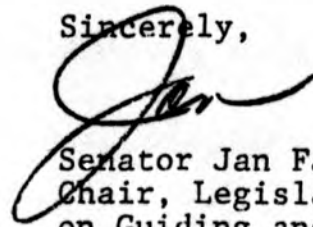
Steve Pradell
William Horn (by telephone)

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
WKPl/105
Attachments

Ken Owsichuk
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-outfitters.

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.

1

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. Owsichek 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.

APPENDIX

I

LAW OFFICES

BIRCH, HORTON, BITTNER, CHEROT AND ANDERSON

A PROFESSIONAL CORPORATION

1127 WEST SEVENTH AVENUE • ANCHORAGE, ALASKA 99501 • TELEPHONE (907) 276-1550 • TELECOPIER (907) 276-2822 • TELEX 25-356

LLOYD V. ANDERSON**
 LUANN E. BAILEY
 J. GEOFFREY BENTLEY*
 RONALD G. BIRCH**
 WILLIAM M. BITTNER**
 KATHRYN A. BLACK
 DOUGLAS L. BLANKENSHIP
 PHILIP BLUMSTEIN
 CORY R. BORGESON
 WILLIAM M. BUMPERS*
 JOHN J. BURNS
 RODNEY B. CARMAN**
 GERALDINE M. CARR*
 SUZANNE CHEROT**

JOSEPH M. CHOMSKI**
 PATRICK B. COLE
 PAUL L. DILLON
 KIM DUNN
 ERIC A. EISEN**
 JOSEPH W. EVANS**
 PAUL J. EWERS
 JULIE A. GARFIELD
 WILLIAM W. GARNER*
 JOHN W. GRIGGS**
 MARLIS HEINEMANN
 WILLIAM P. HORN*
 HAL R. HORTON**
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MINDY R. KORNBERG**
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 STANLEY T. LEWIS
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 JEFFREY B. LOWENFELS**
 PAUL MILAN
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 MICHAEL J. PARISE
 TIMOTHY J. PETUMENOS
 STEVEN PRADELL
 MICHAEL V. REUSING
 ELISABETH H. ROSS**
 E. BUDD SIMPSON
 STEPHEN F. SORENSEN

SHERIDAN STRICKLAND**
 JONATHAN K. TILLINGHAST
 DANIEL W. WESTERBURG
 T. HENRY WILSON

OF COUNSEL
 JAMES D. NORDALE

*D.C. BAR ONLY
 **D.C. AND ALASKA BAR

KEY BANK BUILDING
 100 CUSHMAN STREET, SUITE 311
 FAIRBANKS, ALASKA 99701
 (907) 452-1666
 TELECOPIER (907) 456-5055

ONE SEALASKA PLAZA, SUITE 301
 JUNEAU, ALASKA 99801
 (907) 586-2890
 TELECOPIER (907) 586-9814

1155 CONNECTICUT AVE., N.W.
 SUITE 1200
 WASHINGTON, D. C. 20036
 (202) 659-5800
 TELECOPIER (202) 659-1027

Writer's Direct Dial No.
 (907) 263-7267

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 Owsichuk 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 Owsichuk 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 Owsichuk 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 Owsichuk 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 Owsich decision also recognized the constitutionality of Alaska's Shore Fisheries Leasing Program. Successful applicants are entitled to lease fishing sites and up to three tracks 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 Owsich 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 Owsichuk, 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 Owsichuk 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 Owsichuk 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.

MEMORANDUM

TO: Members, Legislative Task Force on Guiding and Game

THROUGH: Senator Jan Faiks
Chairman

FROM: William P. Horn
Steven Pradell

DATE: September 11, 1989

SUBJ: Outline of Initial Program Proposal

INTRODUCTION

As a result of the conference conducted on August 16,¹ we have prepared the following outline of an initial proposed program. The proposal incorporates the comments of the participants and represents a possible starting point for the Task Force deliberations.

The proposal contains four primary elements: (1) basic limitation rationale and program, (2) open competition for limited or sole authorization to use game units, (3) award criteria and

¹ Participants in the conference included Senator Jan Faiks, Ken Fanning, Lew Pamplin (ADF&G), Steve White (AG), Randall Burns (DCED), Mark Riehle, Steven Pradell, and William Horn.

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on Guiding and Game
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decision process, and (4) conditions on granted interests. These are discussed in detail below.

2.

PROGRAM ELEMENTS

1. Limitation -- As a threshold consideration, the program must specify the rationale for establishing a system that limits commercial guiding and outfitting use in specified areas. The program purposes must include express references to wildlife conservation and how limitation will contribute to enhanced wildlife management. Specific findings will have to be included in the new statute and a solid factual basis for both findings and purposes must be presented in the legislative history.

In addition to wildlife management benefits, limitation can serve commercial purposes (i.e., appropriate economic benefits to the State of Alaska as well as to guides/outfitters), benefit resident hunters, and may also affect non-resident hunters. The latter may not enjoy the benefits of the common use clause of the Alaska Constitution. However, too strict limitations on guides/outfitters will deprive the Alaska Department of Fish and Game (ADF&G) of vital revenues. Additionally, a program should not

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unnecessarily restrict non-resident hunting for certain big game species.

2. Open Competition -- The envisioned program would permit open competition to secure the limited interest (i.e., the permit, lease, concession, etc.). Three variant approaches were discussed.

The privately initiated option would enable a prospective guide/outfitter to nominate the area or areas where he would like to hunt and specify whether he wants sole authorization for the area(s). If not seeking sole authorization, the level of effort/proposed take would have to be indicated.

At the other end of the scale was a State initiated program. A state entity would select areas to be made available and determine the number of entrants for each zone (some believe such a determine is beyond the State's capability). Hybrid systems combining features of both approaches could also be developed.

Whether privately or State initiated, the identified or designated areas would be made available to all eligible entrants. Areas would become available on a staggered basis so that some level of competition would occur each year. Interested parties

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would file for the area(s) of their choice. Applications would be considered pursuant to the award criteria.

3. Award Criteria -- Following receipt of the competitive applications, a State entity would select the parties to receive the permit/lease/concession based on specified criteria and an objective process. The discussion indicated support for the use of at least six criteria:

- a. Experience/Knowledge -- applicants must possess sufficient experience regarding or demonstrate adequate knowledge of a nominated/designated area.
- b. Economic Viability -- applicant must demonstrate economic capability to effectively utilize permit/lease/concession if awarded.
- c. Safety -- applicant must show acceptable safety track record or capability to operate in a safe manner.

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- d. Fish and Wildlife Legal Compliance -- applicants must show an absence of significant fish and wildlife violations.
- e. Permits and Licenses -- applicant must possess or show capability to acquire all of the necessary permits and licenses in order to operate in the area in question.
- f. Land Access -- applicant must possess or show capability to acquire the necessary authorizations to enter upon and operate on the land in the area in question.

Applications will be reviewed pursuant to these criteria. Following review, one or more applicants may be deemed eligible to receive the permit/lease/concession. If there are more eligible applicants than available "space", the following selection process will be employed. First, the eligible applicants will be afforded the opportunity to come to some mutual agreement (e.g., district could be "divided" in time or in game species to be sought). If after this process, too many eligible applicants remain, a "tie-breaker" could be employed. There was some support (as well as

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strong opposition to) for use of a lottery to make the final decisions in these cases.

Overall, there was agreement that the new system had to enable new, qualified entrants to succeed in order to satisfy Owischek. In particular, if established guides prevailed over new entrants in every case of head-to-head competition, the system would be more susceptible to a Constitutional challenge.

4. Permit/License Concession Conditions -- Three primary conditions should be attached to the awarded interest. These features are (a) interest duration, (b) transferability, and (c) fees paid to the State.

There was agreement that the duration of the interest had to be long enough to induce good conservation practices by the guide/outfitter and enable them to obtain financing while being short enough so that it isn't a de facto lifetime or generational right. Ten years was considered the maximum legally acceptable length if tied to reasonable rules on transferability although a fifteen-twenty year term appeared to better address the financial interests of guides/outfitters. It was also suggested that for

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big game species with longer life spans (i.e., brown bear and Dall sheep), that longer terms be seriously considered.

A ⁵diligence requirement should also be part of the interest. Failure to use the permit/lease/concession for some period (e.g., one year) would result in its termination. Similarly the interest could be suspended or terminated for good cause.

Transferability was another key feature. The new program should provide for the transfer of the interest during the duration period (i.e., Guide/Outfitter "A" gets a 10 year permit, it could be transferred to Guide/Outfitter "B" in year five who would keep it for the remaining five years). Improvements should be included in any transfer or acquisition scheme. Any and all transfers would be subject to State review and approval. There is precedent for this approach in other State lease programs. It was also noted that with more liberal transferability rules, the guides could probably accept shorter permit duration. The converse is also true. Renewal rights were also discussed. There was interest in examining a right of first refusal arrangement which would enable guide/outfitters to have an ability to extend granted authorizations.

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Finally, the method of ensuring State consideration for grant of this interest was considered. A multitude of options exist but it appears that a combination of an application fee, a per-acre rental fee, and a fixed percentage of gross revenues was an acceptable starting point for most participants. Similar systems are used by Alaska and various Federal agencies.

OTHER ISSUES

There was brief discussion of Federal recognition of the program and consideration of the special issues related to Native corporation lands. It was agreed that these entities would be made aware of Task Force activities in order to solicit their comments. Moreover, the program should be designed so that it will be adopted or recognized by Federal and private entities.

WPH:jap

DISTRIBUTED 10/6/89
by Bill Horn

PROCESS OPTIONS

PRIVATE SYSTEM

1. Guide/Outfitters designate-nominate UCU's as areas;
Submissions occur simultaneously
2. State accepts or rejects the nomination
3. If no competition exists, the area is awarded to nominator;
award is via the award criteria

STATE SYSTEM

1. State proposes new guide areas per accepted criteria
2. Proposals submitted for public review & comment
3. State may modify proposal
4. State-decided areas are offered for competition

HYBRID I

1. Guide-Outfitters nominate areas using UCU's
2. State reviews nominations; it may accept, modify or reject
per accepted criteria
3. State-decided areas are offered for competition

HYBRID II

1. State issues a call for nominations
2. Nominations of areas offered by guide-outfitters & others
3. State reviews nominations & may accept, modify or reject
per accepted criteria
4. State proposed areas submitted for public review & comment
5. State considers comments & decides on areas per accepted
criteria
6. State decided areas are offered for competition

Game Management Proposal Questions and Checklist
• Program Elements A. Limitation Rationale B. Open Competition C. Award Criteria D. Permit/License/ Concession Conditions

A. Limitation Rationale

- What are the purposes of an area management system for allocating guide access to big game?
 - - Wildlife Management
 - - General Economic Benefits
 - - Benefits to Residents
 - - Revenue to the State

B. Open Competition

- Should the program be privately initiated or state initiated?
- What steps start the process?
 - "Nomination" process
 - Carrying capacity determination
 - Sole authorization or joint use
 - Some areas available annually
- Who decides?

C. Award Criteria

- What are the criteria for awarding the new guide access interest?
 - - Experience/Knowledge
 - - Economic Viability
 - - Safety
 - - Fish & Wildlife Legal Compliance
 - - Permits & Licenses
 - - Land Access

D. Permit/License Concession Conditions

- What does the successful applicant get?
- How long does the guide keep his access interest?
- Must it be used annually?
- Can it be transferred, and if so, how?
- Is the interest renewable?
- What fees will be paid to the state?

MEMORANDUM

TO: Legislative Task Force on Guiding and Game
THROUGH: Honorable Jan Faiks, Chairman
FROM: William P. Horn
Steven Pradell
DATE: November 2, 1989
SUBJ: Outline of Proposed Game Management Area
Allocation Program

At the Task Force Meeting on October 5 and 6, a new Game Management Area Allocation program proposal was developed. The Task Force directed that the proposal be written up to enable subsequent thorough review and scrutiny.

I. GAME MANAGEMENT AREA ALLOCATION PURPOSES

A program to competitively allocate designated game management areas is designed to achieve four general purposes: (1) enhance wildlife conservation, (2) provide economic benefits, (3) confer benefits to Alaska citizens, and (4) increase revenue for the State

of Alaska. Each purpose is an item of legitimate State interest and particular benefits will accrue to the wildlife resources held in common.

Wildlife conservation and management will be enhanced by the program. Unregulated access by guides-outfitters to game management units has previously created chaos. This chaos has hampered efficient wildlife management and been contrary to accepted principles of professional wildlife management. In contrast, a program which competitively awards areas to guides-outfitters for sole or limited joint use assists game management by permitting the creation of efficient and effective wildlife population and harvest monitoring systems. Moreover, guides-outfitters that receive sole or limited joint use of specific areas for a reasonable period of time have a clear incentive to engage in sound conservation practices (i.e., an individual who must rely on a specific area for a number of years is unlikely to decimate the resources he depends on). The combination of a more orderly system that improves management and encourages wildlife conservation will directly facilitate achieving the Alaska Constitutional goal of sustained yield of public wildlife resources. Lastly, these same factors will assist the State in meeting its subsistence obligations pursuant to State and Federal law.

A game management area allocation system will create general economic benefits for Alaska. An economically viable guide and outfitter industry that can offer a quality hunting experience attracts non-residents willing to spend substantial sums of money in-State. This is especially true with a program that is keyed in part to producing trophy animals. These dollars are spent throughout Alaska and create substantial benefits through the multiplier effect. A sound guide and outfitter industry also enhances the economies of rural Alaska as it is one of the few industries situated in rural and remote areas of Alaska. Lastly, a program which provides ample opportunities to new entrants can offer economic benefits to a wide array of citizens.

Alaska residents will also receive important non-economic benefits from the program. Better wildlife management and conservation will ensure continued open access to wildlife resources and obviate the need for permit, lottery, or draw systems that characterize big game management programs throughout the other states. Safety will be enhanced because of limited numbers of people present in areas designated for sole or limited use. Additionally, resident hunters (and non-hunters) intending to enter a competitively allocated area will be able to check with specific

commercial operators and make arrangements to avoid each other. Finally, better wildlife management provides tangible and intangible benefits to all residents.

The State will acquire significant revenues from an allocation program. It is necessary and appropriate that the State, on behalf of the public, receives valuable consideration for the award of a limited but valuable interest to guides-outfitters. A program that encourages properly regulated non-resident hunting is crucial as seventy-five percent of hunting license and game tag fees are paid by non-residents although they take only ten percent or less of big game species. These revenues are critical to administration of sound wildlife management programs and an allocation system that maintains and enhances quality hunting for non-residents will ensure continued wildlife funding.

II. OPEN COMPETITION

The Task Force agreed that a competitive program should be established. The process to be employed is outlined below:

A. Area Determination

A six step process shall be used to establish the areas which may be awarded to guides-outfitters for sole or limited joint use. First, the Alaska Department of Fish and Game (ADF&G) will issue a call for nominations. The call will ask the public to propose areas to be offered for competitive award. Second, nominations consisting of a Uniform Coding Unit (UCU) or groups of UCU's will be forwarded to ADF&G. ADF&G has mapped the entire state and established the UCU's. These units enable better management of game populations and use of UCU's ensures that the designated areas have sound biological bases. Third, ADF&G will review the nominations and accept, modify or reject them pursuant to the criteria previously adopted by the Task Force (see Attachment). Fourth, ADF&G will publish its proposed areas for public comment and review. Fifth, the areas will be reviewed again by ADF&G in the wake of comments and final decisions made on configuration. Sixth, the designated areas will be made available for competitive award.

The designation process may be regionalized or divided in a manner that ensures that a significant portion of the State will be covered within nine months of enactment. The remainder of

the State must be subjected to this designation process within two years of enactment.

B. Public Offering

ADF&G designated areas shall be offered to the public on an appropriately staggered basis. Each year some areas will be made available. To facilitate the transition to a new system and ensure some appropriate level of annual competition, at least one-fifth of designated areas will be offered each year for the first five years following enactment provided that every designated area shall be offered at least once in the first five years. Awards of sole or limited joint use in these first offerings will be for a term of up to five years. Subsequent awards will be for periods of up to ten years. The offering of awarded areas that have expired, terminated, or been relinquished, and the reoffering of unawarded areas will ensure that annual public offerings will occur.

C. Unawarded Areas

In the case of ADF&G designated areas that are not awarded to a guide/outfitter, the following arrangement governs

which guides-outfitters may offer hunts in such areas. Following the award process, public notice of unawarded areas shall be published. An unawarded area within a Game Management Unit (GMU) may be hunted by a guide/outfitter licensed for that GMU provided that the guide/outfitter "registers" (i.e., timely notifies) the State of his intent to take hunters into an unawarded area. The State shall maintain a central notification point and ensure that the process is simple and quick.

III. APPLICATION AND AWARD CRITERIA

A. Application

Only properly licensed guides-outfitters may apply for sole or limited joint use of ADF&G designated areas. The application must specify the following facts: (1) whether sole use or joint use is being sought, (2) the term of years (up to the legal maximum) being sought, and (3) the species and specific numbers (if applicable) being sought. Applications may be amended pursuant to special notice provided by the State as outlined below.

B. Award Criteria

The Commercial Services Board (CSB) shall make the award determinations among eligible applicants. It shall consult closely with ADF&G in making these decisions. The CSB shall determine the number of guide-outfitters to be awarded an area provided that this number is consistent with sustained yield principles and the wildlife resource parameters provided by ADF&G.

The CSB shall establish a weighted point system to provide for an objective evaluation and ranking of the applications for areas. Each application shall be evaluated and assigned appropriate points for each criterion it satisfies. Points for each criterion may be awarded within a specified range (e.g., ten points for minimum safety compliance fifteen points for an excellent safety record). The system must be properly balanced to ensure that new entrants are not unfairly prejudiced and effectively denied an opportunity to win an award in head-to-head competition with an experienced operator.

There shall be nine award criteria:

1. Guide/outfitter experience in the designated area or on-the-ground knowledge of the area.
2. Economic viability of the proposed guide/outfitter activity. (NOTE: This is designed to screen out "fly by night" operations unable to effectively utilize an area award; however, it is to be a minimum threshold so that large financially secure operations do not automatically gain a significant advantage over smaller operators especially new entrants.)
3. A record of safe operations or demonstrated capability to operate safely.
4. Compliance with fish and wildlife laws and regulations. (NOTE: This might be used as a deduct -- an applicant automatically gets ten points and receives deductions for any previous infractions.)

5. Compliance with trespass limitations. (NOTE: See note immediately above.)
6. Applicant holds necessary permits and licenses necessary to operate and hunt or demonstrates capability to acquire such. Failure to acquire necessary permits and licenses within ninety days of area award results in automatic forfeiture.
7. Applicant holds necessary authorization(s) to conduct activity on land within the designated area (i.e., special use permit from U.S. Fish and Wildlife Service for National Wildlife Refuge lands; permission from native corporations) or demonstrates capability to acquire such. Failure to acquire necessary authorization(s) within ninety days of area award results in automatic forfeiture.
8. An applicant will receive additional points if he has not been awarded the right to guide/outfit in other areas; an applicant seeking his first award will have an advantage over an applicant who already holds the award for one or more other areas.

9. In the case of renewals only, the holder of an award shall receive "bonus" points if he has operated in accordance with regulations, terms, and conditions applicable to that award.

C. Award Process

Following review of applications and initial determinations by the CSB, it may issue notice permitting applications to be revised (e.g., guide A applied for sole use of area 1, CSB decides to allow three joint users into area 1, guide A may amend application for joint use). After modified applications are received and reviewed, proposed final determinations are made by CSB.

In the event of ties (e.g., three applicants receive equal points on sole use applications; five applicants receive equal points for applications to an area for three joint users), the tied applicants will be afforded an opportunity to reach a resolution. If resolution cannot be timely achieved, a lottery or draw shall be used to determine who receives the award.

IV. PERMIT CONDITIONS

The successful guide/outfitter applicant shall receive a permit from the CSB which will authorize the guide/outfitter to either have the sole use or limited joint use to provide hunting services in an ADF&G designated area. The permit may also contain limitations regarding species (e.g., guide A may be awarded sole use of area 1 for Dall sheep, guides B and C may awarded joint use of Area 1 for brown bear).

Permits will initially be awarded for five year terms although an applicant may request and be granted a shorter term permit. After the first cycle of five year permits are issued, the basic permit term shall be ten years. ADF&G may authorize the CSB to issue longer term permits not to exceed fifteen years if the longer term will advance specified wildlife management and conservation objectives. In addition, a guide/outfitter who holds a permit for a designated area shall be accorded a preference in the award of non-resident tags for big game species in that area.

Permits are subject to revocation or suspension for violation of specified terms and conditions. One specific condition shall be a diligence requirement: failure to use the permit for one

Legislative Task Force on
Guiding and Game
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year, in the absence of good cause, shall result in revocation
(NOTE: revoked permits will be made available in the following
competitive offering).

Permits may be transferred to other qualified guide/
outfitters. Such transfer is subject to CSB review and may be
approved if transfer is for good cause.

A holder of a permit may seek to have it renewed at the end
of the term. Renewal is not automatic. Instead, a holder must
participate in the competitive process. He shall be awarded
additional points per the award criteria if he has conducted
himself in accord with the permit terms and conditions, as well as
other applicable law, during the permit term. This limited
preferred treatment shall be accorded to a holder for only one
renewal. He may continue to apply for a designated area in the
future but shall not receive any additional renewal points.

The State shall charge appropriate fees for application and
permit award. These fees will ensure that the public receives
valuable consideration for an area permit.

WPH:jap
WPH110M.AGC

Attachment

**Possible Criteria for Developing the Guide-Outfitter
Resource Area Maps***

In order of priority

- 1. Wildlife management concerns**
 - Species abundance and diversity**
 - Administrative wildlife management boundaries (Game Management Unit/Subunits)**
 - Harvest history (target number of potential hunt opportunities)**
- 2. Enforcement concerns**
- 3. Land ownership**
- 4. Administrative restrictions**
- 5. Easily recognizable (in the field) boundary features**
- 6. Access availability and transportation considerations (methods and means restrictions)**
- 7. General approach to the size and number of individual areas**
- 8. The number of guide-outfitters per area**
- 9. Other land uses**
- 10. Existing facilities**
- 11. Others considerations**

*** Provided to the Legislative Task Force on Guiding and Game
by Lew Pamplin, ADF&G, June 29, 1989**

HOW THE GAME MANAGEMENT PROPOSAL WORKS

- Purposes
- Area Determination
- Public Offering
- Applications Taken
- Ranking
- Permit Determinations
- Conditions
- Transfer and Renewal

PURPOSES OF GAME MANAGEMENT AREA ALLOCATION:

- Enhancing Wildlife Conservation
- Providing Economic Benefits
- Benefits to Residents
- Revenue to the State

FIRST. AREAS ARE DETERMINED:

- 1) ADF&G calls for nominations.
- 2) Public proposes areas.
- 3) ADF&G reviews, accepts, modifies or rejects nominations.
- 4) ADF&G publishes proposed areas.
- 5) Public comment and review.
- 6) ADF&G reviews areas.
- 7) ADF&G makes final decisions on configuration.
- 8) Designated areas made available for competitive bidding.

SECOND. AREAS ARE OFFERED TO THE PUBLIC:

- 1) Staggered basis: at least one-fifth offered each year for first five years.
- 2) First awards up to five years.
- 3) Subsequent awards up to ten years.
- 4) Unawarded and expired areas are re-offered.
- 5) Public notice of unawarded areas, registered Guide-Outfitters licensed for that GMU can hunt.

THIRD. APPLICATIONS ARE TAKEN:

- 1) Licensed Guide-Outfitters pay application fee and specify:
 - a) Sole or joint use;
 - b) Term of years; and
 - c) Species and numbers.
- 2) CSB determines eligible applicants.
- 3) CSB determines number of Guide-Outfitters to be awarded an area.
- 4) CSB establishes weighted point system to evaluate and rank applications. System is fair to new entrants.

FOURTH. APPLICANTS ARE RANKED USING AWARD CRITERIA:

- 1) Experience/knowledge.
- 2) Economic viability.
- 3) Record of safe operations or demonstrated capability to operate safely.
- 4) Fish and Wildlife legal compliance.
- 5) Compliance with trespass limitations.
- 6) Applicant must hold or acquire within ninety days permits and licenses or permit forfeited.
- 7) Applicant must hold or acquire within ninety days authorization to conduct activity on land within area.
- 8) Extra points if applicant has no other areas.
- 9) Extra points the first time applicant with good track record applies to renew.

FIFTH. CSB DETERMINES WHO RECEIVE PERMITS:

- 1) CSB reviews applications and makes initial determinations.
- 2) CSB may allow applications to be revised.
- 3) Modified or revised applications received.
- 4) CSB reviews and proposes final determinations.
- 5) In case of ties, applicants may reach a resolution or lottery or draw is employed.

SIXTH. PERMITEES MUST ADHERE TO CONDITIONS:

- 1) Permits give either sole or limited joint use.
- 2) Permits may limit which species can be taken.
- 3) Permit time limits:
 - a) Initially, five years or less;
 - b) Thereafter, ten years or less; and
 - c) Following ADF&F Findings, CSB can issue up to fifteen year permit to advance wildlife management and conservation objectives.
- 4) Guide-Outfitters with permits in designated areas get preference on non-resident tags for species in that area.
- 5) Revocation for failure to use permit for one year without good cause.
- 6) Permittees pay fee to State.

SEVENTH, PERMITS MAY BE TRANSFERRED OR RENEWED:

- 1) CBS may allow permit transfer to qualified Guide-Outfitters for good cause.
- 2) Permittees must compete for renewal at end of term.

LAW OFFICES

BIRCH, HORTON, BITTNER AND CHEROT

A PROFESSIONAL CORPORATION

1155 CONNECTICUT AVENUE, N.W. • SUITE 1200 • WASHINGTON, D.C. 20036 • (202) 659-8600 • TELECOPIER (202) 659-1027

THOMAS ALBERT
JOHN E. BAILEY
J. GEOFFREY BENTLEY
RONALD G. BIRCH**
WILLIAM H. BITTNER**
KATHRYN A. BLACK
DOUGLAS BLANKENSHIP
PHILIP BLUMSTEIN
CORY R. BORGESON
WILLIAM BUMPERS*
JOHN J. BURNS
RODNEY S. CARMAN**
GERALDINE M. CARR
SUZANNE CHEROT**
JOSEPH M. CHOWSH**

PATRICK S. COLE
PAUL L. DILLON
KIM DUNN
ERIC A. EISEN**
JOSEPH W. EVANS**
PAUL EWERS
WILLIAM W. GARNER*
JOHN W. GRIGGS**
TRACEY A. HARPOLE
WILLIAM R. HORN*
HAL R. HORTON**
STEPHEN R. HUTCHINGS
MARC W. JUNE
MINDY R. KORNBERG**
GARY R. LETENER**

STANLEY T. LEWIS
LESLIE C. LONGENBAUGH
JEFFREY S. LOWENFELS**
GREGORY A. MILLER
MICHAEL J. PARISE
TIMOTHY J. PETUNENOS
ELIZABETH A. PHILLIPS
STEVEN PRADELL
MICHAEL V. REUSING
ELIZABETH M. ROSS**
E. SUDO SIMPSON
STEPHEN R. SORENGSEN
SHERIDAN STRICKLAND**
JONATHAN K. TILLINGHAST
T. KERRY WILSON

OF COUNSEL
JAMES D. NORDALE
RON SEXTON

*D.C. BAR ONLY
**D.C. AND ALASKA BAR

1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 276-1550
TELECOPIER (907) 276-1552

KEY BANK BUILDING
100 CUSHMAN STREET, SUITE 311
FAIRBANKS, ALASKA 99701
(907) 482-1888
TELECOPIER (907) 482-8088

ONE ALASKA PLAZA, SUITE 301
JUNEAU, ALASKA 99801
(907) 586-2600
TELECOPIER (907) 586-2814

MEMORANDUM

TO: Legislative Task Force on Guiding and Game
THROUGH: Honorable Jan Faiks, Chairman
FROM: William P. Horn *WPH*
RE: Unresolved Policy Issues
DATE: November 30, 1989

It appears that only five significant policy issues remain unresolved. The following identifies these issues and outlines the basic choices. Once the Task Force makes its decisions, appropriate statutory language will be incorporated into the proposed draft bill.

1. Sole or Joint Use Determination

Option 1A -- Have Big Game Commercial Services Board (CSB) determine prior to receipt of applications whether guide resource areas are to be available for sole use permits or joint use permits.

Under this approach, guide resource areas would be designated as sole or joint areas before applications are accepted. The determination would be made the CSB. Sole use would be exclusive use of the area for all species of big game for the term of the license. Joint use would be shared use of the area including sharing of species or sole use of different species (e.g., guide/outfitters x and y authorized to take 5 species in Area 1; guide/outfitter x authorized to take Dall Sheep in Area 1 -- guide/outfitter y authorized to take other species in area 1). Guide/outfitter applicants would tailor their applications to match the determinations made by the CSB (e.g., a guide/outfitter interested in sole use permit would not apply for an area designated for joint use). Section 08.5.610(g)(3) of the Nov. 17

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Legislative Task Force on Guiding and Game
November 30, 1989

Page 2

Re: Unresolved Policy Issues

Work Draft reflects this option. This approach would also eliminate the need for guide/outfitters to amend their applications as provided for in Section 08.54.640(c) of the work draft bill.

Subissue -- If this approach is adopted, the Task Force should decide whether the CSB determination may be challenged and whether the statute should contain criteria or guidelines for making the sole v. joint use determination.

Option 1B -- Have the CSB determine after receipt of applications whether guide resource areas are to be available for sole use or joint use permits.

This arrangement would have guide/outfitters apply for areas and specify in the application whether they are seeking sole or joint use as explained above. The CSB would make its determinations at the time it reviews the applications. An application amendment process would be authorized to facilitate guide/outfitters (i.e., guide/outfitter x applies for sole use of area 1, CSB determines to make it joint use area, x permitted to amend application and seek joint use permit) (see Section 08.54.640(c) of Work Draft).

Subissue -- If this approach is adopted, the Task Force should decide whether the CSB determination may be challenged and whether the statute should contain criteria or guidelines for making the determination.

2. Unawarded Species in an Area

Option 2A -- Section 08.54.620(b) of the Work Draft ("all allocations of big game") establishes the prospect that not all game species will be awarded through the issuance of sole or joint use permits (e.g., guide/outfitters x and y are awarded joint use of area 1 for all species except caribou). The Work Draft would permit other qualified guide/outfitters to take caribou within area 1.

Option 2B -- Provide that sole or joint use permits shall allocate all of the game species available for guide/outfitters and non-residents within an area. There would be no "unawarded" hunting within areas covered by guide resource area permits. Deletion of the phrase that begins "all allocations of big game species. . . ." would effectuate this option.

Legislative Task Force on Guiding and Game
November 30, 1989

Page 3

Re: Unresolved Policy Issues

3. Land Owner Consent

Option 3A -- Section 08.54.640(b)(5) of the Work Draft requires that guide/outfitters must obtain access authorization from all landowners in a guide resource area. This could require that permission be obtained from all land owners including native allottees, mining claim holders, remote site "homesteaders," etc.

Option 3B -- Adopt a modification that requires guide/outfitters to obtain land access authorization from only significant or major landowners within an area. A definition of such terms will need to be adopted.

4. Land Owner Independence from Program

Option 4A -- Expressly recognize the ability of private land owners to make wholly independent arrangements with licensed guide/outfitters to provide hunting services on the owner's land. The land owner would notify the CSB that its lands should not be included in any guide resource areas.

Option 4B -- Authorize land owners (significant, major, or otherwise) within an area to effectively veto guide/outfitters awarded the area by CSB. Hunting services in an area can only be provided by a licensed guide(s) (1) awarded the area by the CSB and (2) provided access authorization by land owners.

Option 4C -- Direct the CSB (and the State) to use its constitutional authority under Article VIII, Section 16 to preempt landowners and ensure that guide/outfitters awarded an area can use the land therein. Exercise of this authority would constitute a "taking" and require just compensation to the affected land owner.

5. Fees

See separate fees memorandum.

WH/jp

LAW OFFICES

BIRCH, HORTON, BITTNER AND CHEROT

A PROFESSIONAL CORPORATION

155 CONNECTICUT AVENUE, N.W. • SUITE 1200 • WASHINGTON, D.C. 20036 • (202) 659-8600 • TELECOPIER (202) 659-1027

THOMAS ALBERT
JANN E. BAILEY
J. GEOFFREY BENTLEY
RONALD G. BIRCH**
WILLIAM H. BITTNER**
KATHRYN A. BLACH
DOUGLAS BLANKENSHIP
PHILIP BLUMSTEIN
DORV R. BORGESON
WILLIAM BURNERS*
JOHN J. BURNS
RODNEY S. CARMAN**
GERALDINE W. CARR
SUZANNE CHEROT**
JOSEPH M. CHOWSKI**

PATRICK B. COLE
PAUL L. DILLON
KIM SUNN
ERIC A. EISEN**
JOSEPH W. EVANS**
PAUL EWERS
WILLIAM W. GARNER*
JOHN W. GRIGGS**
TRACEY A. HARPOLE
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HAL R. HORTON**
STEPHEN H. HUTCHINGS
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MINDY R. KORNBERG**
GARY R. LETCHER**

STANLEY T. LEWIS
LESLIE C. LONGENBAUGH
JEFFREY S. LOWENFELS**
GREGORY A. MILLER
MICHAEL J. PARISE
TIMOTHY J. PETUNENOS
ELIZABETH A. PHILLIPS
STEVEN PRADILL
MICHAEL W. REUSING
ELIZABETH W. ROSS**
E. BUDD SIMPSON
STEPHEN R. SORENSEN
SHERIDAN S. TRICKLAND**
JONATHAN A. TILLINGHAST
T. HENRY WILSON

OF COUNSEL
JAMES D. NORDEALE
RON SEXTON

*D.C. BAR ONLY
**D.C. AND ALASKA BAR

1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 278-1880
TELECOPIER (907) 278-2822

KEY BANK BUILDING
100 CUSHMAN STREET, SUITE 311
FAIRBANKS, ALASKA 99701
(907) 452-1888
TELECOPIER (907) 452-8088

ONE SEALASKA PLAZA, SUITE 301
JUNEAU, ALASKA 99801
(907) 886-2800
TELECOPIER (907) 886-9814

MEMORANDUM

TO: Legislative Task Force on Guiding & Game

THROUGH: Honorable Jan Faiks
Chairman

FROM: William P. Horn *WP/H*

SUBJ: Fee Proposals

DATE: November 30, 1989

=====

The Task Force has a multitude of options available regarding the creation of a fee structure for the proposed guide/outfitter resource area allocation program.

Application Fees

An application fee may be required. The purposes of such a fee would be two-fold: (1) recover the costs, in whole or in part, of administering the application process and (2) screening out frivolous applications.

Four Systems

Four general fee structures could be adopted by the Task Force: (1) fixed, (2) percentage of gross, (3) per animal taken, or (4) per acre of awarded guide area. These are not necessarily mutually elusive and could be combined into various package. The four approaches are discussed below.

1. Fixed Fee

This is the simplest system. Basic fees for sole use or joint use permits would be set. It could be collected annually and set

Legislative Task Force on Guiding & Game
Honorable Jan Faiks
November 30, 1989

Page 2

to reflect the program goals. Fees could range from levels to ensure that the State gets some fair consideration to levels designed to obtain maximum value. The fees could be statutorily set, set by the Big Game Commercial Services Board (CSB) per criteria, or left to the discretion of the CSB.

Although simple and direct, a fixed fee system may prove inequitable since it would involve imposition of the same fees on operations of disparate size. This might be corrected with a range of fixed fees but that causes the system to begin to lose its attractive simplicity.

2. Percentage of Gross

The Federal agencies presently employ a system in which the lessee, permittee, or concessionaire annually pays a small percentage of its gross revenues to the Federal agency. It ensures that the larger operations pay an appropriate larger share. Applied in this case, it would create a difficult accounting system as the gross receipts of all guides/outfitters would have to be accounted for. I strongly suspect that a significant bureaucracy would have to be created to administer this kind of fee system. On the other hand, the system matches payment to the size of the operation and means the State will be assured of receiving consideration that matches the value of the granted privilege.

3. Per Animal Fee

Holders of area permits would be charged a fee for each animal taken by the holder or his clients within the holder's area. The fee could be fixed for each species or could be established as a percentage of the non-resident tag value of each species. The fee could be made higher for sole use permittees as opposed to joint use permittees.

Such a system should be relatively simple to administer. It also matches payment to the State to the actively level of the guide/outfitter. Moreover, a slightly higher fee structure for sole use permits reflects the greater value of the privilege granted by such a permit.

4. Per Acre Fee

Holders of permits would be charged a per acre for the acreage with guide resource areas where they hold sole or joint use permits. A higher rate would be charged for sole use permits. This is a relatively simple system and matches payment to the privilege (i.e., larger areas cost more than smaller ones). It is

Legislative Task Force on Guiding & Game
Honorable Jan Faiks
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Page 3

likely to have the effect of making guide areas smaller and does not reflect the varying quality of different geographic regions (e.g., a fee of \$X per acre may be a bargain on the Alaska Peninsula and an overcharge in the Brooks Range).

CONCLUSION.

Each of these systems has benefits and disadvantages. Additionally, they are not mutually exclusive: all can be combined in different fashion. The critical criteria appear to be (1) simplicity of administration, (2) fair payment to the State, and (3) no undue burdens imposed on guide/outfitters.

I would suggest that you consider a combination of the per animal and per acre systems. A nominal per acre fee would demonstrate that the guide/outfitter is paying for the privilege of offering hunts, to the exclusion of others, on a specified piece of real estate. A per animal fee would match payment to activity and ensure a fair return to the State. This combination appears to satisfy the concerns articulated in the Owsichuk decision.

/jp

LAW OFFICES

BIRCH, HORTON, BITTNER AND CHEROT

A PROFESSIONAL CORPORATION

1155 CONNECTICUT AVENUE, N.W. • SUITE 1200 • WASHINGTON, D.C. 20036 • (202) 659-5800 • TELECOPIER (202) 659-1027

THOMAS ALBERT
LUANN E. BAILEY
J. GEOFFREY BENTLEY
RONALD G. BIRCH**
WILLIAM H. BITTNER**
KATHRYN A. BLACK
DOUGLAS BLANKENSHIP
PHILIP BLUMSTEIN
CORY R. BORGESON
WILLIAM BUMPERS*
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STEPHEN F. SORESENSEN
SHERIDAN STRICKLAND**
JONATHAN K. TILLINGHAST
T. HENRY WILSON

OF COUNSEL
JAMES D. NORDALE
RON SAXTON

*D.C. BAR ONLY
**D.C. AND ALASKA BAR

1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 276-1550
TELECOPIER (907) 276-2822

KEY BANK BUILDING
100 CUSHMAN STREET, SUITE 311
FAIRBANKS, ALASKA 99701
(907) 452-1666
TELECOPIER (907) 456-5055

ONE SEALASKA PLAZA, SUITE 301
JUNEAU, ALASKA 99801
(907) 586-2890
TELECOPIER (907) 586-9814

MEMORANDUM

RECEIVED

DEC 11 1989

JAN FAIKS
SENATE OFFICE

TO: Legislative Task Force on Guiding and Game

THROUGH: Honorable Jan Faiks
Chairman

FROM: William P. Horn *WPH*

DATE: December 7, 1989

SUBJ: Criteria for Sale or Joint Use Determination

INTRODUCTION

I suggest that the Task Force consider adoption of the following criteria to govern Big Game Commercial Services Board (CSB) determination of whether a guide resource area is available for a sole use or joint use permit. Most of the criteria are applicable under pre-application or post-application determination procedures. Any criteria that the Task Force adopts can be incorporated into the proposed bill.

PROPOSED CRITERIA

1. Species Present and Related Management Considerations.
Long lived species such as Dall sheep and brown bear lend themselves to trophy management. Areas with these species may be better suited to sole use permits to induce sound, long range management and attendant uses. On the other hand, an area with strong caribou populations may be better for joint use. The CSB, in conjunction with ADF&G, should first consider species mix and management needs/objectives in sole v. joint decisions.

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December 7, 1989
Page 2

2. Amount of Game Available. The numbers of available game species would be a second consideration. Areas with low productivity and low numbers would be hard to set up for joint use. Areas with large populations appear more suitable for shared use.

3. Impact on Resident Hunters. Alaska citizens are the beneficiaries of the common use clause. Their interests should be a primary consideration in deciding whether an area will be available for sole or joint use by guide/outfitters.

4. Economic Viability. The economic effects of sole or joint use permits should be another consideration. Arrangement which effectively eliminate a viable guide/outfitter industry are contrary to the thrust of this program. Permit classifications that thwart viable operations should be avoided.

5. Competition. Areas that are subject to intense competition (i.e., there are numerous applications to guide/outfit in an area) should be prime candidates for joint use status. This assumes that joint use status is not at odds with the other criteria. It will be easier to employ this criterion in a post-application decision program.

WPH:jap
WPH152M.AGC

APPENDIX

J

July , 1989

MEMORANDUM

TO: Jan
FROM: Cheryl
SUBJECT: RSA of funds to Fish and Game

Attached are the two fiscal notes from the Guide Bill:

CED shows that 103.0 is expected to be generated in program receipts from licensing fees and it will cost 98.8 of this amount to support their activities. This was fully funded in operating budget;

DF&G shows a cost of 90.0 in general funds, and as you know, 45.0 of this was funded in operating budget.

You stated you want to take 45.0 from CED and give it to DF&G. Since CED's fiscal note indicates they were going to use nearly all of the program receipts generated in order to fund their operation in FY 90, there would be no excess program receipts to transfer to DF&G unless Occupational Licensing is willing to give up 45.0 which it had budgeted.

Did Randall indicate this was okay?

*Yes - I believe he
did - see him & verify - go
over the "fact" of the plan
note.*

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SCS CSHB 112 ^(Fin)
PUBLISH DATE: 4/25/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Relating to Commercial
Services for Big Game Hunters
Sponsor: Resources Committee
Requestor: _____

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	31.5	76.9	67.5	58.2	58.2	58.2
TRAVEL	1.5	5.0	3.0	1.0	1.0	1.0
CONTRACTUAL		.5	.5	.5	.5	.5
SUPPLIES		1.7	1.0	1.0	1.0	1.0
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	33.0	90.0	72.0	60.7	60.7	60.7

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary) The FY89, FY90, and FY91 expenditures are necessary to coordinate the development of a computerized area-based management system for use in administering the guide/outfitting industry. The FY92, FY93, and FY94 expenditures would depend on the guide/outfitter area management system which is devised and ADF&G's role in that system.

Prepared by: W. Lewis Pamplin, Jr., Director Phone: 465-4190
Division: Wildlife Conservation Date: 2/15/89

Approved by Commissioner: [Signature] Date: 2/15/89
Agency: Fish and Game

Distribution (by preparer):

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

Changes in SCS CSHB 112 (Fin) have no fiscal impact. This fiscal note is appropriate. 4/19/89 ML

Changes in SCS CSHB 112 (Rules) have no fiscal impact. This fiscal note is appropriate. 4/24/89 MS/L ^{page 1 of 2}

FISCAL NOTE FOR HOUSE BILL 112
Page 2 of 2

	FY89		FY90		FY91		FY92	
	Mos.	Cost	Mos.	Cost	Mos.	Cost	Mos.	Cost
LINE 100								
WB III @ \$4.5/month	3	13.5	11	49.5	11	49.5	11	49.5
AP II @ \$3.3/month	3	9.9	5	16.5	3	9.9	1	3.3
DPC II @ \$2.7/month	3	8.1	4	10.8	3	8.1	2	5.4
TOTAL		31.5		76.8		67.5		58.2
LINE 200 TRAVEL		1.5		5.0		3.0		1.0
LINE 300 CONTRACTUAL SERVICES		0.0		0.5		0.5		0.5
LINE 400 SUPPLIES		0.0		1.7		1.0		1.0
LINE 500 EQUIPMENT		0.0		6.0		0.0		0.0
TOTAL		33.0		90.0		72.0		60.7*

* This total may vary with the role that ADF&G ultimately plays in the guide/outfitter area management system.

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



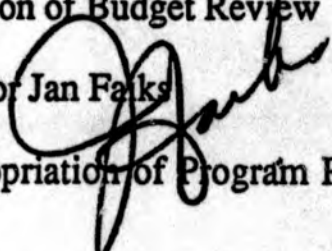
JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

July 28, 1989

MEMORANDUM

TO: Alison Elgee, Director
Division of Budget Review

FROM: Senator Jan Fawks 

SUBJECT: Appropriation of Program Receipts

Last session the Legislature approved House Bill 112 (chapter 37 SLA 89) relating to big game hunting. Section 08.54.470 establishes a "Commercial Use Permit and Fee". AS 08.54.470(d) provides:

"The commissioner of administration shall separately account for commercial use permit fees deposited in the general fund by the department. The annual estimated balance in the account may be used by the legislature to make appropriations to the Department of Fish and Game and the Department of Public Safety to carry out their respective responsibilities for management of game resources and enforcement of game laws."

Anticipated program receipts from the commercial use permit fee were not appropriated as part of the fiscal notes for SCS CSHB 112(RIs) am S. The Division of Occupational Licensing estimates \$50,000 will be generated from this fee in FY 90.

At its last meeting, the Task Force on Guiding and Game expressed interest in determining if there is a mechanism, other than waiting for action by the

OUT OF SESSION

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

next Legislature, by which \$45,000 of the FY 90 program receipts from the commercial use permit fee could be appropriated to the Department of Fish and Game for development of a computerized guide/outfitter area-based management system. (The Legislature approved a \$90,000 fiscal note for Fish and Game as part of HB 112 for this purpose, but the amount was reduced to \$45,000 by the free conference committee).

I am interested in learning if the Office of Management and Budget's Revised Program mechanism through the Legislative Budget and Audit Committee is applicable under these circumstances. If it is, on behalf of the Task Force, I request your consideration of this request.

Your anticipated assistance in reviewing the Task Force's request is appreciated. Should you need any additional information, please give Cheryl Frasca of my staff a call at 561-7610.

Thank you.

cc: Randall Burns, Division of Occupational Licensing

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

July 28, 1989

MEMORANDUM

TO: Tam Cook, Director
Division of Legal Services

FROM: Senator Jan Faiks *[Signature]*

SUBJECT: Appropriation of Program Receipts

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OUT OF SESSION

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

next Legislature, by which \$45,000 of the FY 90 program receipts from the commercial use permit fee could be appropriated to the Department of Fish and Game for development of a computerized guide/outfitter area-based management system. (The Legislature approved a \$90,000 fiscal note for Fish and Game as part of HB 112 for this purpose, but the amount was reduced to \$45,000 by the free conference committee).

I am interested in learning if Legislative Budget and Audit has the authority to approve such an appropriation, or if there is another means of accomplishing this goal. I have also made a similar request for information from the Office of Management and Budget to learn if a Revised Program through Budget and Audit Committee is possible.

As always, your anticipated assistance is appreciated. Should you need any additional information, please give Cheryl Frasca of my staff a call at 561-7610.

Thank you.

RECEIVED

AUG 14 1989

STATE OF ALASKA
THE LEGISLATURE

JAN FAIKS
SENATE CLERK
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

August 8, 1989

SUBJECT: Authorization of the Department of Fish and Game to expend program receipts from the commercial use permit fee under AS 08.54.470

TO: Senator Jan Faiks

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether there is a procedure by which the Department of Fish and Game could be authorized to expend \$45,000 of program receipts from the commercial use permit fee under AS 08.54.470 during fiscal year 1990 without waiting for action by the Legislature during the next session. This \$45,000 is to be used to further develop a computerized guide-outfitter area-based management system for which the Legislature has already appropriated another \$45,000 as part of the cost of implementing ch. 37, SLA 1989 (HB 112-relating to licensing of guide-outfitters) during fiscal year 1990.

1. Can the Legislative Budget and Audit Committee approve an appropriation of program receipts to the Department of Fish and Game?

The short answer is no.

The state may not expend state funds except in accordance with an appropriation of the funds by the Legislature. (Alaska Constitution art. IX, sec. 13) The power of the Legislature to appropriate state funds cannot be delegated to a committee of the Legislature. (Kelley v. Hammond, First Judicial District, CA 77-4 (1978)) Thus the Legislative Budget and Audit Committee may not appropriate funds for expenditure by state agencies. Likewise the power of the Legislative Budget and Audit Committee to approve the increase of an appropriation through the revised program process set out

under AS 37.07.080(h) has been found to be unconstitutional by a superior court. (Id.) The Alaska Supreme Court is likely to concur with the decision of the superior court if the issue is ever presented to the court.

Thus in order for the Department of Fish and Game to expend program receipts from the commercial use permit fee during fiscal year 1990 those program receipts must be included within an appropriation made by the Legislature.

2. Is there a means that would allow expenditure of fiscal year 1990 program receipts by the Department of Fish and Game to supplement an appropriation for a computerized management system without waiting for the Legislature to take action during next session?

The short answer is yes, but. . .

The state often receives unanticipated program receipts between sessions of the Legislature. In order to allow the state to expend these funds without waiting for an authorization during the next session of the Legislature, the Legislature annually makes a conditional appropriation of new or additional program receipts as part of the state's operating budget. The appropriation for fiscal year 1990 is contained in sec. 2, ch. 116, SLA 1989 and reads:

Federal or other program receipts that exceed the amounts appropriated in this Act are appropriated conditioned upon compliance with the program review provisions of AS 37.07.080(h). (emphasis added)

Program receipts derived from the commercial use permit fee under AS 08.54.470 are included within the term "other program receipts."

Under the terms of sec. 2, ch. 116, SLA 1989 the program receipts derived from the commercial use permit fee may be expended to supplement the existing appropriation for the computerized management system if the program receipts have not already been appropriated by ch. 116 and the program review procedures set out in AS 37.07.080(h) are followed. Under AS 37.07.080(h) the governor must submit a revised program to the Legislative Budget and Audit Committee and 45 days must elapse between the submission of the revised program and expenditure of the program receipts, unless the Legislative Budget and Audit Committee approves earlier

expenditure of the program receipts. The role of the Legislative Budget and Audit Committee in this process is largely advisory because even if the committee disapproves the expenditure, the governor may expend the program receipts at the end of the 45 day period after informing the committee of his intent to do so.

Once it is determined that program receipts have not been previously appropriated and the program review procedures are completed, the preconditions to the appropriation of the program receipts are satisfied. Those program receipts then become appropriated funds under sec. 2, ch. 116, SLA 1989 and may be expended by the department.

According to the information provided in your memorandum, the program receipts derived from the commercial use permit fee during fiscal year 1990 have not been appropriated. Thus these program receipts are still available for appropriation under sec. 2, ch. 116, SLA 1989 to supplement the initial appropriation of \$45,000 to the Department of Fish and Game for a computerized guide-outfitter area-based management system, provided that the governor and the Legislative Budget and Audit Committee comply with the program review provisions of AS 37.07.080(h).

Having concluded that the Department of Fish and Game may be authorized under sec. 2, ch. 116, SLA 1989 to expend program receipts from the commercial use permit fee, I must advise that the appropriation of program receipts under sec. 2 and similar provisions in prior years is subject to challenge as an invalid delegation of the appropriation power. Despite the long-standing acceptance of the program receipts appropriation process under sec. 2 by the Legislative Budget and Audit Committee and numerous governors, it is questionable whether the Alaska Constitution actually permits the governor to exercise such a broad and open-ended power over expenditure of program receipts during the interim between legislative sessions. Section 2 is a virtual delegation of the legislative appropriation power to the governor who then determines how much and for which purposes program receipts may be expended without a meaningful opportunity for legislative oversight before the funds are spent.

If I may be of further assistance, please advise.

GU:mi:gc
wkmi4/062

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

STEVE COWPER, GOVERNOR

333 RASPBERRY ROAD
ANCHORAGE, ALASKA 99518-1599
PHONE: (907) 344-0541

August 30, 1989

*Mark
FYI*

RECEIVED

SEP 1 1989

JAN FAIKS
SENATE OFFICE

The Honorable Jan Faiks
Chairman
Alaska Legislative Task Force
on Guiding and Game
3111 "C" Street, Suite 525
Anchorage, Alaska 99503

Dear Senator Faiks:

I am pleased to announce that we have appointed Marianne See to the Wildlife Biologist position in charge of developing the guide-outfitter resource area maps which may be used in the future to assist in regulating this industry. Marianne has extensive experience as a biologist in Alaskan state, federal, and private sectors. Her diverse background includes statewide wildlife map and report production, geographic information management, technical writing, project coordination and management, interagency coordination, and biological research.

She previously has worked for the Department of Fish and Game, as well as the Bureau of Land Management, and an environmental consulting firm. She holds a Bachelor's degree in Environmental Sciences, and a Master's degree in Ecology from the University of Alberta.

We are fortunate to attract Marianne back to state service to work on this challenging project. Her phone number is 267-2420 in the Statistics Section, Division of Wildlife Conservation in Anchorage.

Sincerely,

W. Lewis Pamplin, Jr.

W. Lewis Pamplin, Jr.
Director
Division of Wildlife Conservation

cc: Task Force Members
SuzAnne Miller, Information Management Coordinator, Division
of Wildlife Conservation
Marianne See, Wildlife Biologist, Division of Wildlife
Conservation

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

STEVE COWPER, GOVERNOR

333 RASPBERRY ROAD
ANCHORAGE, ALASKA 99518-1599
PHONE: (907) 344-0541

August 30, 1989

Mr. Walter O. Stieglitz, Regional Director
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, Alaska 99503

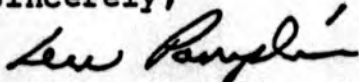
Dear Mr. ~~Stieglitz~~ ^{Walt}:

The Legislative Task Force on Guiding and Game has initiated development of a new resource based management system that may be used to assist in allocating access to big game hunting opportunities among guide-outfitters. Toward this end, the Department of Fish and Game is the designated lead agency to create maps of guide-outfitter resource areas that could be the basis of the management system. The criteria developed by the Task Force for delineating these areas include wildlife management concerns, enforcement concerns, land ownership, administrative restrictions (federal, state, and local government regulations), recognizable field boundaries, access availability and transportation considerations, and others. The task force plans to initiate a public process to receive input from interested parties.

Because it will be essential to keep federal and state agencies informed and involved in the development of this new system, we are asking your help with identifying the key people in your agency who should receive information and participate in the necessary meetings. Please indicate, at your earliest convenience, the names (and addresses) of your staff who should be included on our mailing lists.

Thank you for your assistance. Any specific inquiries may be directed to Marianne See, our project staff coordinator in Anchorage (267-2420).

Sincerely,


W. Lewis Pamplin, Jr.
Director

Division of Wildlife Conservation

cc: Senator Jan Faiks
SuzAnne Miller, Information Management Coordinator, Division
of Wildlife Conservation
Marianne See, Division of Wildlife Conservation

The same letter sent to the following:

VNameVMr. Walter O. Stieglitz, Regional Director
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, Alaska 99503
VNameIIVMr. Stieglitz

VNameVMr. Boyd Evison, Regional Director
U.S. National Park Service
2525 Gambell Street
Anchorage, Alaska 99503-2892
VNameIIVMr. Evison

VNameVMr. Gary Gustafson, Director
Division of Land and Water Management
Department of Natural Resources
Pouch 7-005
Anchorage, Alaska 99510
VNameIIVMr. Gustafson

VNameVMr. Michael Penfold, State Director
Alaska State Office
U.S.D.I. Bureau of Land Management
222 West 7th Avenue, #13
Anchorage, Alaska 99513-7599
VNameIIVMr. Penfold

VNameVMr. Michael A. Barton, Regional Forester
U.S.D.A. Forest Service
Alaska Regional Office
P. O. Box 21628
Juneau, Alaska 99802-1628
VNameIIVMr. Barton

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000
JUNEAU, ALASKA 99902-2000
PHONE: (907) 465-4100

RECEIVED

SEP 25 1989

JAN FAIKS
SENATE OFFICE

September 11, 1989

The Honorable Jan Faiks
Chairman
Alaska Legislative Task Force
on Guiding and Game
Alaska State Senate
P.O. Box V
Juneau, AK 99811

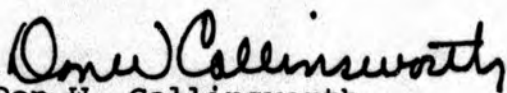
Dear Senator Faiks:

Thank you for your letter on the progress of the Task Force on Guiding and Game. Capable legal support will provide assistance in developing a workable management system for the big game industry in Alaska.

The Wildlife Conservation Division has hired an experienced and knowledgeable individual, Ms. Marianne See, to develop wildlife resource information for use by the Task Force. She and Wildlife Conservation Director, Lew Pamplin will continue to work closely with the Task Force during development of the management plan.

Thank you again for keeping us abreast of your progress.

Sincerely,


Don W. Collinsworth
Commissioner

DISTRIBUTED 10/6/89

by Lew Pamplin

Criteria for Developing the Guide-Outfitter
Resource Area Maps**

Top priority

- * Wildlife management concerns
 - Species abundance and diversity
 - Administrative wildlife management boundaries
(Game Management Unit/Subunits/Uniform Coding
Units)
 - Harvest history
- * Enforcement concerns

Additional, co-equal concerns

- * Land ownership
- * Administrative restrictions
- * Easily recognizable (in the field) boundary features
- * Access availability and transportation
considerations (methods and means restrictions)
- * General approach to the size and number of
individual areas
- * Other land uses
- * Existing facilities
- * Other considerations

** Approved by the Legislative Task Force on Guiding and
Game on July 19, 1989.

BIG GAME GUIDE-OUTFITTER RESOURCE AREA MAPS

STATUS REPORT

NOVEMBER 3, 1989

ALASKA DEPARTMENT OF FISH AND GAME
DIVISION OF WILDLIFE CONSERVATION

Background

In a recent decision by the Alaska Supreme Court, the former system for managing big game guide-outfitters was declared invalid, which nullified those areas previously designated for use by specific guide-outfitters. As a result, the Legislative Task Force on Guiding and Game has initiated development of a new resource based management system that may be used to assist in allocating access to big game hunting opportunities among guide-outfitters. The Alaska Department of Fish and Game is the designated lead agency to create maps of guide-outfitter resource areas that could be the basis of the management system.

Progress to Date

Mapping criteria

The Task Force evaluated a wide array of factors that should be considered when developing the new guide-outfitter resource areas. They determined that the primary concerns are wildlife management, and enforcement. Ranking next in importance are several co-equal factors that include land ownership, administrative restrictions, easily recognizable field boundary features, available access and type of transportation, general approach to the size and number of individual areas, other land uses, and other considerations.

The basic "building block" for new resource areas for guide-outfitting will be watersheds that have already been mapped on a statewide basis as part of the Alaska Department of Fish and Game's system for managing wildlife harvest data. These mapped watersheds are referred to as uniform geographic coding units. They will be evaluated in terms of wildlife management concerns and enforcement, as well as the other factors listed above. Units may be aggregated into larger areas, based upon these evaluations.

Public Involvement

Through a thorough public review process, the public will be closely involved with developing the proposed guide-outfitter resource areas. Public proposals for these areas will soon be solicited and reviewed along with agency concerns regarding the wildlife resources. Draft maps resulting from this process will be reviewed by the public prior to being revised and submitted to the Big Game Commercial Services Board.

Schedule

The map development phase is planned for a two year period. During this time the 25 game management units in the state will be mapped in a sequence that reflects the degree of industry interest and potential pressure on the wildlife resources. The proposed priority list for the 26 units will soon be made available for public comment.

Future Progress Reports

The Alaska Department of Fish and Game will be reporting on map project progress at upcoming meetings of the Task Force. Additional information may be obtained by contacting the project coordinator, Marianne See, in Anchorage at 907-267-2179.

MEMORANDUM

RECEIVED

STATE OF ALASKA

SEP 12 1989

TO: Alison Elgee JAN FAIKS
Division Director SENATE OFFICE
Division of Budget Review
Office of the Governor

DATE: August 30, 1989

FILE NO:

TELEPHONE NO: 465-4100

FROM: Warren W. Wiley
Assistant Commissioner
Department of Fish and Game

SUBJECT: RPL to receive and
expend program
receipts

The Department of Fish and Game, Division of Wildlife Conservation, requests authority to expend \$45,000 in receipts collected by the Department of Commerce, Division of Occupational Licensing. These receipts represent fees collected from Guides and Outfitters.

This funding will permit the department to develop a computer based guide/outfitter area management system for the Task Force on Guiding and Game as part of their review of that industry. The 1989 Legislative Session had approved \$90,000 as part of the department fiscal year 1990 budget, however that amount was reduced to \$45,000 by the free conference committee. The free conference committee funding level will not allow the department to complete the system.

The Division of Occupational Licensing estimates the use fees will generate more than \$50,000 in program receipts during FY 90. These fees are not appropriated revenues and were not included as part of the fiscal notes for SCS CSHB 112(R1s) am S. Last session the Legislature approved House Bill 112 (chapter 37 SLA 89) related to big game hunting. Section 08.54.470 establishes a "Commercial Use Permit Fee." AS 08.54.470(d) provides:

"The commissioner of administration shall separately account for commercial use permit fees deposited in the general fund by the department. The annual estimated balance in the account may be used by the legislature to make appropriations to the Department of Fish and Game and the Department of Public Safety to carry out their respective responsibilities for management of game resources and enforcement of game laws."

Additional information:

1. Funding availability: Funding is available from program receipts collected by the Department of Commerce.
2. New/Expanded Services: Development of a computer based guide/outfitter area management information system.

Alison Elgee

-2-

August 30, 1989

3. Impact on general funds: No additional general funds are required.
4. Positions funded: No new positions will be required. Existing department positions will be utilized.
5. Technical/budgetary aspects: Funding required:

71000 Personal Services	<u>\$ 45,000.00</u>
Total funding	\$ 45,000.00

If I can be of any assistance or provide any additional information, please do not hesitate to call on me.

cc: Beverly D. Reaume

WWW/BDR/DSH/eej



IN REPLY REFER TO:

RF/9684r/48-49

United States Department of the Interior

FISH AND WILDLIFE SERVICE
1011 E. TUDOR RD.
ANCHORAGE, ALASKA 99503

DEC 07 1989



RECEIVED

DEC 13 1989

JAN FAIKS
SENATE OFFICE

Lewis Pamplin
Alaska Department of Fish and Game
333 Raspberry Road
Anchorage, Alaska 99502

Dear Lew:

Recently we sent a questionnaire to all refuge managers in an attempt to determine the potential problems that may result if there were no control over the number of guides. We also asked them for the estimated annual harvest by guided hunters and unguided hunters. From the information received, we hope to be able to find out which areas of the state are the highest priority for developing the proposed guide/outfitter resource maps. A summary of the responses is enclosed.

Most of the potential problems identified related to the possible conflict between increased numbers of sport hunters and subsistence users, or potential problems with: overcrowding in prime hunting areas; overcrowding in areas with limited access; conflicts with unguided hunters; and reduction in the number of trophy animals. The refuges that identified potential impacts to wildlife populations were: Alaska Peninsula/Becharof and Izembek National Wildlife Refuges for brown bears; Izembek National Wildlife Refuge for caribou; Arctic National Wildlife Refuge for sheep; and Arctic and Alaska Peninsula National Wildlife Refuges for moose.

Of interest is the percent of the various species taken by guided hunters on refuges.

Brown bears	36.2%
Black bears	5.7%
Caribou	8.9%
Sheep	39.9%
Deer	5.0%
Moose	7.1%

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 Stiglich

Regional Director

Enclosure

POTENTIAL PROBLEMS

ESTIMATED AVERAGE ANNUAL HARVEST

Wildlife Refuges	NUMBERS OF GUIDES UNDER PERMIT 1989						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
Alaska Maritime	1	--	--	--	--	--	2	1	0	0	6	30	0	0	0	0	0	0
Arctic	17	C	--	--	A	--	15	15	1	5	30	170	90	110	0	0	18	60
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	--	--	0	15	0	0	0	300	0	0	0	0	0	1
Kanuti	0	--	--	--	--	--	0	2	0	0	0	10	0	0	0	0	0	35
Kenai	6	C	--	--	C	--	2	9	6	6	1	16	4	30	0	0	11	450
Kodiak	19	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	55
Selawik	2	B	--	--	--	--	0	0	0	2	0	0	0	0	0	0	0	85
Tetiia	2	--	--	--	--	--	2	10	2	7	5	1500	2	0	0	0	5	12
Togiak	5	B	--	--	--	--	8	2	0	4	0	0	3	5	0	0	2	7
Yukon Delta	3	B	--	B	--	--	5	5	0	0	0	0	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	2978	97	146	250	4750	111	1443
Percent Harvested by Guided Hunters							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.)

APPENDIX

K

#2
Marianne See
10/18/89

Meeting Summary

INTERAGENCY MEETING ON BIG GAME-GUIDE-OUTFITTING

ADF&G October 18, 1989

Participants Representing:

BLM	Terry O'Sullivan
NPS	Rebecca Kaiser
USFWS	John Kurtz
USFS	Leo Keeler
A.WNR	Ron Swanson
	Mike Sullivan
ADF&G	Marianne See
Sen. Faiks	Mark Riehle

The following text summarizes specific recommendations or issues identified by topic during the discussions.

BIG GAME GUIDE-OUTFITTER RESOURCE AREA MAPS

ADF&G indicated that their proposed ranking of game management units for preparing draft maps would be submitted to the task force for comment and public review at an upcoming meeting.

All agencies agreed that it will be important to include the input of guide-outfitters along with agency biologists and the general public in the process of developing the maps of guide-outfitter resource areas.

The federal representatives all indicated that:

a) the state should try to align guide-outfitter resource areas with landowner/land manager boundaries, as much as possible, and boundaries should be easily recognizable in the field,

b) federal land management agencies want to be involved in the process of delineating guide-outfitter resource areas,

c) they are concerned that the size of the new areas could be large enough for the potential of joint use by guide-outfitters. These agencies clearly stated that in any system that designates where commercial operators could be, the federal land managers' concern is the quality of experience for the user of public lands, which in this case is the guided hunter. The agencies provide public use for a broad spectrum of users, and have to allocate opportunities among many types of users.

NPS indicated that they do not favor joint use on lands they manage because of past problems with joint use, as well as their concessions program criteria which encourages as few

operators per area as necessary. FWS indicated that they might have to subdivide any large guide-outfitter areas in order to minimize joint use.

COMPATIBILITY OF FEDERAL AND STATE AUTHORIZATIONS FOR GUIDE-OUTFITTER RESOURCE AREAS

The DNR and the federal managers indicated that:

a) they favor the state issuing permits for guide-outfitter resource areas; they do not favor issuing leases. The comparable federal authorizations are permits, not leases, and would not be compatible with leases. DNR also noted that under state law, leases must be competitively awarded at auction.

b) administrative requirements for the guide-outfitter applicant should be the same wherever possible, for all land managing agencies. This would minimize burdensome paperwork for guide-outfitters as well as state and federal agencies. Examples could include required elements in operational plans, and insurance requirements.

Terms of Authorizations for Guide-Outfitter Resource Areas

a) Landowner or Land Manager Permission

The FS indicated that a federal land use permit can be issued prior to an applicant receiving all necessary state licences, authorizations, proof of insurance, etc. The FS does this, then calls the licensing board prior to the hunting season to verify that their permit holder is licensed and authorized to use a guide-outfitter area. If not, the permit is cancelled.

b) Transferability

With the exception of NPS, the federal land managers do not allow their permits to be transferred. The BLM, FS and FWS do allow a new owner of a guide-outfitter business to apply for the necessary permit(s), but they must assess the new owner's application and plan, and thus do not automatically issue the permit. NPS concessions policies allow NPS to approve sales of concessions, then transfer the authorization.

The federal representatives agreed that if the state incorporates transferability into the new guide-outfitter management system, each federal agency would have to evaluate each proposed new operator against federal agency standards before issuing a new authorization to use federal lands.

c) Operational Plan (Plan of Operations)

The federal agencies currently require an operational plan from guide-outfitters seeking a land use permit. The state and federal representatives indicated that, if the state adopts this requirement too, the state and federal requirements for information in these plans should be the same, where possible. Even so, there will likely be some differences between agencies on certain required information. Also it is likely that each applicant's plan may be evaluated somewhat differently by each agency because of specific agency mandates.

FEDERAL INPUT TO THE TASK FORCE

The federal land management agency representatives discussed possible options that would allow them to present advisory comments to the task force during meetings regarding pertinent federal regulations and policy. They requested that federal agency representatives be recognized in an advisory capacity during task force meetings by the Chairman, whose representative indicated that he would forward this concern.

NOTE: Regarding the following topics, ADF&G noted during the meeting that these could be taken up with the Big Game Commercial Services Board.

DELINEATING LEVELS OF USE BY GUIDE-OUTFITTERS IN RESOURCE AREAS, AND ALLOCATING THE AREAS

DNR indicated that there may be a need to place a limit on the number of guide-outfitters in resource areas to prevent excessive pressures on state lands. With substantial fees required for using federal and private lands, state lands are likely to attract more guide-outfitters to state lands than in past years.

All federal representatives indicated that their agencies wanted a say in:

- a) how many resource areas for guide-outfitters would be designated in the federal land units (parks, preserves, forests, refuges, etc.),
- b) who would be selected to use those areas.

If the federal agencies were taking the lead in making these allocation determinations instead of the state, it would generally be done through their respective federal land use

planning processes, with the exception of NPS. In these processes, they would consider commercial guide-outfitting as one of many components of the public. The NPS concessions program is distinctly different in that the public (guided hunter) initiates the need for the commercial service, not the guide-outfitter. NPS generally limits commercial development to one vendor per type of service in an area, and seeks service continuity by contracting with one business as long as possible. NPS is not likely to return to the former CUL (commercial use license) system, and instead will probably continue to manage guide-outfitting under the concessions program.

The federal representatives indicated that the federal land managers need to work with the allocating entity (Big Game Commercial Services Board), and need to work within certain timeframes. Federal agencies need enough time for their evaluation process, which include:

- a) All federal land management agencies are required to carry out an ANILCA Sec. 810 evaluation of subsistence uses in their consideration of all uses for any given area in relation to an application for a use permit.
- b) For any new permit for a guide-outfitter, BLM and FS must use the Environmental Assessment (EA) process, which includes public notification and public comments. The FWS makes a compatibility determination. FWS indicated that if the provisions of the new systems for (a) delineating guide-outfitter resource areas and (b) assigning their use would be compatible with FWS permits, then FWS may potentially be able to do a blanket EA on the whole system instead of on each individual guide-outfitter resource area. When individual EAs are required for each proposed federal land use permit, there must be sufficient time for the process, including public review, prior to having the state authorize the use of a specific area for guide-outfitting. FS needs 60 days for the public review before they issue permits.
- c) NPS is also concerned about having adequate lead time to process applicants prior to the hunting season. They must release a prospectus (request for proposals or applications) in advance. For example, for guide-outfitting in 1991, NPS must release the prospectus by April 1990.

Federal representatives suggested ways that federal land managers could interface with the Big Game Commercial Services Board, for areas on federal lands:

- a) A 3-step process was suggested:
 - 1. guide-outfitter areas area established
 - 2. land manager indicates desired number of guide-outfitters per area
 - 3. guide-outfitters are selected per area
- b) three alternative selection options were suggested:
 - 1. the CSB could jointly select permittees with the federal land manager,
 - 2. the CSB could select, with federal land manager having a veto authority,
 - 3. the CSB could select a qualified pool (if more than one applicant per area), then federal land manager could select finalist

SELECTION METHODS

The state representatives indicated this has not yet been determined, but that a sequence of methods could potentially be used by the state, depending upon the relationship of the number of applicants to the numbers of available authorizations. For example, if there were more applicants than authorizations in an area, those found to be qualified could then be entered into a lottery or other selection method. Any authorizations issued would need to be consistent with any current state area or management land use plan. Where a plan does not exist a site specific plan might be needed. It was noted by the federal representatives that in cases with more applicants than authorizations, lotteries are more readily defended against possible legal challenge than are more subjective selection methods.

FEES

The FS and BLM noted that the 3% fee (of gross revenues) for that portion of any guide-outfitting business on those federal lands was negotiated with the guide-outfitting industry in the lower 48.

DNR pointed out that if fees for use of state lands are comparable to those for federal lands it could substantially increase costs for guide-outfitters, however if fees for state lands are substantially lower than for using federal or private lands, there may be an increased demand on state lands.

The pros and cons of flat fees (e.g. FWS) versus percentage fees were discussed, noting that a percentage fee:

- a) is proportional and fair to operations of any scale
- b) requires much more bookkeeping by guide-outfitters, and becomes especially burdensome for operators dealing with several land managers/landowners
- c) requires more administrative agency staff to handle all the paperwork.

59 mark
'Feds'

October 19, 1989

MEMORANDUM:

TO: Jan

FROM: Mark

SUBJECT: Interagency Meeting on Guide Task Force Goal

The meeting was moderated by Marianne See of Alaska Fish and Game. It was attended representatives from six agencies (state and federal) - see attached sign-in sheet.

Federal agency reps expressed concern pertaining to several areas:

*-the federal mandate is that users receive a quality experience. It appears to them that the task force (the state) will try to maximize the number of guiding opportunities rather than emphasizing quality of experience for the service recipient. Feds may have to place limits on the number of clients, etc. Feds want to deal with multiple uses of the land - they feel the task force is concerned only with helping commercial guides (to the detriment of other uses).

*-they do not want "joint use areas" saying "they don't work" (based on previous experience with them). Fed. Park Service has had trouble in past with such areas - guides squabbling, etc. Sometimes they "felt intimidated" by the attitudes expressed by the guides. It's doubtful Park Service would return to a concessions program.

*-if the system chosen is a lease concept for state lands - ADNR says no - the public does NOT want long permits, would have to be competitive bid. The feds and ADNR prefer NOT going to leases. They prefer a permit system (maybe renewable or competitive bid/lottery/concession or?). Leases imply long term and virtual ownership of the land.

Fed. Forest Svc can issue 5 year permits but these must be justified (they start with a 2 year trial period so they can get to know the operator - whether they can work with him

etc.). In other words, they want established, reliable operators.

Fed. F&W's top priority is the user (hunter) NOT the service provider (guide). The "industry is of no concern" to them. They are concerned that the task force is only concerned with making the guides happy.

*-the Park Service looks for continuity of service so they tend to stay with a service provider as long as possible. It can make land assignments but don't want the task force (state?) to do it for them.

*-a problem is the concessions policy act which must allow concessionaires a reasonable chance for profit -- which would preclude the "hobbiest" guides who do only a couple of hunts per year. They do not want guides who are simply seeking tax write-offs for their aircraft or other equipment.

*-FEES: feds must charge for commercial operations on public lands because of the "cost recovery system" (to cover administrative costs). Option is a fair market value. Forest Svc and BLM charge a percentage of gross (this was negotiated on a nationwide basis with the guide industry). The percentage is based upon (pro-rated on) income earned on the federal land.

- Marianne See commented that percentage billings could be an administrative nightmare if an agency is not staffed for it which is the ADFG situation. Maybe it would be better to have a sliding scale fee system.

*-federal superintendents would want a say in deciding the number of guides authorized to operate in a certain area as well as which guides were selected.

*-ADNR expressed considerable concern over the actions and requirements of the feds which are forcing activity onto state land. State land managers fear that state lands are receiving much more pressure and are becoming the dumping grounds for cast-off guides as the feds tighten controls.

*-need to close the gap between federal and state requirements.

*-TRANSFERABILITY: (of permits/leases or whatever). This is a major concern of the feds. They DO NOT provide for transferability. Forest Service also does not allow subleasing.

*-How is the administration of the management plan to be funded? Through program receipts?

Oct. 18, 1989

INTERAGENCY MEETING on BIGGAME GUIDE-OUTFITTING

Mike Sullivan	ADNR	762-2270
Ron Swanson	ADNR	762-2680
Terry O'Sullivan	BLM-	271-5508
Rebecca Kaiser	NPS	259-2594
John Kurtz	USFWS	786-3355
Leo Keeler	U.S Forest Service	271-2547
Mark Riehl	San. Ficks	561-7610
Marannee See	ADF+G	267-2420

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

November 1, 1989

The Honorable Ted Stevens
United States Senate
522 Hart Building
Washington, D.C. 20510

Dear Senator Stevens:

This is to notify you of a meeting I have arranged in Washington, D.C. for November 6th. A member of your staff would be most welcome to participate in this discussion of the activities of the Alaska Legislative Task Force on Guiding and Game.

I will be meeting with John Turner, Director of the Fish and Wildlife Service, members of the staff of Assistant Director of Fish and Wildlife Connie Harriman, and John Ridenour, Director of the National Park Service. Additionally, I will be joined by Bill Horn, former Undersecretary of the Interior Department and now with the law firm of Birch, Horton Bittner and Cherot. The task force has contracted with Birch Horton to assist in developing a resource-based management system for the allocation of big game hunting opportunities among guide-outfitters that will withstand constitutional challenge. Birch Horton will also assist in writing appropriate legislation which will be offered to the Alaska Legislature by January 15, 1990. It is hoped that our management plan will be acceptable to the federal agencies which own and manage vast quantities of land in Alaska.

Again, the meeting has been scheduled for Monday, November 6th at 2 p.m., in Room 3256 of the Interior Building, located at 18th and C in Washington, D.C.

If you have additional questions please contact my Anchorage office at 907-561-7610.

Sincerely,

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

OUT OF SESSION

JF:mr

3111 C STREET

ANCHORAGE, ALASKA 99503

907-561-7610

also To
Living & Murkowski

APPENDIX

L

November 17, 1988

Report of the Outfitter-Guide Task Force

Introduction

On August 10, 1988, the Fish and Wildlife Outfitter-Guide Task Force was appointed by the Minister of Forestry, Lands and Wildlife, at the request of the Premier. The task force was to review the entire outfitting and guiding policy area, and recommend guidelines to be used in developing a new outfitting and guiding policy for Alberta. (The complete terms of reference are attached as Appendix A.)

The establishment of the task force came after two major efforts to develop a policy, spanning the previous five years, had failed to receive broad public acceptance among outfitters and resident hunters or the support of Caucus.

The task force has examined the policies for guiding and outfitting in two other provinces and one state (British Columbia, Ontario and Montana), including visits to each jurisdiction to meet with government officials and representatives of the outfitting industry and of resident hunter organizations. It also met with Dr. Peter Pearse, a resource economist with extensive experience in the allocation of natural resources.

The task force reviewed the recent history of guiding and outfitting in Alberta, with particular emphasis on the development of, and reaction to, the two earlier policy proposals.

The current status and trends in the wildlife resource, non-resident and resident hunting and composition of the outfitting and guiding industry were assessed.

The task force's recommendations, which it believes should be used in developing the new outfitting and guiding policy, form the body of this report. The discussion that follows each recommendation is based on the task force's observations in Alberta and elsewhere.

Recommended Policy Guidelines and Discussion

The Task Force recommends that the following features be incorporated into the Outfitting and Guiding Policy.

- 1. The first priority of the policy must be the wildlife resource, managed to maintain viable wildlife populations ensuring sustainable big game harvest in perpetuity.**

Conservation and enhancement of the resource must always be the first priority in wildlife management, for everything else depends upon the continued supply of the resource.

- 2. The Government's role as resource manager and steward should be kept distinct from its relationship to outfitting as one part of the tourist industry. Non-resident hunting is allowed in order to provide economic opportunities to Albertans, and these benefits will be best realized by treating outfitting as a business rather than as a way of life to be preserved for its own sake.**

The Government has a role in encouraging economic development of outfitting as part of the tourist industry, and in regulating that industry where needed. This role is no different than its interest in, say, motels. The link between the Government's distinct role as resource steward and as promoter of economic development is the allocation to the industry of privileges for use of the wildlife resource. The allocation scheme must allow proper management of the wildlife resource and accommodate objectives for resident use. At the same time, allocation to the industry should be done in a way that allows individual outfitters to make business decisions with a minimum of government interference and in a way that encourages healthy competition within the industry.

- 3. The current requirements of the outfitter-guide permit appear to be working well, and should be retained or strengthened over time.**

The new (1988) licencing of outfitting businesses established the basic requirements to belong to the industry, including bonding to protect client deposits, liability insurance and first aid. These qualifications have gone a long way toward improving the quality and reputation of outfitting. The allocation proposal below (5. to 9.) depends upon a clearly defined outfitting business entity.

It is still too early to tell whether the standards of the industry, in terms

of behaviour in the field, loss of deposits, etc., have been improved. Certainly the number of guides who are willing and able to meet the requirements represents a more manageable-sized industry than the previous uncontrolled state of affairs, and has probably already removed much of the irresponsible fringe from the industry.

The reduction in the number of outfitter-guides as a result of the new permit requirements should not itself be seen as a panacea for the industry. A shortage of available harvest for both commercial and non-commercial users remains a problem in some areas which will increase over time. The currently reduced pressure provides an opportunity to address longer-term allocation, which should not be lost.

4. The first priority in allocating the allowable big game harvest must remain to resident hunters. This priority should not be absolute, however. The current policy of prohibiting non-resident hunting where residents are put on a draw should be rescinded. Where resident harvest is limited, so must non-resident harvest.

Reserving a fraction of the allowable harvest for non-residents in higher-demand areas is essential for the long-term survival of the outfitting and guiding industry. Without it, non-resident hunting will disappear as more areas go onto a draw. Resident hunters appear reasonably willing to share some fraction of the resource in these areas, recognizing that the guiding and outfitting industry is a legitimate user of wildlife with a long tradition in Alberta, and that continued reciprocal privileges for Albertans to hunt in other jurisdictions may depend upon our allowing non-residents to hunt here.

5. A predetermined fraction of the allowable big game harvest should be allocated for non-resident use in those areas and for those species where demand approaches or exceeds supply, and where non-resident hunting and associated outfitting and guiding are causing significant conflict with resident use. In those areas, corresponding guiding opportunities should be allocated among individual outfitter-guides. The fraction of the allowable harvest available for non-resident use should not exceed 10 percent (by Wildlife Management Area) in these areas, and should not exceed 10 percent as a provincial average, by species. The actual percentage in each area will depend upon past and present resident and non-resident use, resident demand and resource availability, and may be zero in some situations.

In other areas, where there is no need for allocation, non-resident licences and the associated guiding opportunities can be granted freely, as at present.

The allocation between residents and non-residents must recognize resident use as the first priority, balanced with the desire of outfitting businesses for an assured and stable supply of guiding opportunities. It must recognize the sensitivities of resident hunters, particularly toward non-resident use of highly valued species where resident draw success rates are particularly low. The above percentages must be regarded as upper limits, within which Fish and Wildlife Division can work with the industry and resident hunting interests to arrive at mutually acceptable percentages for each situation.

There is a critical excess of demand over supply in only a few areas for a few species. Initially, allocation can be restricted to these areas, allowing a gradual transition to the new system.

In some areas, the large number of outfitters and the large fraction of the harvest their clients take is causing crowding and conflict, even though the biological harvest limit has not been reached. Limited entry for guiding opportunities would improve these situations.

Over time, it is likely that there will be limited entry over most of the province for most species, for both residents and non-residents. Allocation will become the rule, rather than the exception.

Areas of relatively low demand represent opportunities for business expansion, and the allowable harvest should be made available for commercial use as long as this use does not significantly conflict with resident use. These areas also provide alternatives to outfitters who fail to acquire the resource privileges they want in high demand areas, cushioning the effect of such failure. Some of these areas will exist for the foreseeable future.

6. Allocation of the non-resident harvest among outfitters should depend on market mechanisms (i.e. sold to the highest bidder.)

Privileges for the commercial use of wildlife should be sold for market value, partly because Government should treat these businesses as business (2., above), and allocation among outfitters is the wholesaling of the opportunities that outfitters sell to clients. Market forces, if allowed to operate fairly freely, should help to rationalize the industry, including removing marginal operators, reducing crowding in popular areas, spreading effort into new areas that have little conflict with resident hunters and encouraging businesses to form the most economically sized units.

To achieve these benefits:

- the market should set prices, by means of auction, sealed tender or other means;
- privileges must be equally available to all who meet the basic qualification requirements (an outfitter-guide permit);
- privileges must be freely transferable and divisible;
- any limit on the number of privileges held by a single outfitter should not be excessively low; and
- the privileges must have a clear legal definition, and not be subject to overly discretionary administration.

Markets, using the forces of supply and demand, will establish prices to accommodate differences in species value, hunter success, ease of access, etc. in a way that pre-set prices cannot.

Markets, operating both at initial allocation (when the Government is the seller) and for transfers (sales between outfitters), allow rights to be acquired by whoever can make the best use of them.

Setting a maximum number of guiding opportunities to be held by any outfitter in an area will prevent a few outfitters from dominating the industry, thereby restricting competition. This ceiling should not be set too low, or it will artificially sustain the number of outfitters working in each area, preventing a desired reduction in conflict and crowding. A size limit would tend to inhibit the realization of economies of scale, as well.

If market prices are initially paid for privileges, transfer at market rates does not result in any windfall.

Market sale of privileges should ensure a fair return to the Crown for the use of public resources. There will be increased value added to the provincial economy, since the top bidders for the resource will be the people who can command the highest fees from non-resident clients.

For the first sale, auction may be preferable to sealed tender, since there will initially be great uncertainty about the prices the privileges will fetch. An auction will give everyone an opportunity to see what price they have to pay to acquire the privileges they want.

Alternative allocation methods include grandfathering, draw, self allocation and distribution by business capacity. Grandfathering in this context is the one-time granting of perpetual rights based on historical use. It has been successful, both in Alberta and elsewhere, when the industry composition has been stable, with few new entrants and a relatively constant market share for each participant. However, grandfathering is unfair, because it provides a gift of public resources to a fortunate few, based solely on their past market share. If these rights are also transferable, those grandfathered will receive windfall profits when rights are sold. Grandfathering violates the principle that government should treat these businesses as business. Attempts to correct its main inequities, for example through large assignment fees, would distort competition within the industry. The current rapidly changing composition of the industry in Alberta makes grandfathering particularly difficult to implement, since allocation would be extremely sensitive to the particular grandfathering formula used.

Draws are used to allocate resident hunting licences where there are not enough to go around. These draws recognize that all applicants should be treated equally, and as owners of the resource, should not be excluded from using it for financial reasons. Individual hunters can tolerate a degree of uncertainty year to year whether they will be allowed to hunt a given species. None of these factors apply to business. Draws give no recognition of differing contributions to the industry and to the economy. Larger businesses require a larger allocation of resources, and should be prepared to pay what the resource is worth. Businesses cannot, and should not have to submit to a lottery to obtain the raw materials they need. Windfall profit taking will happen under a draw as well.

Self-allocation has also been attempted, in which all the outfitters in an area meet periodically to divide up the part of the total harvest (or associated licences) granted to the group. It resulted in a high degree of conflict and uncertainty, and was very unpopular.

"Point systems", which allocate based on the size and facilities of the business, are more appropriate in areas where outfitting requires expensive fixed assets, such as lodges. The mobility of outfitters in Alberta favours other schemes.

7. Revenues from the sale of guiding opportunities should be applied to increasing wildlife supply, rather than going into general revenue.

The industry is dependent upon the continued viability of wildlife populations, as are other consumptive and non-consumptive uses. The costs

of wildlife and habitat management should, at least in part, be borne by those that benefit from the result. This is already true for resident hunters. The Crown, through the sale of guiding opportunities, will be receiving rent from the industry for the use of these resources, and it is reasonable that this rent be used for improving the wildlife resource, by directing these revenues to the Fish and Wildlife Trust Fund and dispensing them through the Buck for Wildlife program. Certainly targeting funds in this way would make the whole policy more attractive to both outfitting and resident hunting interests.

8. The privileges allocated to outfitters should be for a three year term. It should only be the opportunity to guide non-residents, and clearly not convey any right to the wildlife resource itself.

A major advantage of relatively short tenure is that it allows future fine tuning of the policy without having to buy back or cancel privileges. Normally with this term, changes to the allowable harvest can be accommodated by adjusting the number of opportunities newly issued. Wildlife populations should only rarely decline enough over this term to require buying back privileges in order to reduce harvest in an area.

After several years experience with this term, moving to longer tenure could be considered.

Terms longer than about five years would require selling quotas, or fractions of the allowable harvest. The number of opportunities that a quota represented would be adjusted with the allowable harvest.

There are a number of advantages of long-term rights that will not be realized. Operators with a long-term interest in the resource have an economic incentive to enhance it, resulting in a degree of self management. Such benefits would accrue where an outfitter has relatively exclusive use of and control over the resource. However, the major factors affecting populations (licenced resident hunting, native hunting, poaching, habitat change) are beyond the outfitter's control, making any significant degree of self management unlikely.

9. The privileges allocated to outfitters should be to specific locations (Wildlife Management Units.)

Distributing privileges on a geographically specific basis allows wildlife managers to allocate harvest between residents and non-residents at the

WMU level. Currently, much of the crowding and over harvest is at this level.

Exclusive guiding territories are not feasible at the present time. The present large number of outfitters in the most popular hunting areas would require either unmanageably small territories or major disruption and relocation of individual businesses every time privileges are tendered.

There are theoretical and practical advantages to exclusive territories. With only one outfitter in each territory, crowding and conflict in the field between outfitters would be eliminated. The holder of a territory would have a greater interest in the health of the resource upon which his business depends. However, as in the discussion of long-term rights, above, self management benefits would be unlikely to be realized, since the main influences on wildlife populations are beyond the outfitter's control.

10. Outfitters should be required to obtain written permission from landowners before operating on their land.

Written permission should reduce conflict between landowners and outfitters, their employees and clients. While written permission does not alter the rights of the landowner, it will make regulation and compliance on private land easier.

11. The Government should encourage the formation of an industry-wide umbrella organization that can act as a single voice for outfitting in resolving internal problems, in marketing outfitting services and in dealing with Government.

The current large number of outfitter organizations (seven or eight) are frequently in conflict with one another. This has inhibited any self-policing in the industry, and made communication with Government difficult. Efforts are currently under way to establish a province-wide association (in addition to the existing ones, at least initially), and should be supported. The proposed provincial association will be able to address many of the problems that Government is currently under pressure to solve for the industry. Improved standards for the industry, better relations with resident hunters and landowners, coordinated marketing services and an improved international reputation ought to result.

Experience in other jurisdictions has shown that development of a strong industry voice will take time, and be greatly facilitated by allocating

opportunities to individual outfitters, which reduces direct competition and conflict and encourages them to work together. Such an organization can become a strong ally of resident hunting interests, as they both benefit from better wildlife management and increased supply of game.

12. The outfitting and guiding policy must be able to evolve and be fine tuned, while at the same time must provide a stable climate within which the industry can evolve.

The granting of short-term privileges is a key to providing needed flexibility in the future direction of the policy. This evolution will also require a commitment to evaluate the success in implementing the current proposal, including consultation with industry, resident hunting organizations and other interested parties.

Stability should increase with a more stable composition of the industry and with the removal of uncertainty regarding the policy. The latter requires the strong support of Government to make these policy proposals work.

APPENDIX M

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

P.O. BOX D-LIC
JUNEAU, ALASKA 99811-0800
PHONE: (907) 485-2834

*Guide-
Outfitter*

June 21, 1989

Dear Guide-Outfitter:

As most of you are probably aware by now, HB 112, relating to guide-outfitting, passed this session and was signed into law on May 11, 1989 (copy enclosed). I encourage you to read through the bill carefully, as there are many changes that will affect your operations.

The most urgent issue at hand is the requirement of guide-outfitters or marine mammal guide-outfitters in AS 08.54.395 that they carry comprehensive general liability insurance in the amount of \$300,000 per occurrence or \$500,000 per annual aggregate.

All classes of guide-outfitters (i.e., guide-outfitters, marine mammal guide-outfitters, class A's, and assistants) who transport their clients by aircraft must carry aviation passenger liability insurance of at least \$100,000 per seat. All classes of guide-outfitters who personally pilot an aircraft to transport clients during the provision of big game commercial hunting services must show proof of a commercial pilot's rating or a minimum of 250 hours of flying time in the state.

Insurance verification forms are enclosed. Please note that this section of the law is effective July 15, 1989. You are required to return the forms completed by your insurance company and a notarized copy of your commercial pilot license or verification of 250 hours of flying time in Alaska by July 17, 1989 if you intend to provide air transportation services to your clients.

By way of information, please also note the changes in the requirements for assistant and Class A assistant guide-outfitters. Assistant guide-outfitters must now sit for an examination prior to licensure. No new assistant guide-outfitter licenses will be issued prior to the exam. The exam will be given in Juneau, Anchorage, and Fairbanks on July 21, 1989. Applications must be received by this office no later than July 17, 1989.

Guide-Outfitter

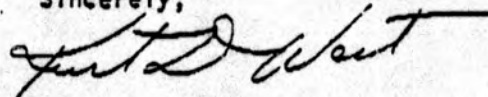
-2-

June 21, 1989

Commercial USE Permit and Fee: Under AS 08.54.470, a person who is licensed as a guide-outfitter or marine mammal guide-outfitter shall obtain an annual commercial use permit and pay the annual commercial use fee. A form for payment of the fee is included and should also be returned no later than July 15, 1989.

If you have any questions concerning the new law, feel free to contact this office at 465-2543.

Sincerely,



Kurt West
Licensing Examiner

KW/dg14454D
062189e
Enclosures

IMPORTANT NOTICE!!! PLEASE READ!!!

FORMAT OF ENCLOSED FORMS:

Attached are forms for your use in complying with the new requirements of HB 112. The new bill sets out specific licensing deadlines and requirements, many of which have to be complied within the very near future. However, appointments to the new Big Game Commercial Services Board have yet to be made; hence, the board has not had an opportunity to review and approve the format of the forms that have been developed. As an interim solution, the Division of Occupational Licensing has developed preliminary forms for your use. Once board appointments are made, the board will have to review and approve the format of all of the forms we have developed during this interim.

As a result, the forms may be revised and additional information may eventually be required by the board. In such cases, persons already licensed will be required to provide the requested additional information. The division will correspond with you directly regarding any additional items the board may require from you.

FEES:

As you are aware, HB 112 provides for the payment of a "commercial use" fee. While the division, by statute, may set licensing fees with the concurrence of the board of the affected profession, the commercial use permit fee is not a licensing fee. Again, because the board is not yet appointed, the division has gone ahead and set interim fees.

While tentative, we believe the licensing fees we have set will likely be concurred with by the board. The licensing fees we have set will be good through December 31, 1990 (approximately a year and one-half), when all persons presently licensed by the now-sunsetted Guide Board must renew their licenses. Thereafter, in accordance with statutory requirements of HB 112, licenses will be issued on an annual basis only.

The division has also set a tentative amount of \$100.00 for the commercial use permit fee. This fee must accompany the enclosed commercial use permit application and is due by July 17, 1989 (the same date that the enclosed insurance forms are due). This fee is only good until December 31 of this year. All licensees will be required to pay a separate commercial use fee for calendar year 1990.

The fee is tentative because a \$100.00 fee is probably insufficient to fully meet the intent of the Legislature in creating and assessing a commercial use fee. The commercial use fee is intended to provide a means whereby persons who provide any form of big game commercial hunting services can reimburse Alaskans for the privilege of harvesting the state's public (i.e., free) big game resource. The statute says that the monies generated by the commercial use fee shall be accounted for separately by the state and that the Legislature may make appropriations from that fund to the Departments of Fish and Game and Public Safety for the purposes of enforcement and resource management. In order for the fund created by commercial user fees to be of sufficient size to benefit the state through protection and management of the resource, the division believes the fee must generate somewhere between \$250,000 to \$500,000 a year. A \$100.00 commercial use fee is not enough to raise this much revenue.

Handwritten note: I'd advise commercial users first

In the meantime, because the statute requires that a commercial use permit fee must be paid before any guide-outfitter, transporter, or commercial use permit holder may provide big game commercial services, we have set the fee at \$100.00 simply as an interim measure. Once Commercial Services Board members are appointed, the board will have to place many matters in regulation form; at that time, the board will take public testimony on the appropriate amount of the big game commercial use fee.

Thank you.

Randall P. Burns, Director
Division of Occupational Licensing

State of Alaska
Department of Commerce and Economic Development
Division of Occupational Licensing
Big Game Commercial Services Board
P.O. Box D-LIC
Juneau, Alaska 99811-0800
(907) 465-2543

**FAA/COAST GUARD LICENSE VERIFICATION
OR PROOF OF EXPERIENCE
(AS 08.54.395(b))**

Applicant Name: _____

Business Name: _____

Mode of Transportation: _____

Number of planes/boats you are using _____

AK Number / Plane Registration Nos. for above: _____

Air Carrier Operator License No. _____
Required under 14 C.F.R. Part 135

Coast Guard License No. _____

List the Game Management Units in which you will be transporting big game hunters: _____

NOTE: A notarized true copy of the above license must be attached to this application.

OR

**AFFIDAVIT OF FLYING EXPERIENCE
(AS 08.54.395(b))**

Applicant Name: _____

Being first duly sworn upon his/her oath, deposes and says:

I make the following voluntary signed statement and no threats, promises, or any form of duress have been used to induce me to make this statement.

I, _____, have personally flown at least 250 hours in Alaska.

List Number of Hours: _____

NOTE: You may be subject to an audit of these hours and a log may be requested.

I have read the above and foregoing statement and have been given an opportunity to make any corrections that I might want to make.

Signature of Applicant

Subscribed and sworn before me at _____ this _____ day of _____, 19 _____.

Notary Public

My Commission Expires: _____

STEVE COWPER, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT****DIVISION OF OCCUPATIONAL LICENSING**P.O. BOX D-LIC
JUNEAU, ALASKA 99811-0900
PHONE: (907) 485-2534

DATE: June 26, 1989

TO: All Members, Task Force on
Guiding and Game

FROM: Randall P. Burns, Director *Randall*
Division of Occupational Licensing
Department of Commerce & Economic Development

SUBJECT: Categories of Licensure under
the newly enacted HB 112

Senator Jan Faiks has asked that I briefly detail for the Task Force the entities now regulated by the newly created Big Game Commercial Services Board (hereinafter the "Commercial Services Board" or "CSB"). As you are no doubt aware, HB 112 has replaced the Guide Board with the CSB. In comparison with the scope of activities formerly regulated by the Guide Board, the activities regulated by the CSB have been considerably broadened. Most significantly, the new law provides for better game harvest reports, licenses a greater number of big game commercial users, and establishes a commercial use fee (to "reimburse," as it were, the public for the harvest or use of the State's big game resource).

The bill, Chapter 37 of SLA 1989, establishes the following commercial user groups:

All Classes of "Guide-Outfitter":

- Guide-Outfitters (GO's)
- Marine Mammal Guide-Outfitters (MGO's)
- Class A Assistant Guide Outfitters (CGO's)
- Assistant Guide-Outfitters (AGO's)

"Transporters":

- Air-Taxi Services
- Charter Boat Operators
- All Other Transportation Forms (including Dog-Team,
Pack Horse, etc.)

"Other Big Game Commercial Service Providers":

Persons Who Provide:

- Accommodations in the Field at a Permanent Lodge,
House, or Cabin
- Hunt Broker Services
- Gear Rental Services
- Photographic or Videographic Services
- Other Services (as defined by the CSB)

**All Members, Task Force
on Guiding and Game**

"Interim Outfitter":

A person who may continue to "outfit" (not "guide") only,
pending a final determination of the person's
qualifications to become a licensed guide-outfitter

HB 112 requires the following:

Guide-Outfitters and Assistant Guide-Outfitters must take an exam. GO's must take both a written and an oral exam. AGO's need only take a written exam. A Class A Assistant Guide-Outfitter may opt to sit for the exam ordinarily given GO's if the CGO would rather take the exam than work for a guide-outfitter for at least one season.

Both the GO and the MGO must carry general comprehensive insurance (or post a bond), and any class of GO who personally pilots an aircraft to transport clients must have a commercial pilot's rating or show proof of having flown a minimum of 250 hours in the state of Alaska. Also, any aircraft used by any class of GO to transport clients must carry aviation passenger liability insurance.

In order to qualify as a Transporter, the person must provide the CSB with proof of an air taxi/commercial operator certificate issued by the FAA (Part 135), if the person provides air transportation to big game hunters, or proof of licensure by the Coast Guard to carry passengers for hire, if the person provides water transportation services to big game hunters (and licensure is required by the USCG).

Persons other than Guide-Outfitters and Transporters who provide big game commercial services must register with the CSB. This includes the provision of lodging in the field, hunt broker services, gear rental services, photographic or videographic services, or such other services as shall be defined by the CSB.

Transporters and each class of GO are licensed. The providers of "other big game commercial services" are only registered with the CSB. But all groups, whether licensed or registered, must pay the commercial use fee established by the Legislature in HB 112. The commercial use fee is intended to provide a means whereby persons who provide any form of big game commercial hunting services can reimburse Alaskans for the privilege of harvesting or otherwise commercially benefitting from the State's public (i.e., "free") big game resource.

The statute says that the monies generated by the commercial use fee shall be accounted for separately by the state and that the Legislature may make appropriations from that fund to the Departments of Fish and Game and Public Safety for the purposes of enforcement and resource management.

HB 112 also has a modest "grandfather" section. It allows a person not previously licensed as a guide who can meet certain fairly strict criteria to apply for and receive a license as a guide-outfitter. This section allows the outfitter to continue to function as an outfitter "in the field" for a period not to exceed two years. Unless qualified under this transitional section, no one may "outfit" or "guide" without a guide-outfitter license.

**All Members, Task Force
on Guiding and Game**

The law also sets out a variety of civil and criminal penalties for unlawful acts, adds a new species to the list of big game animals requiring a guide-outfitter to accompany nonresident hunters (i.e., mountain goat), and creates a new board with a significantly different membership than was found on the previous Guide Board.

Finally, the bill states that the CSB may establish, "subject to the prior approval of the commissioner of fish and game, a resource-based system for allocating access to big game hunting opportunities among guide-outfitters" [see AS 54.310(b)(1)]. This particular section of the bill takes effect on the "earlier of (1) January 15, 1990; or (2) the date of submission to the legislature of a recommendation by the Task Force on Guiding and Game for a resource-based management system for allocating access to big game hunting opportunities among guide-outfitters licensed under AS 08.54" [see Section 20 of SCS CSHB 112(Rls) am S].

This section of the bill was probably the most controversial. Passage of HB 112 would probably not have occurred had the issue of establishing an allocation system not been postponed for additional review and study. It is important to realize, in light of the Alaska Supreme Court's Owsichuk decision, that HB 112 has dealt with the licensing aspects of the guide/outfitting controversy, but that essentially no work has been done on the other aspect of the controversy: the feasibility of establishing an allocation of our big game resource to nonresident hunters, in order to bring some level of stability to the commercial big game hunting industry in Alaska.

I have attached a copy of the Attorney General's review of HB 112, as well as a copy of a recent mailing the Division of Occupational Licensing has done in regard to the requirements of HB 112. I will be happy to answer any questions you might have.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

P.O. BOX D-LIC
JUNEAU, ALASKA 99811-0800
PHONE: (907) 485-2534

July 20, 1989

RECEIVED

JUL 31 1989

JAN FAIKS
SENATE OFFICE

Dear Guide-Outfitter:

As you are aware, there has been considerable controversy over the insurance requirements of the new guide-outfitter bill (HB 112). In addition to unhappiness over the requirements, many of you have felt that the Division of Occupational Licensing's interpretation of the requirement has been incorrect. At a recent meeting of the Task Force on Guiding and Game, the issue of the division's interpretation of the insurance requirement was debated at length.

As a result of those discussions, the division is backing off from its requirement that, in order to maintain your license status as a guide-outfitter, you must provide proof of maintaining comprehensive general liability insurance. It had been our position that guide-outfitters not carrying the insurance, for whatever reason (e.g., working for another guide-outfitter; not hunting this fall; or simply not working as a guide-outfitter at all this year), would have to "downgrade" to a class A assistant guide-outfitter. We will not go forward with our intention to downgrade at this time.

Therefore, the division will proceed as follows:

1. We will not require proof that a guide-outfitter, while engaged in providing big game commercial hunting services, carries the necessary general comprehensive liability insurance or, if applicable, the aviation passenger liability insurance at the levels required by AS 08.54.395.

The Task Force believes that the insurance requirement is not a condition of licensure, and therefore the division cannot require proof that you meet this requirement. If, however, as a result of an accident in the field, it is discovered that the guide-outfitter contracting for the hunt did not carry the required general liability and/or aviation insurance, or the pilot did not meet the required experience levels, then failure to comply with those requirements will be grounds for discipline.

2. Guide-outfitters working for other guide-outfitters (whether as an employee or as a subcontractor) will not have to inform us of their employment status.

July 21, 1989

3. Guide-outfitters (whether contracting to provide hunts or working for other guide-outfitters) must still pay the commercial use permit fee. If you wish to maintain your status as a guide-outfitter, you must pay the \$100.00. This requirement is separate from the insurance requirement and is a condition of licensure.
4. We will continue to publish a roster of all licensed master guide-outfitters and guide-outfitters. The roster will make no reference to whether or not a particular guide-outfitter is properly insured, since we will not have this information.

It is the responsibility of each licensed guide-outfitter to make sure that every hunter to whom big game commercial hunting services are provided is protected by the insurance provisions of AS 08.54.395. We assume that the guide-outfitter actually contracting with a client will be the one most likely to carry the required insurance (whether general comprehensive or aviation passenger liability or both). However, regardless of who carries the insurance, the bottom line is clear: no person being guided can be without the protections provided by the insurance and pilot experience provisions of the new law.

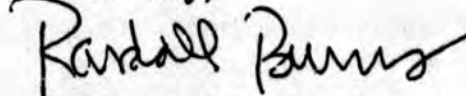
The division apologizes for the confusion and anger that this matter has engendered among the guide-outfitting industry. As you know, the Task Force opposed the insurance requirement and the division itself argued before legislative committees against adding an insurance requirement for guide-outfitters.

However, the Legislature having acted, the division felt that the public purpose behind requiring insurance mandated that we clearly establish who did and who did not carry the necessary insurance and downgrade to class A assistant guide-outfitters those licensees who did not. We wanted to be able to represent to the public that all licensed guide-outfitters met all provisions of the law, whether or not every provision was strictly a requirement of licensure itself.

Enclosed with this letter, which has been sent to the most current address we have on file for each licensed master and registered guide, is another form for payment of the commercial use permit fee. If you have already submitted payment, please toss this form out. If you have not made payment, please remit immediately as the original July 17, 1989 deadline has passed.

We look forward to the appointment of the Big Game Commercial Services Board so that the board itself can assist the division in implementation of a law whose ramifications on the commercial gaming industry are already becoming abundantly clear.

Sincerely,



Randall P. Burns
Director

RPB/mm1413t
072189b

cc: Commissioner Mercurieff
Ron Clarke, Special Assistant to Governor Cowper
All Members, Task Force on Guiding and Game
All Legislators
Steve White, Assistant Attorney General

APPENDIX

N

January 18, 1989

MEETINGS OF THE LEGISLATIVE TASK FORCE ON GUIDING AND GAME

* All meetings were chaired from the Anchorage Legislative Information Office except the August 16th committee meeting which was held at the Anchorage offices of Birch Horton Bittner and Cherot and the January 22nd meeting which was chaired from Juneau.

June 29, 1989 - Organizational meeting. Senator Jan Faiks elected Chairman.

July 19, 1989 - Work session

August 16, 1989 - Work session of task force committee

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, 1989 - Work session with public comment

January 22, 1989 - Final meeting to consider the final report to the Legislature.

* All meetings were open to the public, however public comment was taken only during regular meetings with some exceptions. For example, public comment was accepted during the January work session.

Written comments from the public were requested and accepted throughout the life of the task force. Verbal comments were requested and accepted from the public at specific times during regular meetings and when time allowed during some work sessions.

Public comment was received from approximately 100 individuals between October and January. During that time period, approximately 600 people attended the several regular and work sessions of the task force.

TASK FORCE ON GUIDING AND GAME
Anchorage, Alaska
June 29, 1989
10:00 a.m.

MEMBERS PRESENT

Pete Buist
Randall Burns
Vernita Cassidy
Ralph Eluska
Ken Fanning
Phillip Gilson
Bob Hinman
Paul Johnson
Matthew Lya
Lew Pamplin
Representative Lyman Hoffman
Representative Mike Navarre
Senator Jan Faiks

MEMBERS ABSENT

Nick Pierskalla
Gayle Ranney

OBSERVING

Representative Cliff Davidson
Former Representative Heinrich Springer

TAPE ONE, SIDE ONE
June 29, 1989

Number 001

The Task Force on Guiding and Game was called to order in the main conference room at the Anchorage Legislative Information Office at 10:00 a.m. by Acting Chair, Senator Jan Faiks. It was noted that task force member Matthew Lya of Nome was participating in the meeting via the teleconference network.

The meeting was for organizational purposes of the task force, which was established in 1988. Legislation passed during the 1989 legislative session extended the termination date of the task force and increased the membership by two persons to be appointed by the governor.

Number 184

Vernita Cassidy moved that the first order of business be the selection of a chairman. The motion was seconded and passed unanimously.

The nominations for chairman were opened. Paul Johnson nominated Senator Jan Faiks; Vernita Cassidy nominated Bob Hinman. There being no further nominations, the nominations were closed. By a show of hands of those present, Senator Jan Faiks was elected chairman.

Number 275

The next order of business were verbal reports by the Department of Fish and Game and the Division of Occupational Licensing on the effects of HB 112.

Number 285

Lew Pamplin, Department of Fish and Game, introduced Suzanne Miller of the department, who is charge of their information management program in the Division of Wildlife Conservation. He asked Ms. Miller to summarize where they are in the mapping of geographic areas and resource information into one composite map. He added the reason this is so important is that the charge of the task force is to develop a administrative resource-based system to manage big game guide-outfitting in the state, and only after all the mapping is done, can a system be developed.

Ms. Miller said that in 1983 they initiated a uniform coding for recording of all big game harvest information. It consists of a geographic system based primarily on drainages. This past year they digitized the game management unit boundaries and the boundaries of the harvest recording units, which she pointed out on the map. They are now in the process of doing some editing and anticipate having the mapping completed by the end of the this summer, Ms. Miller stated.

Number 490

Mr. Pamplin commented that the key point on this is that there is geographic-based resource management that ties right now directly into the management of big game that can be used if some kind of a system can be developed.

Number 500

Mr. Pamplin noted that the task force requested the Department of Fish and Game to go for funding that would allow them to put people on line to coordinate development of a resource-based area mapping project. The department requested funding for FY 90 in the amount of \$90,000 to accomplish this, however, the funding was reduced by the

legislature to \$45,000. He suggested that perhaps at the next meeting the task force should seriously look at how they are going to accomplish the task from a technical standpoint with the reduced funding.

Pamplin said that their Division of Administration has modified the hunting license form to include the affidavit of nonresident hunting of moose and caribou as well as modifying their harvest recording forms to include informational commercial services used. He added that the Department of Fish and Game has accomplished all the recommendations previously made by the task force.

Pamplin outlined three areas that he feels should be of priority to the task force: (1) the need to establish criteria in which the guide-outfitting resource areas will be defined; (2) the need to establish a public input process; and (3) develop a report to the legislature that clearly states what is going on and has the unanimous support of the task force members so that it can be successfully implemented.

There was brief discussion on the new law that requires a hunter must be accompanied by a licensed guide when goat hunting. Pamplin said the Department of Fish and Game has sent out a large amount of information on the new law and they feel that the law is working.

Number 725

Randall Burns, Division of Occupational Licensing, Department of Commerce and Economic Development, said the Division of Occupational Licensing has been spending their time getting out information and forms on the new transporter requirements and commercial use requirements contained in HB 112. They have also communicated directly with the guide-outfitters regarding the new requirements for insurance, which is effective July 15.

Burns said they are moving fairly quickly, but the major obstacle that they are encountering is the fact that a Big Game Services Board has not yet been appointed, and they have had to move forward on some of the duties that the board will administer.

The most ticklish situation that has resulted in terms of not having the board has to do with the requirement that assistant guides have to take a written and oral exam before they can be licensed. The exam has been updated, and applicants will be given a form stating that they understand there isn't a board, and if the individual fails the exam, he can't come back and say that there wasn't a board to approve it, etc., Burns said.

Number 872

Ms. Cassidy asked if would be possible to see a copy of the exam. Burns responded that none of their exams are open to anyone, however, he would check into the matter.

Number 890

Continuing, Burns said they have had numerous inquiries about the new section of the law concerning permission to be on state, federal or private lands, and what is going to happen if an individual does trespass. The department's position, at this point, is that they should let them know, and then they will contact the person who is licensed.

Number 910

Bob Hinman commented that he is impressed with the amount of information that has been put out by the department on this new section.

Number 920

Ken Fanning asked if the department has scheduled other dates or other locations for applicants taking the assistant guide exam. Burns responded that the exam will be given in Anchorage, Fairbanks and Juneau in July, and they currently do not plan on giving it again until a new board is established and they have had an opportunity to evaluate it.

Mr. Fanning asked if an individual does trespass on state, federal or private land, will the department contact not only that individual, but the landowner as well. Burns replied, to date, it has been the landowners that have been contacting them, not anyone else, and they had not contemplated that.

Number 996

Paul Johnson said he thought that individuals were going to have to show the department that they had approval from the landholder or that their license continued to be valid. Burns responded that they do that with the Department of Fish and Game. The law just says that before an individual lands on a piece of property, he must have prior authorization, but they don't have to show that to the Department of Commerce. There are some provisions in the law that say before a nonresident can get a permit, Fish and Game may require that the nonresident show proof that they have permission to be on that land. Pamplin commented that it is a discretionary authority.

Number 1038

Ms. Cassidy restated her request to see a copy of the exam for assistant guides to see how it looks from a villager's perspective. She asked if Mr. Burns had anyone on his staff looking at the exam from a villager's perspective to make sure it is not a totally unpassable exam. Burns answered that they do not. Senator Faiks suggested that perhaps someone from the Department of Education, who specializes in cross-cultural delineation of exams, could look at it to see if there is a cultural problem or bias built into the exam for the villagers. Burns agreed it was a good idea and he didn't have any problem with the suggestion.

Number 1084

Senator Faiks called the members' attention to a memorandum from the Department of Law to the Governor concerning three issues that the department thought were mildly unconstitutional or they had a question about in HB 112, but not enough to recommend a veto.

One of the questions concerns the membership of the Big Game Commercial Services Board. One of the board members was to be chosen by the Board of Game, and that does interfere with the governor's authority to make appointments on the executive branch, she said.

The Department of Law also has question as to what is meant by a Native landholder representative. Senator Faiks suggested the task force may want to put in an amendment to clarify what the task force meant so that there is a specific-type person in that slot.

Senator Faiks also pointed out there was constitutional question raised with the residency requirement on a class A assistant guide.

Number 1116

Ms. Cassidy commented that she couldn't understand why there would be a question on the Native landholder representative. If it is someone who represents Native landholders, she said it wouldn't matter to her if they were Native or non-Native as long as they were competent in representing the Native landholders' interests.

TAPE ONE, SIDE TWO
June 29, 1989

Number 010

Matthew Lya raised a question concerning the requirement that a hunter needs a licensed guide to hunt goats. Lew Pamplin clarified that the law requires that nonresidents

will have a guide-outfitter for certain species - brown bears, goats and sheep. He added that nonresidents can be guides, and that is legal. Lya commented that we're asking nonresidents to be guided by Alaska residents, and then turn around and ask nonresidents to guide nonresidents.

Number 175

Ken Fanning asked Mr. Burns if he had a listing on the number of guide-outfitters and the how many of them are nonresidents. Burns responded that he didn't have that information, but he could get it.

Number 290

The next order of business was discussion on a course of action for the task force and future meetings.

Senator Faiks briefed the task force on where the state is right now in the area of fish and game, guide areas, subsistence laws, etc. She said she has spoken to Lars Handlin, a Park Service concessionaire lawyer in the Department of Interior, who has offered his assistance as well as the department's assistance to the task force. The Bureau of Land Management, and Fish and Wildlife have also offered to put information at the task force's disposal and help coordinate a restricted or a concessionaire system across the state that would mesh with the federal government. Former Deputy Secretary of the Interior Bill Horn has also offered his expertise and assistance.

Number 460

Senator Faiks asked for the members comments.

Number 462

Representative Navarre said as far as he was concerned, the idea of going with a limited entry type of program causes him problems; however, he may be willing to accept it in the final analysis after looking at some of the alternatives. He added that he would like to see information from the Department of Interior and the other agencies to see how it may be applied to Alaska.

Number 493

Lew Pamplin commented, to him, where the task force is based on what the legislature did with the recommendations of forming a task force. There is really not an option in here, he said, and the Department of Fish and Game and the Department of Commerce can only go with what is under the law now.

Pamplin said the task force can possibly come up with a two-step system. One is going to be where from the state's perspective, we are in control of how big game guiding is conducted in this state on all land, regardless of who owns the land, and that is the real key point, he said.

Pamplin noted that the Park Service has announced that it fully intends to restrict guiding and use on their lands, and he said if we do not come up with a system where they join with us and let us implement, then from an enforcement perspective and wildlife management perspective, it is going to be utter chaos.

Pamplin proposed that the task force in coming up with options, come up with three or four systems that can be tried and tested. Because as soon as one system is implemented, it is going to be tried in court, he cautioned.

Number 650

Ken Fanning said that the task force should have before it, as quickly as possible, information on the federal resources outlined by Senator Faiks. He said he thought the task force should have their assistance and expertise, but he certainly wouldn't want to even consider adopting carte blanche some of their proposals.

Fanning further said he thinks it is absolutely imperative that the task force develop a plan as quickly as possible. He suggested having an independent source provide information and research that takes into account all of the comments of the different federal agencies and compile proposed legislation by October that the task force could consider.

Number 821

Vernita Cassidy said she is optimistic that the task force can come up with something for the legislature to consider, and she doesn't think the task force should spend time worrying about whether what it comes up with is lawsuit proof. Also, she thinks the task force should keep in mind that the resource is what is important.

Number 940

Paul Johnson said he had noted that the Forest Service wasn't on the list of agencies contacted and he thought it was important to have their input.

Number 955

Randall Burns said he thought it would be advantageous to the task force if the various agencies could send individuals who could sit at the table and participate in the meetings on a regular basis. Bob Hinman said he wasn't sure that was a good way to proceed because all of them go in their own direction and it would necessitate having a representative from each group which could get to be quite cumbersome.

Number 1030

Senator Faiks asked for comments on giving her permission to address the House and Senate leadership or the Legislative Council about hiring a consultant to help draft legislation and to coordinate with the federal agencies.

Representative Davis believes that the committee needs someone with perspective from the task force, but just to take a draft document from someone with a federal perspective, such as Bill Horn, would be counterproductive. Senator Faiks clarified that Mr. Horn would present the task force with options in setting criteria and that are constitutional and not just with a single document.

Lew Pamplin said, as he sees it, the task force has two main functions. One is how does it want to proceed in terms of developing options, and Senator Faiks is proposing hiring someone to help develop those options for the consideration of the task force. The other is that in order to have any kind of system at all within the next ten years, we're going to have to have this resource-based management system, he said.

Number 1162

Representative Navarre said he thought it was very important that when these recommendations are developed that the members of the task force who are going to be going before the legislature be able to answer the questions, otherwise they are not likely going to be very successful at getting something pushed through the legislature. He also suggested appointing a sub-committee that could give direction and an outline to whomever is hired as a consultant.

TAPE TWO, SIDE ONE
June 29, 1989

Number 050

Paul Johnson agreed that a sub-committee should be appointed to work with the consultant on developing alternatives, and suggested that when a package is ready,

there should be a meeting of the full task force for perhaps a two or three-day period.

Number 127

Ken Fanning said he thought it was absolutely essential that all the task members have the knowledge and be fully supportive, and that the legislature be fully aware so that something can be implemented.

Number 210

Following further discussion, it was agreed that Senator Faiks would schedule two meetings before August 10. Discussion ensued on meeting more frequently and for longer periods of time in the fall.

Number 530

Senator Faiks asked Heinrich Springer if had any comments. Mr. Springer said, since we are basically talking about a management system, there are not an infinitive number of possibilities and there are maybe two or three systems that can seriously be taken under consideration. He suggested a full meeting of the task force in mid-July to crystallize some possibilities that could be pursued and studied by a sub-committee.

There being no further business to come before the task force, Senator Faiks adjourned the meeting.

TASK FORCE ON GUIDING AND GAME
Anchorage, Alaska
July 19, 1989
10:00 a.m.

MEMBERS PRESENT

Senator Jan Faiks, Chairman
Representative Mike Navarre
Representative Lyman Hoffman
Ken Fanning
Lew Pamplin
Vernita Cassidy
Paul Johnson
Bob Hinman
Randall Burns
Pete Buist
Ralph Eluska
Phillip Gilson

MEMBERS ABSENT

Gayle Ranney
Nick Pierskalla
Mathew Lya *Iya*

OBSERVING

Heinrich Springer, Former Task Force Chair

ACTION NARRATIVE

TAPE ONE, SIDE ONE
July 19, 1989

Number 001

The Task Force on Guiding and Game was called to order in the main conference room at the Anchorage Legislative Information Office at 10:00 a.m. by Chairman Faiks.

The first order of business was approval of the meeting agenda. Lew Pamplin moved that a subheading "Public Process" be added under Section D and it was adopted.

There being no further additions or corrections, the agenda was adopted as amended.

Number 105

Senator Faiks referred members to a memorandum from the Legislative Affairs Agency concerning funding available to the Task Force through the Legislative Council.

Mr. Pamplin noted that the Department of Fish and Game had received \$45,000 from the legislature for development of a resource-based area mapping project. The department had requested funding in the amount of \$90,000, but the appropriation was cut in half by the legislature. Pamplin cautioned that without an additional \$45,000, they will not be able to complete the project.

Mr. Burns suggested it might be appropriate for the Task Force to make some kind of strong statement to the legislature when it is back in session in January concerning the need for additional funds. He further suggested that perhaps it could be requested that Fish and Game be given an appropriation from the \$100 commercial use permit fee that is now being collected.

After further discussion, it was agreed that Senator Faiks and Representative Hoffman would contact the Legislative Budget and Audit Committee to see if there is a way to transfer the commercial use permit fees being received by the Department of Commerce to the Department of Fish and Game to make up the additional \$45,000 needed for the mapping project.

Number 678

The next order of business was discussion on the hiring of a consultant to work with the Task Force. Senator Faiks noted there was a draft professional services contract between Birch, Horton, Bittner and Cherot, and the Legislative Council. Bill Horn of the firm's Washington, D.C. office would be the project manager

It moved by Ken Fanning and seconded that the Task Force approve the contract with Birch, Horton, Bittner and Cherot.

There was a brief presentation by Steve Pradell, Anchorage-based attorney representing Birch, Horton, Bittner and Cherot. He spoke to a memorandum which basically sets forth a brief synopsis of the Owsichuk decision and guidelines for coming to a constitutional solution to the problem.

Pradell said he has talked to people recently with the National Park Service in Anchorage and he thinks they would like to come to an interface with Alaska law. He said if the state could come up with a recommendation that the Park Service approves of, they will make some rules that apply in Alaska that could work with the things we come up with and federal regulations.

Pradell noted that Birch, Horton, Bittner and Cherot have offices in Anchorage, Fairbanks, Juneau and Washington and Bill Horn has a very strong connection to Alaska. He assured that whatever they come up with will focus primarily on Alaska.

Number 940

Mr. Pamplin said one of his concerns is that the federal government would not have to adopt a state system. They could just go back to the way it was. The key would be where the state is still in the driver's seat for wildlife management purposes, and not the federal government. Pradell agreed, saying, in speaking to the people in the local office, they said regulations are crafted that they approve of for themselves, then they will just adopt that. If not, then they will come up with their own regulations, but they are very willing to listen and watch.

Pamplin also said, if the State of Alaska cannot adopt a system that can apply statewide, one option he thinks should be looked at is sets of conditions that we could, if nothing else, have agreements with the various landowners where it would add some consistency to how this is applied statewide.

Pradell briefly outlined some of the preliminary options that they will be focusing on, and he urged members of the Task Force to contact him either in writing or in person to express concerns or any specifics based on their experience. Senator Faiks suggested it might be a good idea for Mr. Pradell to sit down with each member individually and get their perspective of what the Task Force is supposed to accomplish and what their goals are.

TAPE ONE, SIDE TWO

July 19, 1989

Number 010

One of the Task Force members said he was a former Park Service employee and the Park Service, as an agency, does not understand or condone hunting. He said while there may be something to be gained from looking at their concession regulations, he didn't think a lot of time should be spent doing so. He suggested that perhaps with the Department of

Agriculture and the U.S. Forest Service, the Task Force will find things that are far more appropriate.

Ken Fanning asked what the \$30,000 contract included. Mr. Pradell responded at this point it includes his time, Bill Horn's time, and anybody else to do what it takes to attend meetings, produce documents, and just be a part of this proceeding.

Mr. Burns stressed that he thinks it is real important that if this is going to be a resource-based management system proposal, then what the Department of Fish and Game is developing with their mapping project has got to be considered and understood and incorporated into the proposal. He also urged that they work closely with the Department of Law.

There was lengthy discussion on the \$6,000 for travel expenses in the contract. Senator Faiks pointed out that the contract is in two parts - the contract to do the work and the contract for the travel. If it is not in the one document, then every time someone needs to travel, it must be approved of first of all by the Legislative Council, she stated. The way the contract is drafted now as project director she approves the travel.

Concern was voiced by some of the Task Force members that the \$6,000 figure in the contract was too high and that it was important that there be enough money in the Task Force budget for the members to travel to various parts of the state when it was time for public input on a proposal.

Mr. Burns moved that the travel in the contract be reduced from \$6,000 to \$3,000. Ms. Cassidy seconded the motion. After discussion on the motion, a hand vote was taken. By a show of hands, the motion carried.

Senator Faiks stated the total contract would be reduced to \$27,000 and that there was a motion on the table to approve the amended contract. By a show of hands, the amended contract was approved.

Senator Faiks called for a five-minute recess, and said the next order of business would be discussion of management plan options and the guide-outfitter resource area maps.

Number 052

Lew Pamplin said it was necessary to discuss what kind of criteria is going to be used for developing the guide-outfitter resource area map, if we're ever going to have a system to operate under. He added it may not be

necessary to make a decision today, but by the next meeting he would need some kind of guidance to proceed.

Bob Hinman, referring to a listing of possible factors to be considered in the preparation of the map, asked if it included consideration of what the present and potential competition factors between various user groups would be. He said it would appear that in some areas, you would not want to authorize as much use by nonresidents as you might in others, depending upon the amount of use or demand there was from residents and so on. Pamplin responded that that wasn't included, but he had raised a good point.

There was brief discussion on what data is available concerning resident, nonresident and subsistence hunters.

TAPE TWO, SIDE ONE

July 19, 1989

Number 001

Pamplin said distinguishing between nonresidents and residents is easy, but distinguishing between residents is extremely difficult because in a lot of areas they don't get harvest data and they do a tremendous amount of estimating.

Number 067

Mr. Burns asked Mr. Pamplin what in his mind a resource-based management system was going to look like. Pamplin said in developing the listing, they tried to put down all the factors that they could think of that might influence any guide-outfitter areas on the map in trying to develop a system. He added his objective with this would be to develop the most objective, non biased look at how to establish guide-outfitter areas.

Suzanne Miller, Department of Fish and Game said they intend to overlay these different information sources: land ownership, access facilities, administrative boundaries, etc., and at that point they are going to need to know on what basis do they draw a resource area.

Number 240

Senator Faiks, referring to the list, clarified that these are the features that are currently existing in the state for the guide areas, and Fish and Game needs to know if they missed any on their list, what the order of importance is, etc. Mr. Burns interjected that this is assuming that being able to create these units is one of things that we decide is the possibility as a result of the Owsichuk decision. Pamplin added this would provide the

administrative boundaries if the decision were made to have a state-administered guide-outfitter system.

Number 315

Ms. Cassidy said she thinks that all the uses should be a consideration, but not the focus. She said she thinks the idea of using just the pure numbers of the game themselves as kind of the main concern here is real good and that she likes the list.

Number 340

Ken Fanning commented that it seemed to him what we have here is the number one criteria for developing the guide-outfitter maps which is the wildlife management concerns. He said he didn't agree with the listing priority of items 2 through 10, but he thinks they are factors to be considered.

There was brief discussion on the number of game management units currently in the state and whether the Task Force wants to increase or decrease that number.

Number 552

Steve Pradell said the systems themselves that are developed ultimately are going to have to pass the test, so we should ask ourselves, in cutting up the State of Alaska, are we making anything preventative for certain individuals over other individuals.

Number 675

Randall Burns suggested that maybe what they need to do was take things like easy recognizable boundaries, size and number of individual areas, other land uses, etc., and see if given the 75 game management units, there are any kinds of criteria that they can use that has the whole blotter that they can subdivide those areas.

Number 775

Paul Johnson voiced concern that if sub-unit lines are crossed too much, it then gets involved with the Board of Game and their regulations.

Number 874

Steve Pradell said his concern is that we seem to be going back to the idea of a concession system that is based on someone getting a definable piece of land in which they have an exclusive right to guide in. He said he hoped the

Task Force would look at other alternatives that still serve the game management purpose. There may be a way of tying the rights into a special class of permits - the right to hunt a certain number of animals. He said that seemed to be a more direct way of serving the game management purpose as opposed to giving someone a section of land and the right to that land.

Number 916

Senator Faiks said what Lew is wanting here is basic known information, and he needs to know what factors to include in that information and how to narrow it down. She added that she was going to ask everybody before the end of meeting to give Lew direction on how they wanted to go with the game units, either more or less.

Number 020

Bob Hinman said he thought it was very important that any system that is set up for areas be consistent with the game management system, whether or not it includes sub-units or whole units, or groups of units, it must be based on that geographical system.

Number 055

Ken Fanning said he thought that it needs to go to the sub-units and beyond. The way to go beyond that, in his opinion, has to do with the amount of harvest you think is possible.

Number 227

The task force recessed at 12:00 p.m. for a lunch break.

TAPE TWO, SIDE TWO

July 19, 1989

Number 001

Senator Faiks called the meeting back to order at 1:30 p.m.

Discussion continued on the number of game units and sub-units preferred by the task force members.

Number 280

Suzanne Miller briefly summarized the work Fish and Game has accomplished so far in the mapping of geographic areas and resource information into one composite map as well as additional information that they will be overlaying on the map.

Number 520

Henry Springer, former Task Force Chairman , said in listening to the discussion of the list, there is no doubt in his mind whatsoever, regardless of ultimately what system is going to be adopted - a permit system or any type of management system - land relationship of game has got to come into play. He also said one thing that hasn't come out in the discussions is the subsistence law, and that is going to be one of the toughest things to incorporate into a management scheme. Subsistence is going to be the very base of any management system, he stated.

Bob Hinman added not only is there the subsistence law to consider as a priority, but there is also a statute that says there is a priority on big game for residents versus nonresidents.

Number 654

Senator Faiks stated that if anyone had a specific motion to make in regard to the list of priorities, to make the motion and it would be voted on.

Number 787

Ken Fanning made the motion to include all the information on the old guide areas on the map. The motion was seconded by Vernita Cassidy. After discussion on the motion, the question was called for and by a show of hands the motion failed 1-10.

Number 910

Paul Johnson, speaking to item #1, made a motion that if the sub-units are divided up smaller, that drainages be that characteristic. The motion was seconded by Pete Buist.

Bob Hinman amended the motion to delete the word "drainages" and insert "uniform geographic coding areas" in its place.

The question was called for and by a show of hands, the motion was adopted unanimously.

Mr. Pamplin stated that the two priorities from the standpoint of the Department of Fish and Game were items #1 and #2.

TAPE THREE, SIDE ONE

July 19, 1989

Number 077

Bob Hinman moved that item #8 be deleted from the list and it could become part of item #11 (other considerations). The motion was seconded by Paul Johnson. The question was called for and by a show of hands the motion passed unanimously.

There were no further motions on the priority list.

Number 234

The next order of business was "Public Process for Resource Area Maps."

Senator Faiks stated the Department of Natural Resources has several thorough public comment processes in place to go over the technical information that they have. She offered to research the various options that DNR has and have that information ready for the Task Force to look at at the next meeting, or a subcommittee could be appointed to come up with various options.

Number 278

Ms. Cassidy suggested that the Task Force put into place a public review process which is sanctioned by the Task Force

so that the public understands that the decisions on their input on the maps will be made by the Task Force, not by those who are doing the maps. She added that the public might even want to comment on the criteria.

Pamplin agreed that the approved list of criteria should be made available to the public.

After brief discussion, it was decided that in the advertising of the next meeting, it would be noted that one of the agenda items would be the taking of public comment on the criteria list.

Number 466

The next topic discussed was the voting option for Task Force alternatives.

Mr. Pamplin moved that alternates be allowed to vote in the absence of a Task Force member if the alternate is designated in writing to the Chairman as an alternate member of the Task Force. Representative Navarre seconded the motion. By a show of hands, the motion failed.

Number 615

The task force next discussed the scheduling of future meetings. It was agreed that a date would not be set until work on the resource management maps had progressed further.

Number 679

Senator Faiks asked Randall Burns for an update on the status of guide-outfitter insurance requirements.

Mr. Burns explained that the new guide bill (AS 08.54.395) requires a variety of insurances. Section A requires that guide-outfitters provide comprehensive general liability insurance. It states "a guide-outfitter, while engaged in providing big game commercial hunting services shall carry..." and the question has been raised as to what happens if they are not providing big game hunting service. The problem the Department of Commerce and Economic Development has been getting in to is that the requirement has left them with the problem with those guide-outfitters who, in fact, do not actually contract for hunts, but who work for other guide-outfitters. On its face the requirement would seem to imply that they would need to carry that insurance regardless of their status.

The department is requiring any guide-outfitter who is contracting for hunts to provide them with proof of this insurance. They are requiring that those guide-outfitters

who are not contracting for hunts, but are working for other guides, to be downgraded to a class A instead of leaving them as a guide-outfitter. Otherwise they would have a situation where they are going to have guide-outfitters with insurance and guide-outfitters without insurance, making it appear as if either one could be hired.

Senator Faiks asked if the way the legislation was written means that both things must be in existence - you must be a guide-outfitter and be conducting a commercial hunt in order to have insurance. Mr. Burns responded it was.

Extensive discussion followed on the department requiring guide-outfitters to have proof of insurance and the downgrading to class A for those guide-outfitters who are working for other guides.

Ken Fanning stated it was an unreasonable, arbitrary requirement to demand that guides get insurance or else they don't get a license.

Mr. Hinman asked Mr. Burns what their legal authority was to unilaterally downgrade or change the guide's classification. Burns responded that they are basically basing this on what makes sense in terms of being able to present to the public what the requirements are to be a

particular guide-outfitter. He added that there was a whole series of discussions on the introduction of this section into the law, which was to make sure that guides carried this insurance so that they were covered for reasons of public protection, and if that is the purpose, then it seems to him that the state has an interest in verifying that they have met those requirements.

Paul Johnson said if there is concern about the state getting sued, why not put something on the roster saying that people should inquire to make sure that a particular guide-outfitter is insured as is required by law.

Pamplin suggested, as a solution, that in whatever information that is put out to the public, they could list all the guide-outfitters and as a footnote they could list which ones are current in their insurance coverage.

Mr. Burns said he recognizes that this is controversial and that it has its detractors, but they are doing this only until there is a board. The issue they are going to take to the board is that in this new law there isn't this interim category that people are looking for. Generally speaking, without a statute change, they are not allowed to do that, but they have discussed perhaps doing it under regulation where the board could say there is a distinction between those who are and those who are not.

TAPE THREE, SIDE TWO

July 19, 1989

Number 010

Senator Faiks she thought it was unfair to downgrade a person's title that they had to work so hard to get just because they aren't going to be serving the public out in the field.

Ken Fanning said these arbitrary decisions to pull an individual's guide license if he doesn't choose to downgrade to a class A assistant could potentially cause problems.

Following further discussion, Senator Faiks stated she would have a draft letter prepared from the Task Force requesting the Attorney General to look at this requirement, giving him her recollection and Representatives Navarre's and Hoffman's recollection of legislative history of what they thought that meant, and ask him to recommend to the department that it not downgrade but that another system be found.

Number 357

Under other business, Senator Faiks nominated Bob Hinman as vice-chairman of the Task Force. Randall Burns second the motion. There being no objections, Bob Hinman was unanimously elected vice-chairman of the Task Force.

The last agenda item was comments from the members of the Task Force.

Senator Faiks then opened the meeting for public comments and Brent Jones voiced his support for a roster of two lists of guide-outfitters, putting on the first list the guide-outfitters who are licensed and insured and on the second list putting the guide-outfitters who are licensed, but are not insured.

There being no further business to come before the Task Force, the meeting was adjourned at 3:00 p.m.

Statement before the Legislative Task Force on Guiding and Game - Gary Gustafson, Director of the Alaska Department of Natural Resources - Briefing on Permit Regulation System - Alaska DNR. date 12-11-89.

"I noted the agenda item says briefing on permit regulation system in the Department of Natural Resources. Maybe I can tell you first of all - we don't have a permit regulation system. But, if you'll bear with me I'll explain what we do have, and if you have any questions I'll do what I can to address them.

Dept. of Natural Resources has two surface land management agencies. One is the division that I'm responsible for, the division of Land and Water Management, which manages at the present time, approximately 80 million acres of state land. The other one is Division of Parks and Outdoor Recreation. They manage the surface estate within approximately two million acres of state parks statewide.

The Division of Parks and Outdoor Recreation does provide for a commercial permit registration system. I think Director Johannson at the present time has regulations that enable him to charge commercial users within state parks. Permits cost \$150 for residents and \$450 for non-residents. For commercial use of land within state parks. And, it's up to the division of Parks and Outdoor Recreation to decide which activities are appropriate and which are not - consistent with the particular purposes of whatever state park or unit of the state park system that individuals happen to be operating in.

Within the Division of Land and Water Management we've got a different system. By and large our system has been laissez faire, by that I mean for the most part, individuals who want to use state land are enabled to go out and just use it. Now, commercial operators need authorization if they happen to be located in one spot for longer than 14 days. If you're a guide or outfitter and you want to establish a temporary camp. You aren't going to be there for longer than 14 days, you wouldn't need authorization from the (DNR) to use state land. On the other hand, if you were going to be located in one area, and wanted to establish a temporary camp, get a long term interest in state land, then you need our authorization. Those authorizations normally take one of two versions. First one is a short term interest that we call a permit. It's a simple land use permit. Enables the guide-outfitter, whoever, to go in and get authorization for that season. It's a one

year permit. A permit is something we consider not to be an interest in state land. It's revocable at the discretion of the state. I can revoke a permit without cause if I feel it's necessary. It's very rarely done, but we have the ability to do that. Again, a permit gives somebody the authorization to use state land for up to one year. Usually, just for one season.

The second mechanism for individuals to use state land is our lease system. There are two kinds of leases. There's a long term lease going up to 55 years. Those are normally leases that we would advertise and do at an auction. Do as a competitive type of situation. Give people the opportunity to come in and competitively bid on a tract of state land. We can also negotiate short term leases of 5 to 10 years with individuals. Most guides and outfitters in this state that need a lease authorization come in under a negotiated lease, where we can deal one on one with those individuals and give them authorizations of, used to be 5 and now we can go up to 10 years.

So, those are the two mechanisms that we use right now to authorize commercial activities on state land. By commercial activities, I'm talking not just about guides and outfitters for big game hunting, I'm also talking about the periphery of fishing guides that we find cropping up around the state. Right now, if you compare the two, most of the activity is in the realm of fishery guides and activities.

The (DNR) is concerned, however with the periphery of activities that are happening on state land. Let me just describe for you why.

I think most people who have been around Alaska and have dealt with Alaska land issues know all too well that the land base for the general public to use is shrinking. A lot of land has transferred into private ownership through the Alaska Native Claims Settlement Act. Native corporations ultimately will have about 44 million acres in this state. Not all that land is available for the public to use. Some of it, all of it is private land, but some corporations make it available. Some corporations charge a fee to use that land. Some of the land is off limits entirely. Everyone here I'm sure is aware of the conservation system units that we have, federal conservation system units in Alaska. There are limits as to what you can do in some of those conservation system units. Some of them are off limits to any kind of hunting or fishing activity. What that boils down to is that more and more Alaskans are focusing on using state lands, because state lands are really, by and large, all that's left, and so we're finding ourselves right in the center of a lot of the commercial activity that's happening in the state. As such, we're getting more applications, we're getting more individuals who are interested in using state land.

At the same time, we're operating under an archaic law. Our commercial leasing law had its origin in the early 60s, just after statehood. Basically, it provides for a percentage of fair market value return for the state. There is currently, in the House and the Senate, a new commercial leasing law. It's in House and Senate Resources. It's a high priority of the Department this year, to try to get through. It provides us with the opportunity to come in and use one of several different techniques to provide a fair market return or better for the state, in some instances. The bill would provide a mechanism for us to attain, depending upon the circumstances, we get a fair market return through appraisal value, we could use a percentage of gross receipts, we could use a user fee, there could be a number of different methodologies that could be employed by the state, if this bill were to pass.

Another thing we're looking at, but I want to assure you at this point that we have not moved ahead on, is talking about the concept of employing some kind of commercial user permit or registration system. Now that's only been talked about the last couple of years, really with any seriousness, and it's in direct response to the amount of activity that's happening on state land. I think all of us feel that Alaskans ought to be able to use state land, but at the same time, as the owners of that land, each and every one of us around this table as well as the other half million Alaskans, we want to make sure that the state of Alaska is granted a return for commercial use of state land. In other words, if an operator is making a commercial profit off the use of state land, then the state ought to get something for that endeavor. So, we're looking internally discussing the possibility of some sort of registration or permit system, if we can work something up.

If we do, very obviously, and chose to go about implementing it, we could only do that if we went through public process and proposed it in the form of regulations, which would require public notice and a great deal of involvement would have to occur, believe me, beforehand, before we attempt to even run that up the flagpole. Very well aware of sensitivities about increased commercial fees, we've got a periphery of commercial permits and activities that I'm sure everyone here is very familiar with, wrestling with them around this table from time to time. Got a lot of agencies that have their own permit system. When you pile them all on top of each other it makes sometimes for a real morass. We're not interested in adding to the morass. What we are interested in is trying to figure out a system that can be fair to all Alaskans and not duplicate a system that's already in place, if we can avoid it.

Basically, the only other thing I wanted to mention before questions, is because state lands tend to be the proving ground for a lot of activity these days, we've got a lot of trespass situations. And, individual Alaskans who have

legitimate authorizations have come to us of course, and said wait a minute, I'm out here leasing this land and paying you something for it. Joe Blow just down the way has been there the last two years and you're not doing anything about it. What's the story. Well, the story is simply that we don't have the resources to go out and look behind every bush. And, where we find out these things exist and we've got the capability to go out and do something about them, we'll do something about it. But, the (DNR) also does not have citation authority. In order to evict somebody we've got to go out and get the State Troopers to go along with us, go out and post it and work through a civil proceeding in order to get rid of somebody if they're establishing an illegal operation, if you will, on state land. It's just not a very easy thing to do, as I think most of you can realize. So, we have talked with various legislators the last couple of years about some limited citation authority for the (DNR). And, again, we don't imagine anything like storm troopers out there beating the bushes, but merely a surgical type of ability that would enable us to go out where we've got a trespass situation or somebody is basically abusing the system. Go out and do something about it and not have to fight it out in a civil court proceeding for years, and not know if we'll ever get anything. The system has to work, you have to have certain rules. We're just interested in making sure that the rules we do have are enforceable. With that, I'd be happy to entertain questions. "

APPENDIX

O

PETITION TO THE LEGISLATIVE TASK FORCE ON GUIDING & GAME.

The intent and the purpose of the above Task Force is to do the following:
 Prepare and draft a equitable, resource based management system for the allocation of equal access to big-game guiding & outfitting opportunities among those licensed to do so that is fully consistant with Article 8, Sec; 3 & 17 of the Constitution of the State of Alaska.

This Common Use Clause stipulates that all persons, all guides in this case, must have equal access to the big-game resources of the State. We feel that the restriction of all guides licensed since 1974 to three game management units severely limits their ability to compete with approximately 75 of their peers whom were fortunate enough to have upwards of the entire State on their license.

We also feel that this obvious inequity needs to be corrected before a open competition with a fair award process could be initiated in the future. Therefore, we, the undersigned petition the above Task Force to recommend, in any new legislation, that all guides licensed since 1974 be given the opportunity to at least be equal to their peers licensed prior to that date.

RECEIVED

NAME: PRINTED

ADDRESS

DEC 14 1989 SIGNATURE

NAME: PRINTED ADDRESS SIGNATURE
 AL# AA006
 JOE WANT Joe Want P.O. Box 10044 FKA AK 99710 JAN FAIKS

MIKE TINKER AA 480 PO Box 25197 ESTER AK 99725

THOMAS J. KIRSTEIN 46 859 PO. Box 83800 FBKS. AK. 99708 Thomas J. Kirstein

MARK KNAPP PO BOX 10690 FBKS AK 99710 Mark Knapp

D.J. SANDY (Sandy) PO BOX 130 ESTER, ALASKA 99725

LEN MAERLOR 411 RONDA ST FBKS AK 99712

J. Paul Mooney P.O. Box 72706 FKA 99707

Charles L. Gray 311 Slater St Fairbanks, Ak. 99701

ARTHUR ANDREIS P.O. Box 55818, N.P. AK. 99705

APPENDIX

P

July 5, 1989

MEMORANDUM:

TO: Jan
FROM: Mark
SUBJECT: Bill Horn Guide Task Force Contract

Phone with Bill Horn regarding the proposed consultant contract for work assisting the Legislative Task Force on Guiding and Game.

I told Mr. Horn that you had talked with legislative leadership regarding the proposed contract. That it would be for a 6- month time period @ \$4,000 per month for a total of \$24,000. The contract would require that suggested options concur with the Alaska Supreme Court decision in Alaska v. Owsichuk.

I asked him to provide you with a one page summary of his/his firm's qualifications - attributes which would enable it to provide the task force with the assistance needed. I explained the information would be used by Legal Services as back up material for the contract which they would draw up.

Mr. Horn indicated he would write up the requested material and fax it to you to determine if it is adequate to your needs.

RECEIVED

JUL 12 1989

JAN FAIKS
SENATE OFFICE

LAW OFFICES

BIRCH, HORTON, BITTNER AND CHEROT

A PROFESSIONAL CORPORATION

1155 CONNECTICUT AVENUE, N.W. • SUITE 1200 • WASHINGTON, D.C. 20036 • (202) 659-5800 • TELECOPIER (202) 659-1227

THOMAS ALBERT	PATRICK B. COLE	LESLIE C. LONGENBAUGH	OF COUNSEL
LUANN E. BAILEY	PAUL L. DILLON	JEFFREY B. LOWENFELS**	JAMES D. NORDALE
J. GEOFFREY BENTLEY	KIM DUNN	PAUL MILAN	
RONALD G. BIRCH**	ERIC A. EISEN**	GREGORY A. MILLER	
WILLIAM H. BITTNER**	JOSEPH W. EVANS**	MICHAEL J. PARISE	
KATHRYN A. BLACK	PAUL EWERS	TIMOTHY J. PETUMENOS	
DOUGLAS BLANKENSHIP	WILLIAM W. GARNER*	STEVEN PRADDELL	
PHILIP BLUMSTEIN	JOHN W. GRIGGS**	MICHAEL V. REUSING	*D.C. BAR ONLY
CORY R. BORGESON	MARLIS HEINEMANN	ELISABETH H. ROSS**	**D.C. AND ALASKA BAR
WILLIAM BUMPERS*	WILLIAM R. HORN*	E. BUDD SIMPSON	
JOHN J. BURNS	HAL R. HORTON**	STEPHEN F. SORENSEN	
RODNEY B. CARMAN**	MARC W. JUNE	SHERIDAN STRICKLAND**	
GERALDINE M. CARR	MINDY R. KORNBERG**	JONATHAN K. TILLINGHAST	
SUZANNE CHEROT**	GARY R. LETCHER**	DANIEL W. WESTERBURG	
JOSEPH M. CHOMSKI**	STANLEY T. LEWIS	T. HENRY WILSON	

1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 276-1550
TELECOPIER (907) 276-2822

ONE SEALASKA PLAZA, SUITE 301
JUNEAU, ALASKA 99801
(907) 586-2890
TELECOPIER (907) 586-9814

KEY BANK BUILDING
100 CUSHMAN STREET, SUITE 311
FAIRBANKS, ALASKA 99701
(907) 452-1666
TELECOPIER (907) 456-5055

July 11, 1989

The Honorable Jan Faiks
Chairman
Legislative Task Force
on Guiding and Game
3111 C Street, Suite 525
Anchorage, Alaska 99503

Dear Senator Faiks:

On behalf of our firm, we would be honored to assist you and the Legislative Task Force on Guiding and Game in your efforts to develop a new guide district program in conformance with the recent Owsichek decision (763 P2d 488 (1988)).

We possess substantial expertise in a variety of areas and are prepared to provide counsel to the committee. As a former Assistant Secretary of the U.S. Department of the Interior, I have extensive experience involving recreational services franchising and licensing programs as well as fish and wildlife allocation arrangements. Other members of the firm are knowledgeable regarding Alaska fish and wildlife law as well as State administrative statutes.

We can offer an array of services including consultation regarding the development of options the committee may wish to consider, comparative research regarding other similar programs, legal drafting, and the preparation of briefing materials. Attorneys including myself would be available to attend such meetings as you deem necessary.

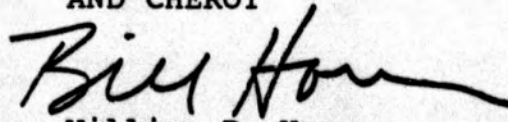
As you described the effort, we estimate that we can provide the requisite services for a monthly retainer of \$4000 for the next six months. Travel costs would be additional, but we would expect such to be minimal.

The Honorable Jan Faiks
July 11, 1989
Page Two

Once again, we would be honored to provide counsel to the committee. Please let me know if you have any questions or we can provide additional information. Thank you for your attention.

Sincerely,

BIRCH, HORTON, BITTNER
AND CHEROT


William P. Horn

WPH:tf

wph22.1tr

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

July 13, 1989

MEMORANDUM:

TO: Warren Endicott, Director
Legislative Affairs Agency

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

SUBJECT: Justification of Sole Source Contract

The firm of Birch, Horton, Bittner and Cherot will assist the Task Force on Guiding and Game as the panel works to develop of new resource-based, big game management plan including a district guide program which conforms with the Alaska Supreme Court's Owsichuk decision.

Birch, Horton has substantial expertise in a wide variety of areas. Bill Horn is a former Assistant Secretary of the U.S. Interior Department and has extensive experience involving recreational services franchising and licensing programs. His background also includes fish and wildlife allocation arrangements, all of which will prove valuable to the task force membership. The firm includes other individuals who have extensive knowledge of Alaska fish and wildlife law in addition to experience with State administrative statutes.

The task force has a very limited time in which to develop its report to the Legislature next January. As a result, it is necessary to seek legal counsel which already has the necessary expertise and knowledge. Mr. Horn is a recognized expert with vast knowledge of the fish and wildlife issues which the task force will be addressing.

OUT OF SESSION

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

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

July 14, 1989

MEMORANDUM:

TO: Warren Endicott, Director
Legislative Affairs Agency

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

SUBJECT: Request for Professional Services Contract

The Legislative Task Force on Guiding and Game requests that a professional services contract be drawn up with the law firm of Birch, Horton, Bittner and Cherot.

The firm will assist the task force in developing options for a big game management plan which conforms to the Alaska Supreme Court's Owsichuk decision. Birch Horton will perform research for the task force, such as comparisons of game management plans used in other locations. Additionally, Birch Horton will assist in the preparation of a final report to the Legislature and will provide assistance as required in the drafting of legislation.

The contract shall be in effect from August 1, 1989 through January 15, 1990. The contract amount shall be \$30,000. A \$4000 monthly retainer will be paid as well as travel and related costs in an amount not to exceed (\$6000).

OUT OF SESSION

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

Sent to William Lindcott
7-14-89

CONTRACT INFORMATION

1. Contractor's or Consultant's

- A. Name Birch, Horton, Bittner and Cherot
- B. Address 1155 Connecticut Ave. N.W. Suite 1200
Washington, D.C. 20036
- C. Social Security No. or Tax ID No. _____
- D. Business License No. _____

2. Is the Contractor:

- A. Individual or sole proprietorship _____
- B. Partnership _____
- (1) General partnership _____
- (2) Limited partnership _____
- (3) Partner who will sign contract Ronald G. Birch
(If a limited partnership, must be 'general partner')
- C. Corporation _____
- (1) State of incorporation _____
- (2) President _____
- (3) Secretary _____
- (4) If not an Alaska corporation, does it have certificate of authority to transact business in Alaska? _____ If not, why not? _____

3. Is the contract:

- A. Between Legislative Affairs only _____
- B. Between Legislative Affairs Agency on behalf of:
- (1) Legislative Council X _____
- (2) Legislative Council subcommittee _____
- (3) Senate Leadership _____

- (4) House Leadership_____
- (5) Senate Leadership_____
- (6) House Committee_____
- (7) Senate Advisory_____
- (8) House Research_____
- (9) Other_____

4. Description of work to be performed:

To assist Task Force in Guiding Game in developing options for big game
management plan which conforms to Alaska Supreme Court decision (Owsichuk)
To perform research for Task Force such as comparisons of management
plans used in other locations To assist in preparation of report to
Legislature and To assist in preparation & drafting of Legislation.

5. Dates of performance:

Beginning date August 1, 1989

Last day of Contract January 15, 1990

6. Amount of contract \$30,000.00

A. Method of Compensation:

(1) Hourly_____

(2) Weekly_____

(3) Bi-monthly_____

(4) Monthly \$4,000.00 For 6 months

(5) Other_____

7. Procurement Officer Representative Mike Davis

8. Will the following expenses be provided by:

A. The Agency at no cost to the consultant/contractor
(and in what amount)

B. The Consultant/Contractor at no cost to the Agency.

(Indicate A or B. If A, indicate amount)

Travel ^{related costs} up to \$ 6000.00 Office Space _____ \$ _____
Per diem _____ \$ _____ Personnel _____ \$ _____
Telephone _____ \$ _____ Equipment _____ \$ _____
Other Expenses _____ \$ _____ (Explain)

PROFESSIONAL SERVICES CONTRACT BETWEEN

BIRCH, HORTON, BITTNER AND CHEROT

AND

ALASKA LEGISLATIVE COUNCIL

CONTRACT AMOUNT: \$27,000

The parties to this contract, made and entered into this 11 day of September, 1989, are the Alaska Legislative Council, (hereinafter referred to as the "Agency,"), and Birch, Horton, Bittner and Cherot, an Alaska corporation (hereinafter referred to as the "Consultant").

THE PURPOSE OF THIS CONTRACT IS TO PROVIDE the Task Force on Guiding and Game with professional services.

IT IS THEREFORE MUTUALLY AGREED THAT:

CLAUSE I - STATEMENT OF WORK

Consultant shall assist the Task Force in developing options for a big game management plan which conforms to the Alaska Supreme Court's Owsichuk decision. Additionally, Consultant will assist in the preparations of a final report to the Legislature and will provide assistance as required in the drafting of legislation.

On behalf of the Consultant, Bill Horn will be working with the Task Force to perform research, such as comparisons of game management plans used in other locations. Mr. Horn is a former Assistant Secretary of the United States Interior Department and has extensive experience involving recreational services franchising, licensing programs, and fish and wildlife allocation arrangements. Mr. Horn's expertise, as well as that of other members of the Consultant's firm in the area of Alaska fish and wildlife law, will be invaluable in the task force's work. For these reasons, this contract was awarded on a sole source basis.

CLAUSE II - PERIOD AND DATES OF PERFORMANCE AND TERMINATION

- (A) The work under this contract shall begin July 14, 1989 and must be completed by January 15, 1990.
- (B) This contract may be terminated by the Agency upon delivery of written notice to the Consultant. If this contract is so terminated and the termination is not based on a breach by the Consultant, the Consultant shall be compensated for services provided under the terms of this contract to the date of termination if the Consultant provides the Agency with a written report containing a description

of the services performed, a statement of the results or conclusions formed based upon the research or analysis performed, and a copy of all documents and reports generated as a consequence of work done under this contract.

CLAUSE III - COMPENSATION AND METHOD OF PAYMENT

- (A) For the work required by this contract, the Consultant shall be:
 - (1) compensated Two Thousand and No/100 Dollars (\$2,000.00) for the last two weeks of July for Consultant's services;
 - (2) compensated Four Thousand and No/100 Dollars (\$4,000.00) a month for August, September, October, November and December for Consultant's services; and
 - (3) compensated Two Thousand and No/100 Dollars (\$2,000.00) for the first two weeks of January for Consultant's services, after submittal and approval of a proper billing; and
 - (4) reimbursed for travel expenses and related costs in an amount not to exceed Three Thousand and No/100 Dollars (\$3,000.00).
- (B) The Project Director must approve a billing before it may be paid.
- (C) If a payment is not made within 90 days after the Agency has received a proper billing, the Agency shall pay interest on the unpaid balance of the billing at the rate of 1.5 percent per month from, and including, the 91st day through the date payment is made. A payment is considered made on the date it is mailed or personally delivered to the Consultant.
- (D) Total payments under this contract, including reimbursement for expenses, may not exceed Twenty-seven Thousand and No/100 Dollars (\$27,000.00).

CLAUSE IV - PROJECT DIRECTOR - The Project Director shall be Senator Jan Faiks.

CLAUSE V - EXPENSES AND DUPLICATION

- (A) Except as may be otherwise provided by Clause III, the office space, equipment, supplies, clerical support and other expenses that are necessary for the Consultant to carry out the Consultant's obligations under this contract shall be supplied and paid by the Consultant at no cost to the Agency.
- (B) Duplicates of any report required by this contract may be produced by the Agency; the office space, equipment, supplies, clerical support and other expenses required for the duplication shall be supplied by the Agency.

CLAUSE VI - RECORDS, DOCUMENTS, AUDIT

The Consultant shall accurately maintain those records, including detailed time records, that are required by the Project Director. The records are subject to inspection by the Agency or the Project Director at all reasonable times. All documents and reports generated as a consequence of work done under this contract shall become the property of the State of Alaska, and the State shall own all rights included in any copyright rights for the documents and reports. Upon completion of the work or the termination of this contract, the documents and reports shall be delivered to the Project Director.

CLAUSE VII - INDEMNIFICATION

The Consultant shall indemnify, save harmless, and defend the Agency, and the Agency's officer's, agents and employees from liability for any claim, including costs arising from the claim, arising from Consultant's negligence in the performance of Consultant's obligations under this contract.

CLAUSE VIII - VENUE

In the event that the parties to this contract find it necessary to litigate the terms of the contract, venue shall be the State of Alaska, First Judicial District, at Juneau, and the contract shall be interpreted according to the laws of Alaska.

CLAUSE IX - ASSIGNMENT

This contract may not be assigned to another party unless in accordance with Sec. 160 of the Procurement Procedures of the Alaska State Legislature.

CLAUSE X - WORKERS' COMPENSATION

During the life of this contract, the Consultant shall, in accordance with AS 23.30.045(d), provide and maintain workers' compensation insurance. The Consultant shall require any subcontractor to provide and maintain workers' compensation insurance for the subcontractor's employees. Consultant shall provide the Agency, upon request, with written proof of the coverage required by this clause.

CLAUSE XI - AUTHORIZATION/CERTIFICATION

Execution of this contract was authorized by a majority of the members of the Alaska Legislative Council on August 3, 1989. Execution of this contract by the chair of the Council constitutes the signed authorization required by Procurement Procedures sec. 150 (b) because the committee members who authorized the contract delegated their sec. 150 signature responsibilities to the chair on January 13, 1989.

Execution of this contract by the Legislative Affairs Agency Executive Director or his designee hereby constitutes a certification that funds have been appropriated and encumbered for the amount of this contract.

CLAUSE XII - MODIFICATION AND PREVIOUS AGREEMENTS

This document contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind either of the parties to this contract. This contract may not be modified unless in writing and signed by the parties to this contract.

IN WITNESS WHEREOF, the parties have executed this contract on the dates indicated below:

CONSULTANT

Birch, Horton, Bittner
and Cherot

Tax ID No.: 92-0046806

Ronald M. Birch 8/21/89
Ron Birch Date
President

Alaska Legislative Council

Mike Davis
Rep. Mike Davis, Chair Date
Procurement Officer

Accepted:

Jan Faiks 8/28/89
Senator Jan Faiks Date
Chair, Task Force on Guiding
and Game
Project Director

Certifying Authority:

Warren Endicott 9/11/89
Warren Endicott Date
Executive Director
Legislative Affairs Agency

Approved as to form:

Michael J. Ford 7/25/87
Legal Counsel Date

July 31, 1989

MEMORANDUM

TO: Jan

FROM: Cheryl

SUBJECT: Steve Predell of Birch, Horton

Talked with Steve who has just returned from a ten day trip. He has discussed the management plan with Bill Horn and they developed some preliminary guidelines for the work. Next week he will be making more contacts and has targeted August 13th and 14th to get together with the task force committee.

As to when he might not be available in September for the full task force, he said September 5th and for a few following for a trail.

✓cc: Mark

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

August 3, 1989

MEMORANDUM

TO: Legislative Council

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

SUBJECT: Task Force on Guiding and Game Contract

On Legislative Council's agenda today is consideration of a contract for the Task Force on Guiding and Game with Birch, Horton, Bittner and Cherot.

At its July 19th meeting, the Task Force discussed proceeding with a contract to obtain professional counsel in its project of developing a big game management plan. The Task Force selected this law firm because of the particular experience of one of its attorneys, Mr. Bill Horn. Mr. Horn is a former Assistant Secretary of the United States Interior Department and has extensive experience involving recreational services franchising, licensing programs, and fish and wildlife allocation arrangements. Because of Mr. Horn's expertise, and that of other members of the law firm is the area of Alaska fish and wildlife law, the Task Force agreed this law firm could best assist in the Task Force's work.

Funding for the Task Force is available from two sources: the FY 90 operating budget included \$24,000 in the fiscal note for SB 139, and a balance of \$15,280 from FY 89 is available (lapse date extended in HB 163). In a unanimous vote at its July 19th meeting, the Task Force approved requesting that the funds available to it be used for this contract.

On behalf of the Task Force, I appreciate the Council's consideration of our request. I welcome the opportunity to answer any questions you may have.

OUT OF SESSION

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

APPENDIX

Q

AVTECH ALASKA

4740 Talus Drive

Anchorage, Alaska 99516

Phone: (907) 345-4317

Fax: (907) 345-3147

SENT VIA TELECOPIER

April 19, 1990

RECEIVED

APR 20 1990

JAN FAIKS
SENATE OFFICE

Senator Jan Faiks
c/o Legislative Affairs Office
Telecopier: 463-5661

Dear Senator Faiks,

AVTECH ALASKA represents a number of licensed air carriers. As such, we oppose SB422 which requires such carriers to become Big Game Transporters.

If legislation is required, AVTECH ALASKA supports the Senate Finance Committee version.

Sincerely,



Norman R. Israelson
President

ROBERT C BYRD, WEST VIRGINIA, CHAIRMAN

1001017 HAWAII
HOLLINGS, SOUTH CAROLINA
JOHNSTON, LOUISIANA
QUENTIN N BURDICK, NORTH DAKOTA
PATRICK J LEAHY, VERMONT
JIM SASSER, TENNESSEE
DENNIS DICONCINI, ARIZONA
DALE BUMPERS, ARKANSAS
FRANK R LAUTENBERG, NEW JERSEY
TOM HARKIN, IOWA
BARBARA A MIKULSKI, MARYLAND
HARRY REID, NEVADA
BROCK ADAMS, WASHINGTON
WYCHE FOWLER, JR., GEORGIA
J ROBERT KEARNEY, NEBRASKA

MARK O MATFIELD, OREGON
TED STEVENS, ALASKA
JAMES A. MCCLURE, IDAHO
JAKE GARN, UTAH
THAD COCHRAN, MISSISSIPPI
ROBERT W. EASTEN, JR., WISCONSIN
ALFONSO M. D'AMATO, NEW YORK
WARREN RUOMAN, NEW HAMPSHIRE
ARLEN SPECTER, PENNSYLVANIA
PETE V. DOMENICI, NEW MEXICO
CHARLES E GRASSLEY, IOWA
DON NICKLES, OKLAHOMA
PHIL GRAMM, TEXAS

JAMES H. ENGLISH, STAFF DIRECTOR
KEITH KENNEDY, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-8025

February 19, 1990

The Honorable Jan Faiks
Alaska State Senate
Box V
Juneau, Alaska 99811

Dear Jan:

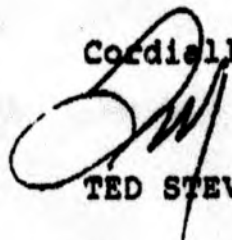
Thanks for sending me a copy of the final report of the Task Force on Guiding and Game along with the draft bill you introduced. You had a lot of competing issues to address in this process, Jan, and I know you worked your tail off to develop a consensus position.

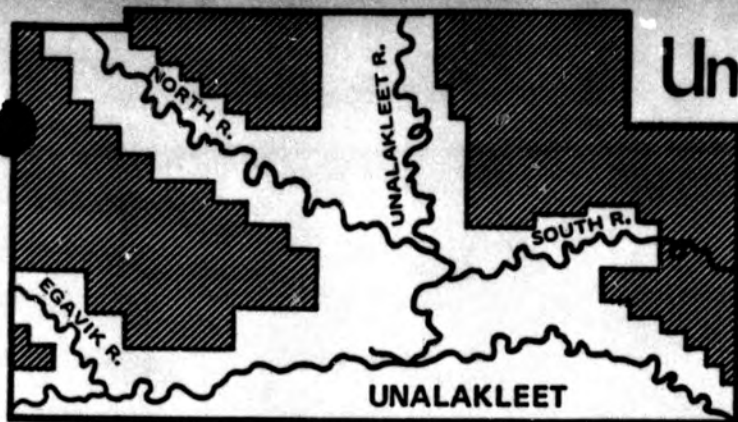
If there is anything I can do to help, let me know. If the legislation passes, we'll need to work Fish and Wildlife Service and National Park Service into the new system. I'd be glad to help with that.

Hope your session is going well. I'm up to my ears in alligators between Tongass, wetlands, the Magnuson Act, and the oil spill conference -- but I wouldn't have it any other way. We're spending a lot of time working the administrative process with the agencies with some degree of success. In fact I should mention that I'm following up on your suggestion about discussing Alaska's role in the National Energy Strategy with Admiral Watkins. I'm meeting with him at the end of the month. Let me know if you have anything you'd like me to raise with him.

With best wishes,

Cordially,


TED STEVENS



Unalakleet Native Corporation

P.O. BOX 100
Unalakleet
Alaska 99684
(907) 624-3411

February 6, 1990

Senator Jan Faiks, Chairperson
Legislative Task Force on Guiding and Game
P. O. Box V
Juneau, Alaska 99811

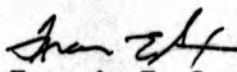
Dear Senator Faiks,

Since we are a medium sized village corporation and are land owners, we would like to request a copy of your draft legislation on Guiding and Game when it becomes available.

Best wishes for a successful legislative session.

Sincerely,

UNALAKLEET NATIVE CORPORATION


Francis E. Soxie
Land Planner

cc: R. L. Gilley, General Manager
file

done
2-12-90

RECEIVED

FEB 9 1990

JAN FAIKS
SENATE OFFICE



January 30, 1990

Senator Jan Faiks
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811

RECEIVED

JAN 31 1990

SEN. JAN FAIKS
LEGISLATIVE SERVICE

Dear Senator Faiks,

Enclosed you will find my signature for the legislation recommended by the Task Force. I want to be sure that it is understood that my signature does not mean that the Alaska Professional Sportsmen's Association will refrain from comment to the legislature on the introduced legislation.

As you are aware, I have some problems with the proposed legislation. However, I can overlook most of the problem areas if two things that the Task Force agreed to on Monday, January 22, 1990 are achieved: the legislature shall seek and obtain a letter of agreement to the general concept of the proposed legislation from the federal land managers, and, upon passage of the proposed legislation, the Commercial Services Board, with the Dept. of Law and/or the Governor's office shall seek a memorandum of agreement from the federal land managers re-asserting the state's right to manage fish and game resources on federal lands. Without these two conditions, I will have a difficult time supporting this legislation.

Considering these two conditions were unanimously agreed to by the task force on January 22, 1990, I trust we will have your full support and cooperation to achieve both of these goals. At this time I would also like to recommend that Ric Davidge be considered to consult with the bodies that draw up the memorandum of agreement and I would like to be sent copies of the correspondence with the federal land managers.

Thank you for taking the time to read this letter, I hope we share the same concerns. Contact me if I can be of assistance to you in any way.

Sincerely,



Nick Pierskalla

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,

A handwritten signature in dark ink, appearing to be "Jan Faiks".

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

JF:mr

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

OUT OF SESSION

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



Kichatna Guide Service

P.O. Box 670790
Chugiak, Alaska 99567

Phone: 907-696-3256

January 9, 1990

Task Force on Guiding & Game
ATTN: Chairman Jan Faiks
Post Office Box V
Juneau, Alaska
99811

Harold Schetzle
(Zeke)
Master Guide

RECEIVED

JAN 12 1990

JAN FAIKS
SENATE OFFICE

Dear Senator Faiks:

It may be to late to consider my remarks for the task force but I'd like to note that I have difficulty understanding how a guiding business will be able to invest in buildings and other improvements when you're limited to 10 or 15 years for a permit use area.

When your permit term (if you're lucky enough to get one) expires, what happens to your improvements if the new permittee doesn't want them? They'll be essentially useless if you can't guide there-so what we be the use of trying to run a quality operation with no assurance that you'll recoup your investment? To me it's like giving a dentist a license, he establishes an operation, buys a building but after ten years he has to just walk off and leave it with no assurance he'll be able to continue working as a dentist unless he receives a permit to work someplace else. It's hard to describe but I'm sure you understand the problem there.

Plus, I feel the building assets in remote areas should be based on replacement cost, not fair market or appraised value since there may be no references for appraisers to go by-plus they charge an arm and leg just to fly out there.

Other than the above I feel the task force has done an admirable job. Thanks.

Sincerely,

Harold Schetzle

Member of



Specializing in:
Muzzleloader
Archery Hunts
& Photography
Trips

Fair Chase
Moose
Grizzly Bear
Dall Sheep
Black Bear
Caribou
Brown Bear



IN REPLY REFER TO:

RF/9684r/48-49

United States Department of the Interior

FISH AND WILDLIFE SERVICE
1011 E. TUDOR RD.
ANCHORAGE, ALASKA 99503

DEC 07 1989



RECEIVED

DEC 13 1989

JAN FAIKS
SENATE OFFICE

Lewis Pamplin
Alaska Department of Fish and Game
333 Raspberry Road
Anchorage, Alaska 99502

Dear Lew:

Recently we sent a questionnaire to all refuge managers in an attempt to determine the potential problems that may result if there were no control over the number of guides. We also asked them for the estimated annual harvest by guided hunters and unguided hunters. From the information received, we hope to be able to find out which areas of the state are the highest priority for developing the proposed guide/outfitter resource maps. A summary of the responses is enclosed.

Most of the potential problems identified related to the possible conflict between increased numbers of sport hunters and subsistence users, or potential problems with: overcrowding in prime hunting areas; overcrowding in areas with limited access; conflicts with unguided hunters; and reduction in the number of trophy animals. The refuges that identified potential impacts to wildlife populations were: Alaska Peninsula/Becharof and Izembek National Wildlife Refuges for brown bears; Izembek National Wildlife Refuge for caribou; Arctic National Wildlife Refuge for sheep; and Arctic and Alaska Peninsula National Wildlife Refuges for moose.

Of interest is the percent of the various species taken by guided hunters on refuges.

Brown bears	36.2%
Black bears	5.7%
Caribou	8.9%
Sheep	39.9%
Deer	5.0%
Moose	7.1%

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 Stiglich

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
Alaska Maritime	1	--	--	--	--	--	--	2	1	0	0	6	30	0	0	0	0	0	0
Arctic	17	C	--	--	A	--	A	15	15	1	5	30	170	90	110	0	0	18	60
Alaska Peninsula/ Becharof	45	A	--	C	--	--	A	75	270	0	0	225	750	0	0	0	0	57	105
Innoko	2	--	--	--	--	--	B	0	0	2	?	0	?	0	0	0	0	10	30
Izembek	8	A	--	A	--	--	--	50	15	0	0	25	300	0	0	0	0	0	1
Kanuti	0	--	--	--	--	--	B	0	2	0	6	0	10	0	0	0	0	0	35
Kenai	6	C	--	--	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	--	--	--	--	--	B	0	1	1	75	0	25	0	0	0	0	4	270
Nowitna	0	--	--	--	--	--	B	0	0	0	?	0	0	0	0	0	0	0	55
Selavik	2	B	--	--	--	--	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	--	--	B	8	2	0	0	0	0	0	0	0	0	?	?
Yukon Delta	3	B	--	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
Percent Harvested by Guided Hunters								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.)

RECEIVED

6 December 1989

DEC 7 1989

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

JAN FAIKS
SENATE OFFICE

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 taxis, 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
Curt Deans, Reg. Guide

Enc: All Task Force Members
Bill Horn
Senate Resources

Dear Senator Fails

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DEC 1989

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DEC 5 1989

JAN FAIKS
SENATE OFFICE

JAN FAIKS
SENATE OFFICE

JAN FAIKS
SENATE OFFICE

DEC 1989

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Under Federal and State Freedom of Information acts I request the following

1. all legal opinions, formal and informal on the "Owsich decision" and guide areas.
2. all letters, notes, memoranda^{etc} dealing with Guide areas, the Owsich decision and the Alaska Constitution.
3. All legal opinions from Bill Horn, his associates or law firm on Guide areas, and the Owsich decision, and our constitution.
4. ~~How~~ was the States attorney generals offices used and if so why was ~~was~~ a private outside firm used?
 - A. Who authorized hiring a private outside firm.
 - B. Do you know Bill Horn.
 - C. Do you know the principles at Bush Horton.
 - D. Why was their firm selected
 - E. How much have the private law

12/6/89

firms charged and how much
will their total bill be? Who
is paying for the private law firm
used in the Grand area plan?

5. a list of all persons who traveled to
other states, or countries, ^{in working with} ~~all~~ task forces,
game board etc

A. Their exact business

B. length of trip

C. who they met with

D. Cost of each trip.

E. Where is this money coming from.

6. Was this Travel necessary to Benefit the
state?

\$

Please send to Ken Owsichuk

Box 190 301

Anch AK 99519

or call for a pick up 243 5899

Thank you

Ken Owsichuk

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

December 1, 1989

MEMORANDUM

TO: Senate President Tim Kelly
House Speaker Sam Cotten

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

SUBJECT: Progress of the Task Force

As you know, the Legislative Task Force on Guiding and Game has been directed by the Legislature to formulate a recommendation for a comprehensive resource-based management system for the allocation of big game hunting opportunities among guide-outfitters.

The 15 member task force met in June and July to organize and establish a work plan. We met again in early October to provide the groundwork necessary for the law firm of Birch Horton, Bretner and Cherot to craft the basics of a workable management system which fits the parameters of the legislative directive, is further shaped by the input from the task force and would be able to withstand constitutional challenge. The panel received the proposed plan from Birch Horton just prior to the November 8th meeting.

Thorough discussion November 8th of the elements of the plan directed attention to several areas of the proposal which required modification or deletion. The changes were made and the revised plan as well as draft legislation were discussed during the November 20th meeting. The task force members were asked to prepare any amendments to the draft legislation that they wish to offer for presentation during the December meeting.

Important to the process has been the interaction with state and federal agencies. Following the meeting of October 5th and 6th, staff from my office and from the Alaska Department of Fish and Game met with staff from several federal agencies which desire involvement in the process. The agencies

OUT OF SESSION

included the National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management and the U.S. Forest Service in addition to the Alaska Department of Natural Resources.

It is essential that the plan which Alaska adopts is also usable by the major federal landowners here. Therefore, I met in Washington, D.C. with Directors John Turner of the U.S. Fish and Wildlife Service, James Ridenour of the National Park Service and several members of their staffs to discuss the task force effort and elicit assistance and cooperation. Packets of information on the task force activities were readily accepted by the participants and I was given assurance that they would do all they could to assist the task force. They stressed their desire to participate in the process of developing a management plan that is conducive to their needs. I have also met separately with Alaska Region Director Walter Stieglitz of the U.S. Fish and Wildlife Service.

The top priority for the federal agencies is the quality of the hunting experience for the service user. They are concerned about the number of guides who may use a given area, the fees charged and the length of area leases. They are also generally insistent that the service provider be a money-making enterprise rather than a hobbyist or small operator. This can and has resulted in a great deal of "lower end" service provider pressure on state-owned lands upon which there are fewer requirements directed toward service providers.

The next scheduled meeting of the task force is December 11th and 12th in Anchorage. The members will further discuss the draft legislation in preparation for its introduction to the Legislature by January 15, 1990.

CC: All Legislators

Clearwater Outdoor Services

Peter R. Buist — Registered Guide

P.O. Box 1561 — Fairbanks, Alaska 99707

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DEC 4 1989

IAN FAIRBANKS
STATE OFFICE

(907) 457-7189



November 30, 1989

Mark,

Here are some items for the "packet" for the Dec 11-12 Guide Task Force Meeting:

- 1) The proposal for nonresident permit allocations that Lew dared me to draft!
- 2) Coastal Zone Management (CZM) Documents. One is a Consistency Review Determination by the State's coordinator. The other is the Northwest Arctic Borough's comments on a guide's application for a BLM permit.

These show quite clearly how the "planning" process is used to keep guides who apply for land use permits from using public land. Some questions about this process should probably be directed to Gary Gustafson from Div. of Land and Water Management when he appears at the next meeting.

Pete



TO: Task Force on Guiding and Game

FROM: Pete Buist, Member

DATE: November 29, 1989

RE: Options For Permit Allocations For Guided Nonresident Hunters

PROBLEM: Current allocation systems in drawing permit areas are not fair to nonresident hunters desiring guided hunts. The state loses thousands of dollars in potential revenues as a result.

1. In areas where big game permits are used in the allocation process, guide-outfitters have no certainty that any of their booked hunters will actually be awarded permits.
2. ADFG doesn't announce winners of permits until mid-summer. Nonresidents hoping to hunt sheep, for example, at the beginning of the season have less than 30 days in which to make their plans (they can't even purchase super-saver airline tickets!)
3. In permit drawings, particularly where a ceiling on the percentage of non-residents is in place, nonresidents guided by family members who are "residents" (generally military) may end up with a large percentage of the permits.
4. Under proposed TF guidelines (and the previous guide statutes and regulations) guide-outfitters will be required to show annual use of assigned Resource Areas. If a guide-outfitter's clients failed to draw, he could lose the right to guide in the area.
5. Not all permit hunts are "on permit" because of a shortage of game. Some are managed in that way to provide for an aesthetically pleasing experience, precisely the type of hunt that most nonresidents desire.

DISCUSSION:

Allocation procedures are the prerogative of the Alaska Board of Game. Proposals to alter the present system of drawing permits have been summarily dismissed several times over the past 7 or 8 years. Board makeup has changed and similar proposals have again been submitted. However, the proposal changes will be considered by the Board at the March 1990 meeting and it is fair to assume that a new guide-outfitter Resource Area system will not be in place by that time. The next time that portion of the regulations will be considered would be at the spring 1992 meeting.

The permit allocation system for brown bears in GMU 8 worked adequately for ADFG, USFWS, guide-outfitters and hunters for a number of years WHEN THE EGA SYSTEM WAS IN PLACE.

SOLUTION:

Many Task Force members have indicated their support for an allocation system but do not wish to usurp the prerogative of the Board of Game with a legislative solution. The Task Force should urge the Board of Game to consider discussion of a more equitable allocation system at their March 1990 meeting. The recommendations

should include the following:

1. Realistic dates for the drawings. March or April are far more realistic than July.
2. An outright allocation of permits to nonresidents (10% - 40%) in any permit hunt where non-residents are allowed to participate.
3. Permits allocated to non-residents, but not applied for, should be allocated to resident hunters.
4. If and when a "Guide-Outfitter Resource Area System" is in place, permits for species for which a guide-outfitter is required should be available on a REGISTRATION permit basis to clients of guide-outfitters holding the Resource Areas (UCU's) in question.
5. Permits for nonresidents accompanied by "second degree of kindred" residents should come from the resident permit allocation.

If the State of Alaska is serious about providing quality hunting experiences for non-residents, requires a guide for certain species, charges far higher tag fees and license fees than it does for residents and realizes significant portions of its ADFG budget from nonresident revenues, it should be willing to see that these hunters and their guide-outfitters get a fair shake in the permit allocation process.

November 20, 1989

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NOV 27 1989

JAN FAIKS
SENATE OFFICE

Legislative Task Force on Guiding and Game:

Jan Faiks, Chairman:

I am very concerned about receiving fair treatment in the future big game management plan. I have been a guide-outfitter for over 10 years without much possibility of receiving use of an area. I feel that each Registered Guide should be able to hunt area-wide in each of his chosen 3 areas. However, consideration should be given to create a buffer zone around each registered base-camp; with a limit of 1 base-camp per area. Also a guide should not be allowed to knowingly place a camp near to another guide's existing spike or fly camp; for example within 3 miles.

If a limit on any one species is deemed to be necessary by the Fish and Game Department; I think that a limit should be placed upon number of hunters per guide before limiting number of animals per guide. Guided hunt quality would deteriorate if number of animals per guide is limited because some guides may actually lessen the chances of hunter success in order to take more hunters, thus more income. I feel that 20 hunters per year should be maximum allowed for any guide in all of his chosen areas.

Inactivity of guides should be monitored closely, as well as continuing qualification of existing guides.

If the take of certain species must be limited then a criteria of priority could be given to subsistence, resident and non-resident, hunters. A percentage should always be reserved for non-resident guided hunts however, because this is a very important income producing industry in Alaska. For instance, area 13 has no allowable non-resident, caribou hunting. This is foolish with the caribou population at its current levels in the area. A 10% minimum non-resident take for all species in any area would be within reason. Consider the income potential for all land holders and Alaskans in general.

I hope that some of these ideas are helpful and that your committee can devise a fair, equitable, and constitutional plan for all parties concerned with our big-game resources.

Sincerely,



Butch Loper
P.O. Box 33
Cantwell, AK 99729

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NOV 27 1989

JAN FAIKS
SENATE OFFICE

Task Force on Guiding and Game
311 C Street, Suite 525
Anchorage, Alaska 99503

August 22, 1989

Brian Peterson
Box 485
Girdwood, Alaska 99587

Task Force on Guiding and Game,

As a registered guide I am very concerned with the present situation of the guiding industry. From what I have learned a system must be developed that allows equal access, supports the industry and most importantly protects and manages the resource. The following are some suggestions for a workable solution.

Geographical permit units should be used over a several year period. Initially the units would be permitted out for a one to ten year time and after the first period elapsed they would be issued for a decade. This would create a system in which ten percent of the units would turn over each year. To keep these units from being over harvested at the end of these periods a permit system would be created for guided hunters. This would be like the system that was in place on Kodiak.

Once these systems are in place the difficult task comes in creating a point system that would allocate the units and allow equal access to earning points so individuals that want units have an opportunity to get them. The following are relevant suggestions although I don't know if they are all constitutional.

Allocate points on residency from the unit. The farther someone lives from the unit the smaller their chances should be. This allows equal access because they have the freedom to live where they want to. Allocate points on experience. Since the old guiding system is unconstitutional that experience cannot be used. Hunting experience in the area is one possibility. Length of guide licence usage is another.

One of the most important aspects of your work is to sustain the industry for the economic betterment of the state. This is best done by creating an industry of guides not hunt brokers that contract or hire the hunts they book out to others, furnish supplies and equipment, and fly people around in an airplane. The following suggestions would help do this along with spreading the industry profits out instead of going to the hunt brokers that have been calling themselves guides.

Limit assistant guides to two or possibly make unit permit holders actually guide in the field 50% or 40% of their hunts. Get guides guiding again.

Limit permit units to one or possibly two if those without one are given a opportunity for it and turn it down. This would create self supporting new business throughout the state. Along these same lines there should be no joint usage in permit units.

The existing law of being physically able to perform the duties of a guide should be enforced. This means guiding in the field not booking hunts and flying airplanes. Packing out a moose or a bearhide is very physically demanding as is climbing a mountain for sheep and goats. A physical checklist similar to a pilot physical should be created for doctors to test and see if an individual is capable of doing what one must.

Hunts should not be allowed in a unit unless the unit permit holder is present in that permit unit. It only makes sense, how can a person guide if they are not present. This is very important. Absentee guiding should not be allowed. If a person cannot be in a unit while his business is taking place he should not have that unit.

Something else that would help is to make registered guides accompany assistant guides in the field. Someone with little or no experience should not be allowed to guide simply because they work cheap. I'm mainly interested in getting the guides back into guiding.

It is very important to keep from auctioning off units for money. This would only create private hunting and or the wealthy to guide. If the above ideas are put into action there should be plenty of units and a money auction should not even be considered.

These suggestions are not complete but they do go a long way in sustaining the industry, allowing equal access and protecting the resource.

Sincerely,



Brian Peterson

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NOV 22 1989

JAN FAIKS
SENATE OFFICE

Senator Jan Fails:

Legislative Task Force on Guiding & Game

I am very concerned about receiving fair treatment in the upcoming management plan recommendation.

I have been a Class A Assistant Guide for 10 years and I'm taking my Registered Guide test December 2, 1989. There was no reason for me to become Registered before because there was no areas available to guide in.

I hope that you will give equal consideration to newly Registered Guides compared to those who have had the areas locked up. I do not think that one guide should be able to book 100 hunters compared to another being limited to only a few.

Also, it's my belief that when a limit must be placed on a certain species for guides, that the number of hunters be limited instead of the number of animals taken per guide. Otherwise the quality of hunts will deteriorate because guides will attempt to lower their success

rate so that they can accommodate more hunters.

I also feel that if a Guide is given 3 Areas than he should be able to hunt anywhere in those areas (with permission) so that hunting pressure is evened out more.

If guiding pressure is deemed to be too great in a certain locality than limiting the distance between registered base camps or spike camps might be considered.

There should also be a yearly re-evaluation of guides who are either active or inactive.

Sincerely,

Butch Loper


P.O. Box 33
Cantwell AK.
99729

rec 11/28/89 via pfs

October 22, 1989

see p2 →

Mr. C. Wayne Taylor
2931 S. Kobuk Avenue
Fairbanks, AK 99709

Dear Mr. Taylor:

SUBJECT: CONCLUSIVE CONSISTENCY DETERMINATION
GUIDING OPERATIONS IN SQUIRREL AND WULIK RIVER AREAS
STATE I.D. NO. AK89101108/F

The Division of Governmental Coordination has completed coordinating the state's review of your project for consistency with the Alaska Coastal Management Program (ACMP). The project entails commercial guiding on BLM lands within the Squirrel River basin and on the Lisburne Peninsula. The primary use of BLM managed lands will consist of taking clients northwest of the village of Noatak for moose hunting and into the Squirrel River basin for sheep and caribou hunting. Spike camps will be utilized as part of this operation.

This conclusive consistency determination applies to the following federal authorization as per 6 AAC 50:

BUREAU OF LAND MANAGEMENT SPECIAL RECREATION PERMIT
(F86668)

Based on the review of your project by the Alaska Departments of Natural Resources, Environmental Conservation, and Fish and Game, and the Northwest Arctic Borough, the state concurs with your certification that the project is consistent with the ACMP.

If changes to the project, as approved, are necessary during operation, you are required to contact this office immediately to determine if further review and approval of the revised project is necessary.

By a copy of this letter we are informing the federal agency reviewing your permit of our finding.

Other Concerns/Advisories:

Policy A-1, Subsistence Priority, of the Northwest Arctic Borough's coastal management program, states that subsistence use of coastal lands and waters has traditionally been the primary and highest priority use of all lands and waters within the coastal management plan area; therefore all other land/water management uses and activities shall accommodate the use of subsistence resources in the planning, development, and operation of these activities.

Wayne Taylor

- 2 -

November 22, 1989

In the Wulik River area, subsistence activities, fish overwintering, and fish and wildlife management are priority uses; therefore, all other land/water uses and activities shall avoid adverse impacts on these areas.

Because there has been evidence of conflicts between the subsistence hunters and guiding activities, the Northwest Arctic Borough has recommended that the Bureau of Land Management closely consider complaints of disruption to subsistence activities and possibly revoke permits if there is documented interference by guiding operations.

You are requested to please pay special attention to subsistence hunters in the applied for guiding areas and not interfere with or disturb their activities.

If you have questions regarding this determination, please contact me at 451-2818.

Sincerely,

- signed -

Patti Wightman
Project Review Coordinator

Enclosure

cc: Larry Field, BLM, Fairbanks
Joyce Beelman, ADEC, Fairbanks
Simon Mawson, ADEC, Nome
Gayle Berger, ADNRL&WM, Fairbanks
Al Ott, ADF&G, Fairbanks
Dennis Tiepleman, NWAB, Kotzebue

THE ALASKA PROFESSIONAL SPORTSMEN'S ASSOCIATION

Post Office Box 190842

Anchorage, Alaska 99519

May 23, 1989

COPY

The Alaska Congressional Delegation

For some time I have been concerned with the common practice of federal land managing agencies (FWS, NPS and BLM) informally (without promulgation) regulating (limiting) traditional commercial visitor services within federal conservation system units in Alaska. This concern first surfaced while serving as a sub-cabinet officer with the Reagan Administration. Efforts to correct the problem have been frustrated with changes in leadership in Interior (both in Wash D.C and Alaska) and an unwillingness to address these issues.

The purpose of this letter is to raise one specific concern to your attention. As you know commercial visitor services have long been the only realistic means for many to visit our new parks and refuges. Commercial visitor services are a vital component of our tourism economy and one of the best examples of the "Alaskan experience" offered by Alaskans. With the passage of ANILCA the NPS, FWS and BLM have wrestled with mechanisms through which to allocate fish, game, public waters and recreation (space/access) resources for human enjoyment. The many management plans prepared over the past seven years set a framework for management in the agencies application of new law to Alaska resources. Commercial visitor services were expected to be grandfathered in so long as their activities were consistent with the purposes of the conservation system unit and not in conflict with ANILCA. As you know, better than most, ANILCA broke new ground in recreational resource management changing many of the older practices of the NPS, FWS and BLM and establishing a management philosophy more recreation oriented than in many other federal areas.

Two of the most basic of resource allocation and management concepts is fair and equal access and resource allocation based on biological compatibility under sustained yield management. This is not only consistent with the intent of Congress in ANILCA but directly consistent with Article VII, Section 3 of our Alaska State Constitution.

For the first time since Statehood the Alaska Supreme Court has issued a ruling on the meaning of this unique and important section of our State Constitution. The Owsichuk decision not only invalidated Exclusive Guide Areas it provided important insight into the intent of the drafters of Article VII, Section 3. Commercial users must now be considered a user in the common use clause. Prior use and economic value can no longer be used as a bases for allocation or access restriction.

This important decision is applicable to federal areas in a number of ways. All fish and wildlife resources, other than marine mammals and some species subject to international treaty, are under the management of the State of Alaska. This was reinforced by the Master Memorandum or Agreement signed by the Secretary of Interior and the Governor of Alaska on the management of Alaska's fish and wildlife in 1981. It has been recently reinforced by memoranda of federal land management agencies stating that those agencies will await State resolution of this regulatory redirection before adjusting their management practices. The Supreme Court decision is now close to six month old and yet it has not brought about change to the basic problem of federal agencies regulating (again informally) access and resources based on seniority (prior use).

In 1984 the U.S. Fish and Wildlife Service imposed a moratorium on new commercial visitor services or expansion of existing services on the Togiak Refuge. This action was taken in response to a perception of increasing demand for guided sport fishing in the refuge. To date, according to the U.S. Fish and Wildlife Service in Anchorage, no formal regulatory action has been taken. Only memorandum from the Regional Director. This moratorium has been in place now for almost six years.

Allocation of access and resources which since passage of ANILCA has been illegally based on seniority is being further restricted by the refuge manager causing serious economic hardship on fishing guides and lodges that depend on a reasonable opportunity to take their clients into this world class area. Allocation of access and use continues to be based on prior use (senority). And yet, not one single regulation has been promulgated which has allowed users an opportunity to exercise their rights under the Administrative Procedures Act. Please understand that a management plan is not a formal regulation. It can, along with the enabling Act set a basis from which regulations may be promulgated - but it is in itself not a formal regulation.

The Aleknagik Mission Lodge has been the most adversely impacted commercial visitor service by this discriminatory action. I have discussed this situation with the Pacific Legal Foundation and with the Alaska Citizens Advisory Commission on Federal Areas and have found agreement with my position that the 1984 moratorium and present allocation actions of the U.S. Fish and Wildlife Service are illegal, discriminatory and a violation of the Alaska State Constitution as well as the Federal Administrative Procedures Act.

One of the things I learned while serving on your staff and with the Office of the Secretary of Interior is that a policy is not a Policy unless it is formally promulgated in the Federal Register. Informal regulations have no basis for enforcement if not formally promulgated allowing notice, comment and due process.

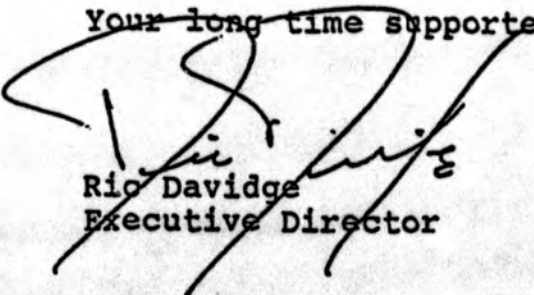
This situation is, as I have previously stated, causing serious economic hardship on Jim and Mary Broady the owners of the Aleknagik Mission Lodge. Your immediate intervention is requested.

I have accumulated a great amcunt of information on this case and the general problem not only for the Togiak Refuge but for the overall problem of informal regulation and resource allocation based on

seniority. Not only would I appreciate a Congressional inquiry through the Secretary of Interior but an opportunity to discuss this matter with you or your staff. Please remember this problem is not isolated to Togiak but is generic across federal conservation system units.

You may reach me in Seward by phone (907) 224-7020 (7am-7pm). I am assisting with the oil spill clean up as an environmental compliance professional.

Your long time supporter,



Ric Davidge
Executive Director

ON THE ISSUE OF USER'S FEES...

Alaskan guides are not taking resources from Alaskans, they are providing a service in the tourist industry. Non resident hunters pay an enormous tag fee which should cover a "users fee".

Alaska maybe in an economic slump and the state may feel this lack of revenue, but no more so than the small business operator, the Alaskan guide. The state should be warned against undue taxes and fees to supplement their over spending.

ON THE ISSUE OF GUIDE'S INSURANCE:

It seems like the fix-all of all state departments is to require insurance. The guiding industry is a private business. It should be up to those private businesses whether they can or cannot provide insurance. The state could provide names of guides who do provide insurance to the consumer. Then the state would be doing its job by letting the consumer and the business work things out privately. When the state interferes by mandating such insurance requirements, one can only feel that the state is giving the insurance industry more than its fair share of revenue at the expense of both consumer and business.

Insurance today is not economically feasible for the small business man and it is upsetting that the state is giving this overpriced industry such favoritism.

Requiring insurance is not a fix-all; to protect the guiding industry and the resources involved the state needs to give the state licensing agency the control to set and maintain high, professional standards and requirements so that the Alaskan guiding industry can stop being a free-for-all and become a professional, and accountable service.

In conclusion, the new board was set up to solve problems relating to guiding and outfitting, and to preserve the industry and the resource. Now, all I see is insurance requirements and user's fees. Once again the state is passing the buck while taking a little under the counter. Let's work together to make us proud of both the control board and Alaskan guides.

Frankly Mark Miller

MARK MILLER
Box 273627

11-20-89 Proposal of Changes to Guide Industry.

Item #1.

The change from Mandatory Guides for non-dangerous species of game for non-resident, U.S. citizen hunters. (Guides mandatory only for)
Brown / Grizzly Bear Species.

Item #2.

The change ^{to} from Mandatory Guides for non-resident, alien hunters for all species of game in Alaska.

Item #3.

Permit time limits for the U.C.U.'s to be not more than a 5 year maximum, which would keep a closer system of monitoring each unit.

Item #4.

Any game violations and convictions by guide/outfitters would have an immediate dismissal from U.C.U. area for remaining time period allotted by the C.S.B., plus an additional 5 yr. dis-qualification period to apply for that and any other U.C.U. area.

Item #5.

If determined by the A.D.F. & G. that a U.C.U. area has been over-harvested^(PER SPECIES), that the Guide/Outfitter be held as a non-qualifying applicant for other areas^(5 YR. PERIOD), and that the U.C.U. in question, be closed for bidding for a period of not less than 5 years.

{ In case of a joint-use area, all guide/outfitters in question would be dis-qualified.

Item #6

That the proposed "bonus" points awarded to an applicant not be included in the qualifying process.

NOTE { This would give an unfair advantage to "established" guides over the "new starters" in the industry.

Item #7

That in the case of willful abuse of a U.C.U. awarded to an applicant, that the state may seek monetary damages against said applicant, besides a dis-qualification period.

Item #8

That all airfields, and un-improved air-strips be open for public use within the said U.C.U.'s, on public land.

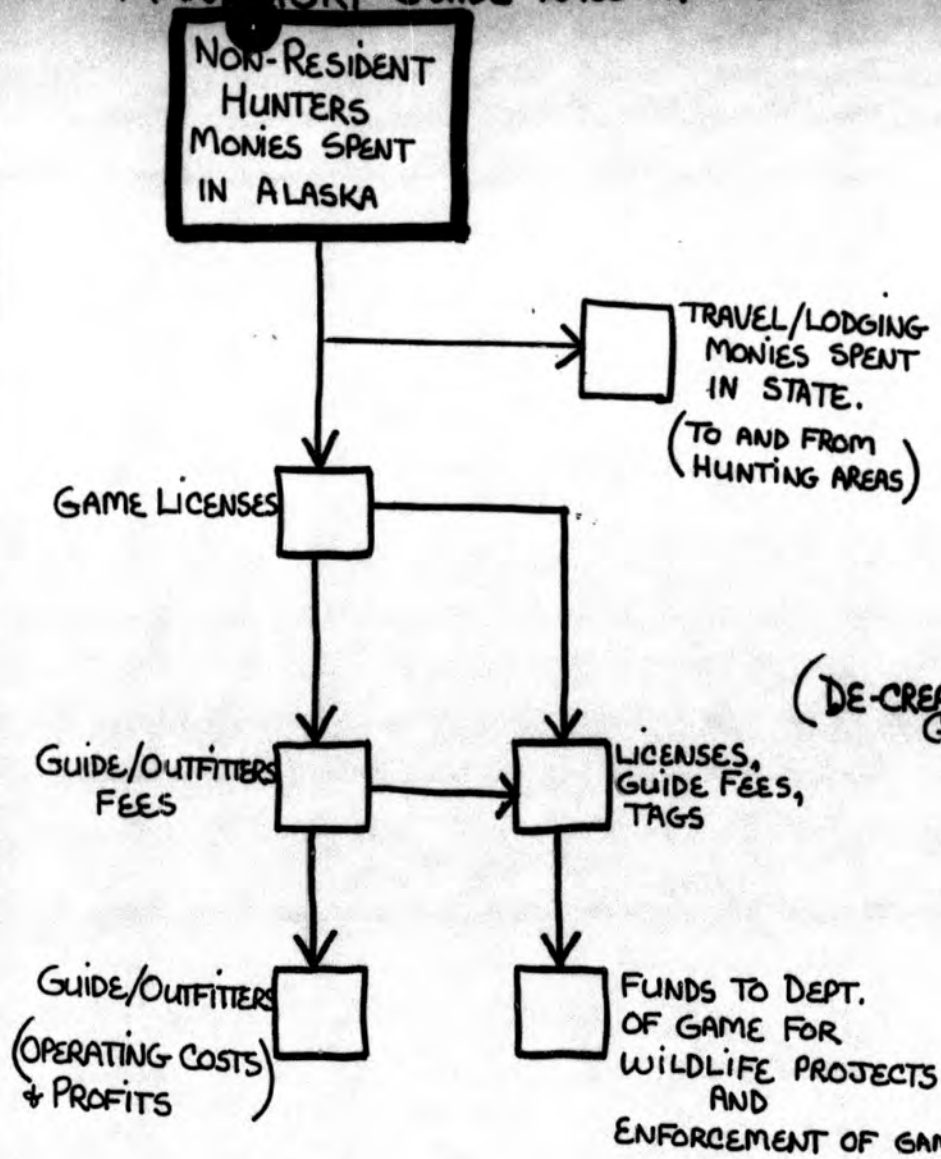
Consideration - The state will buy the said lease or holdings at a fair percentage from the holders, then lease back ^{buildings etc.} to other applicants ^{improvements} afterwards.

Summation

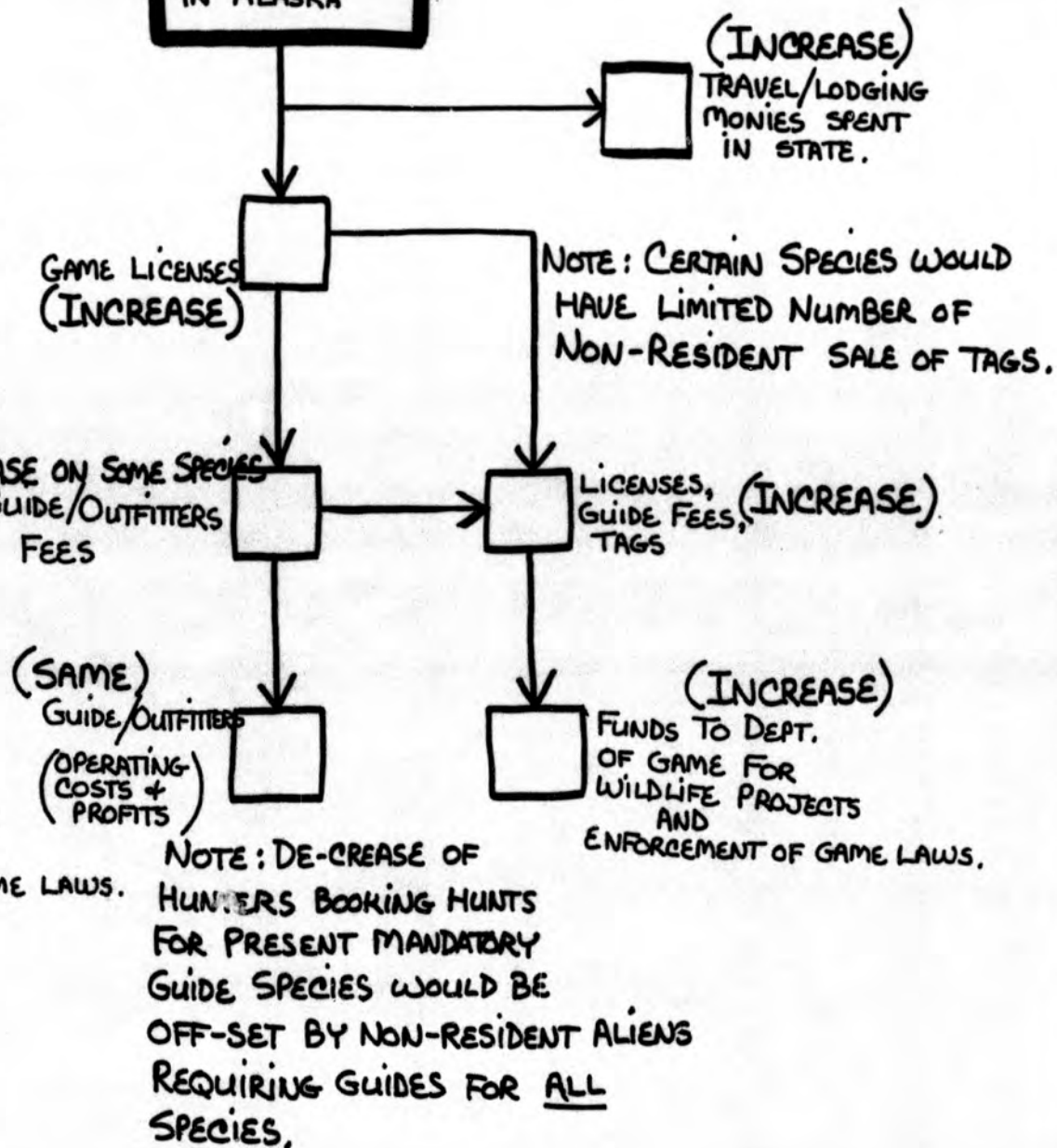
The general outline of this proposal to be a fair, equitable, and secure process for establishing a durable and lasting guide system.

To which end will promote not only better wildlife management in Alaska, but will enhance the guiding industry here, and set an example ^{/outfitter} for other states to perhaps follow.

MANDATORY GUIDE LAW AT PRESENT



MANDATORY GUIDE ONLY FOR NON-RESIDENT ALIENS, AND BROWN/GRIZZLY CAR FOR ALL NON-RESIDENT HUNTERS.



North Country Outfitters
John Zabielski
Registered Guide
P.O. Box 453
Tok, Alaska 99780

RECEIVED

NOV 20 1989

JAN FAIKS
SENATE OFFICE

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

Dear Senator Faiks:

In reference to your notification of October 30, 1989 pertaining to the Legislative Task Force on Guiding and Game, I do have some comments.

I operate a small operation in which a good season to me means a sheep hunt, moose or caribou hunt, and a bear hunt. My hunts are fair chase, walk, spike camp, esthetic type hunts. I have been a registered guide since 1983; an assistant guide since 1977.

The problems I face are as follows:

I do not put on enough hunts to qualify for an exclusive area under the old system. I found it hard to impossible to find open areas that remained that way once I used them as they were usually claimed and added to already large exclusive areas held by guides that did qualify under the old system.

As for the federal land, I hunted both the park and refuge system in Units 12 & 10 before the parks or refuge managers actually took control. I did not hunt every year and I did not acquire permits they now say I should have. So, since I did not hunt in 1988 on refuge or park lands and did not acquire a permit for that year, I am told I cannot hunt on those lands in 1989 or 1990 and perhaps never.

As for a large part of state land that is open same day airborne shooting, unfair chase and illegal practices limit the places I feel I can still put on what I like to think is an Alaskan hunt.

In short, I hope small operators like myself are given some consideration in the final recommendation. We need areas to hunt as we are trying to make a living also.

Sincerely,

John Zabielski
John Zabielski

Dinyee
P.O. Box 71372
Fairbanks, AK 99707-1372

November 20, 1989

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Legislative Task Force on Guiding and Game
Sen. Jan Faiks, Chairman
31111 C Street, Suite 525
Anchorage, AK 99503

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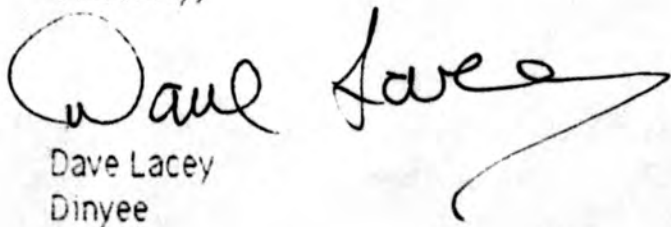
JAN FAIKS
SENATE OFFICE

Dear Sen. Faiks,

Dinyee is writing to give comments to your task force on Guiding and Game. Dinyee is the village corporation for Stevens Village located on the Yukon River. The moose population in the area is severely depressed and in a conservation system now. The local people attribute much of the scarcity of moose to the fact that there were a lot of airplane hunters in the area in the mid seventies. Because of that airplane hunters are forbidden on Dinyee lands except in cases of emergency.

The big game guiding industry has dominated game management in Alaska for a long time. Dinyee feels that other interested parties should have equal consideration. Many abuses of wildlife have occurred as a part of the big game guiding industry because animals are just considered as dollars with no other value. To wipe out the subsistence economies would be very costly to the State of Alaska. Please manage the big game guiding industry very conservatively. As the boom gets over, the crunch becomes greater for the competition for wildlife in Alaska. It is obvious that the game guiding industry is the one that will have to make the sacrifices. Trophy hunting is a luxury that is becoming more controversial world wide and nation wide. Let's begin to cut back on our economic reliance on it now by reducing the areas available and easing off on the impacts upon the subsistence economies. Don't encourage new people to get into an industry that does not have a bright future.

Sincerely,


Dave Lacey
Dinyee

ELIM · NATIVE · CORP.



November 17, 1989

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NOV 21 1989

JAN FAIKS
SENATE OFFICE

Senator Jan Faiks
Ak Legislative Task Force
3111 C Street, Suite 525
Anchorage, Ak 99503

Dear Honorable Faiks:

Thank you for your letter of 10/30/89 informing us of the big game management plan.

The Board of Directors of Elim Native Corp. oppose all guiding and game hunting on our land, and if there is any activity near Elim Native Corp. lands (formerly known as Norton Bay Native Reservation), we would like to be made aware of it ahead of time.

Thank you for your attention to this matter.

Sincerely,

Wallace Amattoolik Jr.

Wallace Amattoolik, Jr.
Vice-President

WA/hjd



First Federal Bank

of ALASKA, S.B.

Spenard Office • P.O. Box 92200

Anchorage, Alaska 99509-2200 • (907) 274-6565

November 15, 1989

Mr. Keith Johnson
3646 N. Point Drive
Anchorage, Alaska

Dear Keith:

You have asked me to write you a letter summarizing our conversation of the other day. In that discussion, you asked for a banker's perspective on proposed changes to the State's guiding laws that would *"limit the initial term on a specific guiding area to five years with one possible renewal of ten years"* subject to prudent management of the area. Physical structures would be allowed on holdings in these areas on leased land with up to 55 year leases available on these parcels.

The concern I have, as a banker, is that even though the area with the most physical improvements would be on a 55 year lease the *"economic value"* of this property would be greatly dependent on the shorter terms of the *"guiding area."* All other things being equal these shorter terms of five and ten years would govern any lending for leasehold improvements. This short lending term would, of course, tend to restrict the quality and size of improvements as well as increasing the cost to pass on to clients.

I hope this letter is sufficient for your purposes. When we spoke you did not have actual draft regulations, so I wrote this on a *"what if"* everything else being equal basis.

Sincerely,

John D. Carman
Senior Vice President
Retail Banking



RECEIVED

NOV 13 1989

JAN FAIKS
SENATE OFFICE

P.O. Box 54
MEKORYUK, AK, 99630
NOV 5, 1989

Legislative Task Force on Guiding & Game
3111 C. Street, Suite 525
ANCHORAGE, AK, 99503

Dear SIRS,

The subsistence users must have the 1st chance to use the Wild Game, other state Residents should have the Second chance and the Fat & Rich Alaska's Sports ~~men~~ Hunters should get the excess Wild Game.

Private Land owners must have some degree of game management on their own. Develop game management which is acceptable with the State game management.

Sincerely Yours,
Samuel Smith

KWETHLUK INCORPORATED

P.O. BOX 80
KWETHLUK, ALASKA 99621
(907) 757-6612 or 6613

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NOV 13 1989

JAN FAIKS
SENATE OFFICE

November 09, 1989

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

Dear Honorable Senator Faiks:

I thank you for your notice of your Task Force on Guiding and Game meetings.

For the record, our Joint Group comprised of the Kwethluk IRA Council, the Kwethluk City Council and the Kwethluk, Incorporated Board of Directors have been opposed to both sports fishing and game guiding in our Corporation's land selected area and those traditional, customary subsistence hunting, fishing and trapping land areas in the Kilbuck/Kuskokwim mountains. As is common throughout the Southwest Yukon-Kuskokwim Region, we basically are a subsistence way of life Alaskans. As such, we do not practice or approve of "catch and release" of fish caught by sports fishing as appears to have been the practice on the Kanektok River on the lower section part of the Kuskokwim River nor do we practice or approve of wanton waste of big game meat.

In addition, Mr. Mike Coffing, Subsistence Specialist, Bethel, Alaska, has been doing an extensive survey of our traditional and customary hunting, fishing, trapping areas in which are included the various fish and game traditionally sought. By copy of this letter, Mr. Coffing is respectfully requested to provide you the necessary information if he feels that it is pertinent to your committee's task.

In behalf of the Joint Group, I thank you again for your notice sent to us.

Sincerely,

Phillip Guy
Phillip Guy
Land Planner

cc: Mr. Mike Coffing, Subsistence Specialist, Bethel
Honorable Senator John Binkley
Honorable Representative Lyman Hoffman
Mr. Kim Francisco, Biologist, Bethel
Mr. Ron Perry, Manager, Yukon-Kuskokwim National Wildlife Refuge
Mr. John Coady, Regional Supervisor, Nome
Ms. Elizabeth Andrew, Regional Supervisor, Division of Subsistence, Fairbanks
Kwethluk IRA Council
Kwethluk City Council

Homer, Alaska

Nov. 9, 1989

Sen. Jan Faiks, Chairman
Legislative Task Force on Game & Guiding
6060 Yukon Drive
Anchorage, Ak. 99516

Dear Sen. Faiks:

I attended the Teleconference yesterday in Homer and planned to testify but finding the topic of conversation was mainly ~~going~~ going over the narrative on new guide areas, and the docette being quite full, and my topic was a different problem. so I decided to write you ~~via~~ this letter instead and let you bring it up to the Task Force.

You see I want to talk about the "Commercial Use Permit", Now called "CUP", and the having to pay even if one is not guiding.

I've written the State, one Senator & one Representative to no avail. The one Rep. told me the idea of the "CUP" is, that those using the resource should help pay for the costs. Why then is there not a "CUP" for fishing, mining & etc. I think this is discriminatory.

To get a guide license you don't just go buy one because you want one, like fishing & etc., but it takes 3 to 5 years to get a Registered Guide license, what with meeting the requirements and passing tests, and at least 12 years before you can be a Master Guide, plus pass strict criterion. Why then should those guides, who are not guiding for a year or so, have to pay the CUP fee or forfeit there guide license?

By the ver name, "Commercial USE Permit", it indicates PAY TO USE and I personally don't ha any problem with that but to charge those not using then I do nave a problem with that.

My personal situation is, I'm a Master Guide and have been for many years. I'm retired, sold my business so no longer use the resource. I am willing to pay the license fee to maintain my Master Guide license, for sentimental reasons, (I was in the guiding business back when it was an honored profession). Now I'm told I have to pay this CUP fee also or forfeit my license. I think this is wrong. I hope you can , please, do something about this.

Sincerely yours,
"Fake" John H. McLay
John H. McLay

Box 754

Homer, Alaska 99603

November 9, 1989

Senator Jan Faiks, Chairman
Alaska Legislative Task Force on Guiding and Game
P.O. Box V
Juneau, Alaska 99811

Dear Senator Faiks:

Thank you for the opportunity to address my concerns to you and the Task Force regarding licensing and guiding in the State of Alaska.

First of all by way of background, my name is Gordon Windell, Registered Guide and Outfitter, License number AA 12. I have been a resident of the state since 1950. I was an assistant guide from 1960 until 1965 when I became a registered guide.

From 1981 thru May of 1989 I worked as a pilot for King Air in Naknek, Alaska owned by the late Ed King. In June of this year I formed my own Air Taxi. I currently hold a Commercial Use Permit, Transporter's Permit, Special Use Permit (for transporting only) from U.S. Department of Fish & Wildlife, a Certificate of Financial Responsibility from the State of Alaska, an Air Carrier Certificate from FAA. With all these licenses and permits I was precluded from guiding for big game this past season. My Air Taxi currently does some survey flying for the Alaska Department of Fish and Game King Salmon Office and some survey work for the biologist in Dillingham. As you can see I am not a novice or newcomer to the subject of game and guiding.

I would like to sketch some background for you on the history of Big Game Guiding in the state, particularly as it pertains to the Guide Board.

I was a staunch supporter of Exclusive Use Areas at their inception. However, over a period of years I have become very disenchanted with the Cronyism that has crept into the system. To be more specific, early on a select few guides formed APHA, Alaska Professional Hunters Association. Many of our numbers, not being politically astute, allowed the situation to continue. Over the years their members have effectively controlled the guide board, in some instances the President of APHA also chaired the Guide Board. I found this to be a direct conflict of interest, yet could find no one to hear my grievances. I will not go into specific abuses at this point.

One of the big problems I have had with the system is finding out what is going on. There doesn't appear to be a mailing list to inform all guides of upcoming meetings or legislation affecting their profession. Since I live in Naknek I have limited access to any public notices that might be published in an Anchorage newspaper. Last spring I

learned about a Task Force meeting on the day it was being held. Numerous phone calls to Anchorage and Juneau to inquire how I might participate resulted in my being told it was too late to get on line with a Teleconference hook-up. I was however assured that I would be sent a copy of all material covered at the Task Force meeting. Nothing was ever sent to me from that meeting.

The Bristol Bay Borough has in the past allowed another local guide to remove the Teleconference equipment from the Borough Building and take it to his residence. I was informed by the then Borough Manager on two occasions that I could call that guide to arrange participating. This was totally unacceptable as that particular guide is one of the problems.

Now that I have covered some personal gripes let me address the broader problem. Let us assume that the Supreme Court did not make a mistake in the Owsichuk decision. Mr. Owsichuk's treatment by the guide board created the situation that led to the Supreme Court ruling. I have much sympathy for the man, as I have had similar treatment from the guide board in the past. Unless you belonged to this very select group, APHA, you did not get fair treatment from the guide board, especially where guide areas were concerned.

In last night's teleconference much of the testimony by guides seemed to center around the preservation of the old system. The major concern of many of those who testified was protecting their large investments in real estate within their guide areas, some of it on private land but for the record, many of these so-called lodges are on public land. Let me point out to the Task Force that their complaints are not dissimilar to the individual who, for instance, purchases a property, be it gas station, mall or whatever and sinks vast sums of money into development of that property. In our scenario the state or federal government comes along and moves the highway 20 miles away. That real estate holder and his investment are left high and dry.

Let me draw another parallel for you. Say that the commercial fishing industry after issuing limited entry permits to the fishery determined that only those fishermen who previously owned a \$250,000.00 vessel were qualified to participate in the fishery. Obviously that type of decision would exclude many well qualified fishermen who did not presently have a boat of that size, even though they could fish with a \$50,000 vessel and earn a living. I sympathize with anyone who faces financial loss, but, be aware, many of us, equally well qualified guides have taken a financial loss over the years at the hands of the individuals who have had a stranglehold on the guide board and guide areas.

After all my complaints about how the system has failed to work in the past, I would like to offer what I believe to be an equitable solution to the problem. I believe that control of the system needs to be kept outside the profession to a degree, as the profession has demonstrated its inability to treat all licensees equally. Therefore it is imperative that those individuals who set on the Commercial Services Board be knowledgeable, fairminded people. My question is how was

this board selected? By whom? If these appointments were made by the governor then how does one learn when a seat comes up for review?

A harvest tag lottery type system for the taking of Big Game, (bear, sheep, moose and goats) must be established. These tags should be issued by a computer controlled program based on random selection, thereby eliminating the possibility of human intervention, favoring one faction or the other, such as we experienced back in the late 60's and early 70's with the fiasco surrounding polar bear permits. Application for a harvest tag should require a non-refundable fee of at least \$50.00 to eliminate non-hunters or non-serious hunters from making application and sucking up all the permits. Further, in the case of non-resident hunters a hunter must demonstrate within a given time period that he or she has booked a hunt with a guide, thereby eliminating possible clogging of the system by en. ironmentalists types.

The local biologist should establish the level of harvest in each unit. (For the most part these biologist have a better handle on the game population then does the general public or guides, as many guides only go into their areas during the hunting season). For instance a determination that the optimum harvest in a specific area would be 15 moose. It would be necessary to determine how many moose permits would be purchased by resident hunters. Should residents purchase 7 moose harvest permits for the area there would be 8 permits available for nonresidents requiring a guide.

Since we are dealing with a game management situation here we need to also remember the subsistence hunter and resident hunter have first choice. I believe, knowing that guides veiw the animals in their area as a dollar sign, there will be little incentive for a guide to play fair with resident hunters under the proposed plan, as stated in the Memorandum to the Task Force, Page 3, paragraph 2. Such a recommendation shows total naivete on the part of the individuals who drafted the proposal. Guides are not going to willingly allow someone else to take a trophy animal that could be worth \$10,000 to them if taken by one of their clients. Resident hunters need to be protected from the guides. Over a period of time I have witnessed numerous situations where a guide has spoiled a resident's hunt simply because he didn't want anyone hunting in "his area". It doesn't seem to make a difference to the guide that their is adequate game in his area, he just doesn't want anyone else on his turf.

On Page 1, paragraph 2 of that document .c is stated that "Chaos previously existed". I believe without a harvest tag system there will be more chaos if not open warfare in the field if the proposed plan is adopted..

Under a harvest tag system the small operator, be he semi-retired or new to the game, who wishes to guide on a limited basis has the opportunity to do so. The larger operator also has the opportunity to remain in his "lodge" and pick up the hunters being qualified for hunting in that area. Over time the hunter will be allowed to make the determination of who is the best qualified.

This method would also effectively control the problem addressed during testimony by some guides that air-taxi operators are "dumping" large numbers of hunters into their areas. This has been a real problem. I have seen the same thing happening here on the Peninsula. With a lottery harvest permit type system controlled by Fish and Game this would control that problem, as only that number of hunters an area could support could go into the area to hunt. Lets be honest. Are we concerned with conservation and management of a resource or only protecting our own selfish interests?

Any type of assigned area for guides will not be legal. The Supreme Court has already ruled on that point. The proposal as it is drafted now is an attempt to protect the old guard and reestablish the same system under a new cloak. With a harvest permit system equal opportunity is given to each guide. I believe the statement in the Memorandum, Page 2, paragraph 2, (i.e. an individual who must rely on a specific area for a number of years is unlikely to decimate the resource he depends on)" is naive. If, as other guides stated in testimony last night a guide knows he will likely be bounced out of an area after 5 or 10 years there is little incentive to practice sound conservation and game management. A harvest permit system would eliminate the temptation by unscrupulous guides to overhunt an area near the end of their tenure in a specific area. The harvest in an area would be based on a biological study, rather than a monetary cycle forced on a guide during his limited stay in an area. A harvest permit system such as is used in other states would eliminate many of the problems. I do not understand this states reluctance to adopt such a program, since it works in other areas. The "good old days" are gone. its time to move on to a more equitable program.

One of the problems I addressed in my testimony yesterday was the protectionist tactics practiced by some guides. This fall two parties of resident hunters set out for bear and caribou were harrassed one party by a guide who claims the area, the other party of hunters by a fly-by-night outfitter who does not have a guide/outfitter license or any of the other required licenses to be flying hunters. I was informed he had an interim use Transporter's Permit, when I complained to our local Fish & Game Enforcement about his illegal activity. To the best of my knowledge no effort was made to investigate his activity. I did not see anything in the regulations permitting "interim use permits".

This same so called outfitter last year dumped large numbers of hunters into the Becharof area. The population of bear and moose was virtually wiped out. Fifty bear and 52 moose were taken out of this area. In my aerial survey flying for ADF&G I have a good handle on the game population in different areas and I am appalled that such a situation as this is allowed to exist.

I was unable to guide for bear this past season as U.S. Fish and Wildlife would not grant me a permit to hunt in the preserves since a "Catch 22" exists. I had not met the arbitrary requirements of hunting the previous year in these areas, even though, as a matter of fact I signed the bear contracts for the King family. Following Lc's

death, as the sons did not at that time have the necessary licenses for the hunters their father had booked prior to his death. I was told this did not count.

Having been around this state for many years it is my understanding that one of the conditions, provisions or concessions made by the Federal Government at the time of Statehood was that management of the game within the state would remain with the state. It seems to me the Federal Government overrules the Alaska Supreme Court when they issue Special Use Permits to only those who held exclusive guide areas prior to the Supreme Court decision and deny me the opportunity to guide in the preserves. I believe that every effort should be made to maintain control of game management by the state without interference from the Fed. In other words, if sound game management is the objective let's eliminate all these levels of bureaucracy. In talking with our local Federal Fish and Wildlife officials one gets the feeling that they are going off on their own tangent where game management is concerned. It is time to reclaim the controls the state was given at time of statehood. I believe that you instantly put any guide who has not established his area within Wildlife Refuge Lands at a disadvantage, by requiring the applicant to obtain authorization from the U.S. Fish and Wildlife Service, (as required on page 10, paragraph numbered 7).

At this point in my life I do not wish to pursue guiding as my main source of income, a determination I made in the past several years due to the uncertainties surrounding the industry. However, I do feel my rights and the rights of all other licensed guides, young or old, should be protected. I have guided for Polar Bear, Brown and Grizzly Bear, Black Bear, Dall Sheep, Moose, Caribou and Mountain Goats over a period of years since 1960. I am at an age where I cannot wait around 20 years to have this situation resolved, as the number of years I intend to guide is certainly limited.

If the Task Force is to help all the people, be they resident hunters or guides, they had better go back to the drawing board with their proposal. Better that more time is spent on drafting the package than to give us something that cannot possibly work or be upheld by the courts. Why, as was stated at the teleconference, are you so eager to get this matter back in the courts? Do it right and it won't have to go to the courts again.

I appreciate your offices help in Faxing the information to me, How the Game Management Proposal works, etc. Unfortunately I was told by one of your staff when I requested this information and requested that I be put on a mailing list for all relevant material that "this was not his job and there was no time to develop mailing lists". That statement by a member of your staff bears out my earlier contention that there is a lack of communication in the area of guiding which precludes participation by all the guides. This matter needs to be looked at and addressed. There should be a master mailing list which everyone works from with any information regarding guiding.

I appreciate very much your efforts to resolve a situation that is not strictly speaking, a problem created by the legislature. While I have no quarrel with professional organizations I hope you will bear in mind as you develop and finalize these guiding regulations that there are many guides out here that would like to be heard, if they were only given the opportunity.

Regards,

Gordon E. Windell

cc: Governor Steve Cowper
Pete R. Buist
Randall T. Burns
Vernita Cassidy
Ralph L. Eluska, Sr.
Ken Fanning
Phillip Gilson
Robert A. Hinman
Lyman Hoffman
Matthew Iya
Paul E. Johnson
Mike Navarre
W. Lewis Pamplin
Nick Pierskalla
Richard Stern
Glen Alsworth
Art Clark
Michael J. Doody
Stephen T. Manay
Sharon McClintock
Remie N. Murray
Samantha Castle
Clark Whitney

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

November 7, 1989

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

Dear Senator Faiks:

You have asked us whether fees generated by a concession type system for allocating access to big game hunting opportunities among guide-outfitters may be automatically deposited (i.e. without legislative appropriation) into the Fish and Game Fund. Our answer to this question is no.

The Fish and Game Fund was established as a funding source for carrying out the purposes and provisions of Title 16, Alaska Statutes. AS 16.05.100. The composition of the Fund is provided for in AS 16.05.110. This statute says that, in addition to money appropriated by the legislature, the fund may receive money from particular sources as well as "money from any other source". AS 16.05.110(6). Because concession fees do not satisfy any of the particular descriptions, they could only come in under the catch-all provision.

Automatic deposit, however, must be examined in light of article IX, section 7 of the Alaska Constitution. This section generally prohibits legislation that dedicates revenue to special purposes. It does, however, allow some limited exceptions and exemptions. The section provides in full:

The proceeds of any state tax or license shall not be dedicated to any special purpose except as provided in section 15 of this article (i.e. the Alaska Permanent Fund) or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes on the date of the ratification by the people of Alaska (i.e. on April 24, 1956).

We have interpreted the term "proceeds of any state tax or license" to apply generally to all public funds. See 1975 Op.

STEVE COWPER, GOVERNOR

REPLY TO:

- ☐ 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697
- ☐ 1st NATIONAL CENTER
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317
- ☐ P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

The Honorable Jan Faiks
Alaska State Senator

November 7, 1989
Page 2

Att'y Gen. No. 9 at 16 (May 2); 1982 Op. Att'y Gen. No. 13 at 7 (Nov. 30); see also State v. Alex, 646 P.2d 203 (Alaska 1982). Thus, the prohibition against dedicated funds would apply to concession fees unless they fall under one of the exceptions or exemptions contained in this section of the constitution.

The exception for the Alaska Permanent Fund and the exception for funds required by the federal government for state participation in federal programs would not apply to concession fees. Therefore, the only remaining issue is whether the exemption applies, that is, whether an automatic dedication of the concession fees to the Fish and Game Fund would be a continuation of a dedication that existed on April 24, 1956, the date that this constitutional section was ratified.

The pre-statehood predecessor to the Fish and Game Fund was the "Fisheries Contingent Receipts Fund" established by the Territorial Legislature in 1953. In this fund, there is only one specific dedication. There, funds "received in settlement of a claim for damages to the fish and wildlife resources of the Territory" may be "expended for the protection, rehabilitation, preservation or conservation of such resources." Sec. 3, Ch. 64 SLA 1953. We have found no instance, however, where fees collected from guides for access to big game hunting opportunities were dedicated to a fund for fish and game purposes prior to the ratification of Article IX, section 7 of the Alaska Constitution.

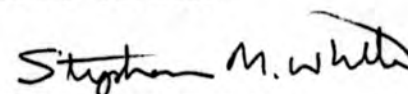
Although we conclude that legislation that automatically dedicates concession fees to the Fish and Game Fund would be unconstitutional, there is nothing that prevents the legislature from annually appropriating these fees to the same purpose. This can be achieved by identifying the fees as an appropriation source and accounting for them as "program receipts" as they are collected.

We hope this answers your question.

Sincerely yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By:



Stephen M. White
Assistant Attorney General

SMW:jf

ALASKA WILDERNESS EXPEDITIONS

Kevin Fitzgerald
P.O. Box 375
Talkeetna, Alaska 99676
(907) 733-2704

page 1 of 2

Nov. 5, 1989

RECEIVED

To: Task force on guiding and game, Sen. Jan Faiks chairman

NOV 13 1989

Sen. Faiks, members of the task force;

JAN FAIKS
SENATE OFFICE

My name is Kevin Fitzgerald, I am a resident of Talkeetna Alaska and have been since 1974. I am a registered voter as well as an active taxpayer, a member of the Talkeetna ambulance service (volunteer EMT-I) and I have been a registered guide since 1984 and have professionally guided big game hunters in Alaska since 1978.

I was awarded restricted guide area I3-53 by the governor appointed guide board in 1985 and have actively run that business yearly since then. I was awarded that area after having contracted to purchase the business and improvements (3 cabins) for \$65,000.00, I made my final payment in May of 1988. Restricted guide areas were abolished shortly thereafter as being unconstitutional, rendering my investment to a worth of \$ (zero). As it stands right now I have permits to guide within the geographic boundaries of former guide area I3-53 with Cook Inlet Region Inc., Tyonek village corp., Knik-Atau native corp. and the Bureau of Land Management. These permits are non-transferable.

My point is that I am a proven resident and will remain a resident as long as I can support myself and family, I employ 6-16 Alaskan residents yearly, my business generates a considerable amount of income and revenue to other businesses as well as tens of thousands of dollars to the dept. of fish and game in tags and licenses. I always have and always will adhere to all laws, statutes and regulations of the state of Alaska, fish and wildlife service, private landowners, and all other agencies I deal with in the course of my profession. I entered the business as the only alternative to steady employment in Talkeetna, and I entered in good faith that the system implemented by the state of Alaska (restricted guide areas, the tests and requirements of the licensing process) were a very necessary part of an industry dealing with a public resource which needed protection from over zealous exploitation and the assurance that the resource would provide a livelihood for many and the enjoyment of all for generation after generation. It was plain to me that the concept of restricted guide areas was not only the answer but was indeed successful in fulfilling this goal. Needless to say the Owsieck decision left me feeling very disheartened and dissatisfied in the state of Alaska and the Judicial system, as well as very apprehensive as to the result it may have on the health and continuity of our big game populations.

I urge the Task force to consider these points in the decision making process, both for the benefit of our resources and the grass roots industry which thrived under the control of a restricted guide area concept

- 1) Leave the industry in the control of Alaska residents
- 2) Form a system which allows for the return of investments by sale of improvements or/and permits (as like limited entry permits used in commercial fishing). If this means a vote for a constitutional amendment, LETS VOTE.
- 3) Please have the wisdom and foresight to form a system which will protect our resources as well as the livelihood of so many rural (as well as urban) Alaskans.
- 4) Please consider the fact that the restricted guide area concept was fulfilling points 1,2,3.
- 5) Please consider the fact that the abolition of the restricted guide area concept opened the resource to exploitation by nonresidents as well as unscrupulous individuals who may now rove throughout the state with impunity and with no regard to the wildlife or the practice of sustained yield

All interested parties in the guide industry realize the problems the task force faces. If we all work together I am confident we can come up with an equitable system where-

continued on page two

Fully Rated • Licensed • Insured

John Hagerland

Box 375

by the benefit will be felt by those already in the industry, those wishing to make it their livelihood, and those individuals who support the industry by hiring the services of a professional guide and of course the big game and wildlife resources of Alaska which not only makes it possible for Alaskans such as myself to earn a livelihood in Alaska but for which the industry would crumble without. Thank you for your time and consideration here and I look forward with interest to the development of a system which is equitable to all.

Sincerely,

Ken L. French

Dave Wenat

13680 Kaven Street 9955

345-0117

Opinion:

Does not feel that Sheep should be a kill for the subsistence hunter. They are not hunted for their meat & are difficult to hunt... entails climbing & tracking.

Should mandate that out-of-state hunters should be allowed to hunt all game or no game - Make it all or none, not just specific animals.

Guides shouldn't be required to hunt sheep & goats, that's like requiring a guide to be with mountain climbers.

*NO need to call just left his



BROOKS RANGE ADVENTURES

Art Andreis, Registered Guide
Lou Andreis, Assistant Guide
P.O. Box 55818
North Pole, Alaska 99705
(907) 488-2352



Senator Jan Faiks, Chairman
Alaska Legislative Task Force
on Guiding & Game.
3111 C St., Suite; 525
Anchorage, Alaska 99503

11-3-89

Dear Senator Faiks,

During the first week of October, 1989 I attended the Task Force meeting in Anchorage. After considerable discussion the Task Force process finally evolved into two formats. One considered the use of U.C.U.s, UNIFORM-CODING-UNITS as potential guide area assignments either in singular form or in multiples to form these potential units or guide areas. The second discussion was provided by Mr. Bill Horns Office and centered around how best to initiate this proposed program. He then broke down his thoughts into the below listed four areas.

- 1.) Limitation Rationale.
- 2.) Open Competition.
- 3.) Award Criteria.
- 4.) Permit-License-Concession Conditions.

Of the above listed four I have strong concerns over numbers two & three. The reason for my concerns is due to the Supreme Court Decision, the Common Use Clause. Because of this decision all guides must have equal access to any new guide area concept. To have open-competition and a fair award process then we must comply with the Supreme Court Decision. This brings me to a regulation which is still current under 12AAC-38.200-c. Restrictions To Districts; This reads that a guide licensed under A.S.08.54, as of June, 28, 1974 is restricted to guide in those districts for which he was certified as of that date. And, d, Reads; No guide may be certified for more than three districts as of that date.

DISCUSSION: For one thing, guides are now limited to three Game Management Units, not Districts.

However, the problem is this. Prior to 1974 many guides were licensed for the entire State, or for as many Districts as they chose. This is where my concern comes in. How can a guide licensed since 1974 have an equal chance at the new U.C.U.s. or for that matter any new system if he is limited to three areas and his peers have the entire State? If a guide is licensed for the entire State he has a huge advantage over guides whom are limited to only three units. I cannot believe that this advantage would withstand the scrutiny of the intent of the Supreme Court.

There are probably in excess of 100 guides in the State whom currently have this advantage over other guides.

And, the Supreme Court Decision insisted that everyone in the guiding industry must have equal access to whatever new system is put in place.

CONTINUED:

"Fair Chase Only"

BROOKS RANGE ADVENTURES

Art Andreis, Registered Guide
Lou Andreis, Assistant Guide
P.O. Box 55818
North Pole, Alaska 99705
(907) 488-2352

PAGE-TWO.

Therefore, I believe that the first thing to do is to give all the guides the same opportunity to be licensed for the entire State. This way there can be no future complaint that someone was treated unfairly.

I'm going to suggest two ways of accomplishing this. One is to simply give a exam which licenses a guide for the entire State. Another way is to simply go back to licensing by Districts for the guides only. The management units would not change for fish & game purposes.

EXAMPLE: Three Districts; Due to similarity of terrain within the State.

ARCTIC & INTERIOR-UNITS, 19-27.
SOUTH CENTRAL -UNITS, 8-18.
SOUTH EASTERN -UNITS, 1-7.

This would also eliminate the need for 26 different oral-exams to be administered by the new Commercial Services Board. All you would need is three or possibly one. Ironically, the next of kin law allows for anyone in the State to guide a second degree of kindred for all species in Alaska and we limit professional guides whom were tested as to fitness first from guiding thru-out the State.

SOME OF THE OTHER ADVANTAGES TO THE STATE AND THE NEW BOARD.

- 1.) SAVES THE STATE MONEY & FAR LESS WORKLOAD FOR THE NEW BOARD.
- 2.) MUCH EASIER TO COMPLY WITH OWSICHEK AS IT WILL ALLOW FOR ALL GUIDES THE OPPORTUNITY TO QUALIFY TO GUIDE IN THE ENTIRE STATE.
- 3.) THE POTENTIAL BLOCKS OF U.C.U.s OR WHATEVER, COULD COME UP FOR REVIEW WITHIN THESE THREE DISTRICTS. THESE DISTRICTS WOULD BECOME AVAILABLE ON A STAGGERED BASIS EVERY YEAR SO THAT SOME LEVEL OF COMPETITION WOULD OCCUR ON AN ANNUAL BASIS. THIS WAY THE ENTIRE STATE WOULD BE OPEN FOR REVIEW EVERY THREE YEARS.

I would appreciate it very much if the task-force would consider some of my concerns at your next scheduled meeting.

I also want to thank all of you for your hard work on this very complicated issue.

Enc;

All TASK FORCE MEMBERS.
KURT WEST
BILL HORNS OFFICE
SENATE RESOURCES
COMMERCIAL SERVICES BD.

SINCERELY,

Arthur J. Andreis

Guide & Outfitter

"Fair Chase Only"

**12 AAC 38.130. REQUIREMENTS FOR AN
ASSISTANT GUIDE LICENSE. Repealed 5/12/79.****ARTICLE 2.
GUIDING AREA PERMITS****Section.**

- 200. Restrictions to districts
- 210. Guiding area permits
- 220. Application and qualification for guiding area permit
- 230. Minimum use of guiding area permit
- 240. Statement of financial remuneration
- 250. Use of a guiding area assigned to another guide
- 260. Reassignment of guiding area permit
- 270. Death or mental incapacity of guiding area permit holder
- 280. Changes to guiding area permits
- 290. Ground for revocation or suspension of a guiding area permit

12 AAC 38.200. RESTRICTION TO DISTRICTS. (a)
A guide may conduct guiding activities only in districts for which he is certified.

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

(1) repealed 6/15/80;

(2) repealed 6/6/79;

(3) 27—Arctic Coastal, consisting of all land, including islands, and waters within the jurisdiction of the State of Alaska extending seaward from a point one mile inland from the mean high tide line north of 58 North latitude, beginning at the mouth of the King Salmon River near Egegik and extending northward around the western and northern Alaska coastline to the eastern boundary of District 28. This district is designated for the hunting of marine mammals exclusively. "Marine mammals" means those mammals identified by the Alaska Board of Game as marine mammals.

(c) A guide licensed under AS 08.54 as of June 28, 1974 is restricted to certification to guide in those districts for which he was certified on that date. A guide licensed or entitled to renewal under AS 08.54 as of April 11, 1980 and certified in Districts 18, 18A, 22, 23, or 26 is hereby certified for Unit 27.

(d) Except as provided in (c) above, no guide may be certified for more than three districts, in addition to District 27.

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

(f) Notwithstanding any provision of this section, a guide may petition the board for a transfer of certification to another district if he demonstrates to the satisfaction of the board

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

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

(B) significant reclassifications of land within his district;

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

(D) other demonstrations of hardship; and

(2) that he is qualified to guide in the district to which he wishes to be transferred. (Eff. 6/28/74, Reg. 50; am 2/25/77, Reg. 61; am 6/6/79, Reg. 70; am 6/15/80, Reg. 74; am 3/28/82, Reg. 81)

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

12 AAC 38.210. GUIDING AREA PERMITS. (a)
Guiding area permits will be issued by the board to guides qualifying under 12 AAC 38.220 and 12 AAC 38.280 for exclusive or joint use of a specified area in order to limit the number of guides allowed to guide for big game animals in that area.

(b) The board will determine the size, boundaries and number of guiding areas assigned to a master or registered guide and is not limited by number or boundaries of guide districts that may be included. In determining the size and boundaries of a guiding area, the board will consider, but is not limited to, the following criteria:

(1) size and boundaries applied for by the guide applicant;

(2) abundance and distribution of game populations in the area and adjacent areas that may be affected, and the ability of these populations to sustain hunting pressures;

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

November 1, 1989

The Honorable Ted Stevens
United States Senate
522 Hart Building
Washington, D.C. 20510

Dear Senator Stevens:

This is to notify you of a meeting I have arranged in Washington, D.C. for November 6th. A member of your staff would be most welcome to participate in this discussion of the activities of the Alaska Legislative Task Force on Guiding and Game.

I will be meeting with John Turner, Director of the Fish and Wildlife Service, members of the staff of Assistant Director of Fish and Wildlife Connie Harriman, and John Ridenour, Director of the National Park Service. Additionally, I will be joined by Bill Horn, former Undersecretary of the Interior Department and now with the law firm of Birch, Horton Bittner and Cherot. The task force has contracted with Birch Horton to assist in developing a resource-based management system for the allocation of big game hunting opportunities among guide-outfitters that will withstand constitutional challenge. Birch Horton will also assist in writing appropriate legislation which will be offered to the Alaska Legislature by January 15, 1990. It is hoped that our management plan will be acceptable to the federal agencies which own and manage vast quantities of land in Alaska.

Again, the meeting has been scheduled for Monday, November 6th at 2 p.m., in Room 3256 of the Interior Building, located at 18th and C in Washington, D.C.

If you have additional questions please contact my Anchorage office at 907-561-7610.

Sincerely,

Jan Faiks

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

OUT OF SESSION

JF:mr

3111 C STREET

ANCHORAGE, ALASKA 99503

907-561-7610

*also to
Mr. M. Kaski*

October 30, 1989

MEMORANDUM:

TO: All Interested

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

SUBJECT: Upcoming Meetings

WEDNESDAY NOVEMBER 8th:

- Work Session
9 a.m. - 12:30 p.m.
1:30 - 4 p.m.
- Public Testimony
4 p.m. - 5:30 p.m.
7 p.m. - 9 p.m.
- Location
Anchorage Legislative Information Office
3111 C Street - 5th floor conference room
* Teleconferenced to all interested locations
- Agenda to include
report from Birch Horton
report on interagency staff meeting
update on Alaska Department of Fish and Game
mapping project

MONDAY NOVEMBER 20th:

- Work Session
9 a.m. - 12:30 p.m.
1:30 - 4 p.m.
- Public Testimony
4 p.m. - 5:30 p.m.
7 p.m. - 9 p.m.
- Location
Anchorage Legislative Information Office
3111 C Street - 1st Floor Conference Room
* Teleconferenced to all interested locations

NORTHWEST ARCTIC BOROUGH

P.O. BOX 1110
KOTZEBUE, AK 99752
(907) 442-2500 / FAX 442-2930

October 26, 1989

Patti Wightman
State of Alaska
Division of Governmental Coordination
Central Office
P.O. Box AW
Juneau, Alaska 99811-0165

REF: AK89101108/f Wayne Taylor, Guiding Operations

Dear Patti,

The Northwest Arctic Borough Planning as the NAB CZM Board met on the 25th of October, 1989 and reviewed this project for consistency with the Alaska CZMP and the NAB CZMP.

The Planning Commission found this proposed project to be **INCONSISTENT** with the following NAB Policies:

A-1 Subsistence Priority

Subsistence use of coastal lands and waters has traditionally been the primary and highest priority use of all lands and waters within the coastal management plan area; therefore, all other land/water management uses and activities shall accommodate the use of subsistence resources in the planning, development and operation of these activities.

IMPORTANT RESOURCE USE AREA POLICIES

NN NORTH FORK SQUIRREL RIVER/OMAR RIVER

NN-1 Subsistence

Uses and activities shall not significantly interfere with the following activities:

(a) fall caribou hunting (mid-August - mid-October)

NN-2 Caribou Migration

Uses and activities shall be required to cease operations during caribou migration, if impacts to migration are likely to occur and other mitigative measures are not effective or feasible.

SENSITIVE USE AREAS

EEE WULIK RIVER ARCTIC CHAR OVERWINTERING AND SPAWNING AREA

EEE-2 Priority Uses

Subsistence activities, fish spawning and overwintering, and fish and wildlife management are priority uses; therefore, all other land/water uses and activities shall avoid adverse impacts on these areas.

Discussion. The economy of the NAB is a contemporary subsistence/cash economy (Ellanna, 1980; James Magdanz, pers. comm.). The harvesting of local fish and wildlife resources historically was and continues to be the primary focus of the regional economy, based on a combination of subsistence and commercial harvesting of fish and wildlife. Several studies in this region indicate that subsistence foods constitute 70 to 80 percent of total protein consumed by households (Minerals Management Service, 1988). Most personal cash income is spent in the local economy to support subsistence or commercial fish and wildlife harvest activities.

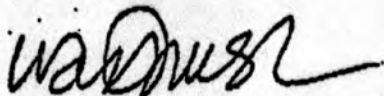
Caribou migration is more than a month late and therefore will continue to migrate to their wintering grounds till late in November. Competition between guides will increase the hunting pressure on the caribou herds and compete and conflict with subsistence activities currently in progress. Conflict is already evident with guiding activities, during the week of September 10, subsistence hunters in the Wulik area had to return home (Kivalina) empty handed as a guide with airplane(green) had scared away caribou that the subsistence hunters were stalking (letter from Doug Larsen, Wildlife biologist, October 1989).

The Subsistence Committees from Kivalina and Noatak object to the issuance of additional guiding permits as they are acutely aware that the Wulik/Kivalina area cannot handle the load of another guiding operation, let alone cope with one.

RECOMMENDATION to the Department of Governmental Coordination. The NAB Planning Commission as the NAB CZM Board recommends that the Bureau of Land Management deny the Recreation Permit for guiding operation by C. Wayne Taylor due to inconsistencies of the aforementioned policies of the Northwest Arctic Borough Coastal Management Plan and the need for a successful subsistence harvest.

If the DGC and BLM do not take the recommendations of the Subsistence Committees of the villages of Kivalina and Noatak and the recommendation of the Northwest Arctic Borough Planning Commission and overrides the concerns and finds the project consistent with the Alaska Coastal Management Plan; then, the borough recommends that this stipulation be inserted into the permit, "The Bureau of Land Management will immediately revoke said permit upon documented interference with subsistence hunts by the guiding operations."

Respectfully,



Walter P. Russell
Planner

cc: files
Planning Commission
Kivalina Subsistence Committee
Noatak Subsistence Committee
City of Kiana
Dennis J. Tiepelman

Put in file

October 5, 1989

MEMORANDUM

TO: Jan

FROM: Cheryl

SUBJECT: Telephone Call From A Guide

Ken Rivard (P.O. Box 871842, Wasilla, 99687; 376-2140) called. He is a hunter but not a professional. He thinks the guides are too push and are harassing hunters such as himself. He has experienced where guides tell him to "get out of their area" when they have no basis to say this.

He also thinks guides should be limited as to the number of animals they can murder in a given season. He also doesn't think it is fair that it is okay to hunt with a horse or snowmachine in one day, but you can't fly in and murder the same day.

He also wishes there was an effective mechanism in place where you could report misbehaving guides.

He asks that he be kept posted of task force meetings. Also suggests that we contact "Foster's Taxidermy" in Wasilla...he is kind of a clearinghouse for the animal murdering types in the valley.



IN REPLY REFER TO:

C38(ARO-OC)

United States Department of the Interior
NATIONAL PARK SERVICE

ALASKA REGIONAL OFFICE
2525 Gambell Street, Room 107
Anchorage, Alaska 99503 - 2892



SEP 26 1989

JAN FAIKS
SENATE OFFICE

SEP 25 1989

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

Dear Senator Faiks:

Thank you for forwarding to me a copy of your August 22 letter to Director James Ridenour, National Park Service. The state task force on big game guiding and outfitting has a monumental mission.

Our Regional Division of Concessions Management has provided you with documents outlining concessions management in the National Park Service system. It is hoped these documents assisted you in your research. If you need any additional information or have any questions about our concessions program, do not hesitate to contact the Division's Chief, Rebecca Kaiser, at 257-2594 in Anchorage.

As outlined in our presentation to the Guide Licensing Control Board last December, the National Park Service developed an interim, emergency program that maintains a status-quo of hunting guides in the national preserves through 1990. Next year, we will solicit proposals from interested hunting guides and will, through a competitive process, select hunting guides to begin concessions operations in the national preserves in 1991.

We are interested in meeting with the task force or its representative to determine if compatible state and federal programs can be instituted. It is to the benefit of the guides, the clients, the state, and the national preserves if such a cooperative effort occurs.

We offer our support and assistance to the state task force.

Sincerely,

David B. Ames

ACTING David B. Ames
Regional Director
Alaska Region

signature P.02
 TAKE
 PRIDE IN
 AMERICA



United States Department of the Interior

IN REPLY REFER TO:

RF/CC-9609x

FISH AND WILDLIFE SERVICE
 1011 E. TUDOR RD.
 ANCHORAGE, ALASKA 99503

SEP 18 1989

Mr. W. Lewis Pamplin, Jr.
 Director, Division of Wildlife Conservation
 Alaska Department of Fish and Game
 333 Raspberry Road
 Anchorage, AK 99518-1599

Dear Mr. Pamplin:

This is in response to your August 30, 1989, letter requesting that we identify key Service personnel that we would like to have involved in the process of delineating guide-outfitter resource areas. Our list is enclosed. We have included all of our refuge managers on the list because we feel that they can contribute to your efforts through their knowledge of the areas involved. At the same time, their involvement will help them manage more effectively by making them thoroughly familiar with resource area boundaries and the rationale for them. We would like the refuge manager to be notified of, and to participate in, any delineation effort involving lands within a particular refuge.

Thank you very much for providing for our input in this important process. We believe that your cooperative approach to this resource allocation problem will help both of our agencies manage resources better while facilitating our subsequent dealings with guides and outfitters.

Sincerely,

Walt Stiglich

Regional Director

Enclosure

NOTE

per Paul Schmidt
 phone call

main contacts: Paul Schmidt > Anchorage
 John Kuntz

copy mgrs listed



KEY FISH AND WILDLIFE SERVICE PERSONNEL
TO BE INVOLVED IN GUIDE-OUTFITTER RESOURCE AREA DELINEATIONS
(September 13, 1989 - Page 1 of 2)

Please notify the following person of all delineations involving refuge lands:

Regional Director
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, AK 99503
Telephone: 786-3542

Mr. John Kurtz
Chief, Refuge Operations
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, AK 99503
Telephone: 786-3355

Also, please notify and provide for participation of the appropriate refuge manager, listed below, in any delineation effort involving lands on a particular refuge:

John Martin, Refuge Manager
Alaska Maritime NWR
202 Pioneer Avenue
Homer, Alaska 99603
(907) 235-6546

Jay Bellinger, Refuge Manager
Kodiak NWR
1390 Buskin River Road
Kodiak, Alaska 99615
(907) 487-2600

Mike Boylan, Refuge Manager
Aleutian Island Unit
Alaska Maritime NWR
Box 5251, Naval Air Station Adak
FBO Seattle, Washington 98791
(907) 592-2406

Mike Nunn, Refuge Manager
Koyukuk/Nowitna NWRs
Box 287
Galena, Alaska 99741
(907) 656-1231

Glenn Elison, Refuge Manager
Arctic NWR
101 12th Avenue, Box 20
Fairbanks, Alaska 99701
(907) 456-0250

Jerry Stroebele, Refuge Manager
Selawik NWR
Box 270
Kotzebue, Alaska 99572
(907) 442-3799

Ronald Hood, Refuge Manager
Alaska Peninsula/Bacharof NWRs
P.O. Box 277
King Salmon, Alaska 99613
(907) 246-3339

Steve Breaser, Refuge Manager
Tetlin NWR
Box 155
Tok, Alaska 99780
(907) 883-5312

Phil Feiger, Refuge Manager
Innoko NWR
Box 69
McGrath, Alaska 99627
(907) 524-3251

Dave Fisher, Refuge Manager
Togiak NWR
P.O. Box 270
Dillingham, Alaska 99576
(907) 842-1063

KEY FISH AND WILDLIFE SERVICE PERSONNEL
TO BE INVOLVED IN GUIDE-OUTFITTER RESOURCE AREA DELINEATIONS
(September 13, 1989 - Page 2 of 2)

Robin West, Refuge Manager
Izembek NWR
Box 127
Cold Bay, Alaska 99571
(907) 532-2445

Ron Perry, Refuge Manager
Yukon Delta NWR
Box 346
Bethel, Alaska 99559
(907) 543-3151

Tom Early, Refuge Manager
Kanutai NWR
101 12th Avenue, Box 11
Fairbanks, Alaska 99701
(907) 456-0329

Lou Swenson, Refuge Manager
Yukon Flats NWR
101 12th Avenue, Box 14
Fairbanks, Alaska 99701
(907) 456-0440

Daniel Doshier, Refuge Manager
Kenai NWR
2139 Ski Hill Road
Soldotna, Alaska 99669-2139
(907) 262-7021



United States
Department of
Agriculture

Forest
Service

Alaska Region

P.O. Box 21628 ^{P.O.}
Juneau, AK 99802-1628 *See*

Reply to: 2600

Date: SEP 15 1989

Mr. W. Lewis Pamplin, Jr., Director
Division of Wildlife Conservation
333 Raspberry Road
Anchorage, Alaska 99518-1599

Dear Mr. Pamplin:

Thank you for your letter of August 30 regarding the Alaska Legislative Task Force on Guiding and Game. We will be most pleased to participate in the development of this new allocation system. As you know, National Forest System lands provide very important hunting and guiding opportunities.

Please place on your mailing list the persons listed on the enclosed sheet. They will be very interested in receiving information as it becomes available and participating in the necessary meetings. Jack Capp, Director of Wildlife and Fisheries in this office, will be overall coordinator for our involvement. He can be reached at (907) 586-8752.

Sincerely,

Mike Barton
MICHAEL A. BARTON
Regional Forester

Enclosure





Alaska Region
USDA Forest Service

Contact List - Alaska Legislative Task Force
on Guiding and Big Game

1. John C. Capp - Director of Wildlife and Fisheries
2. Fred B. Samson - Regional Wildlife Program Manager
3. James Cochrane - Director of Recreation, Subsistence, and Cultural Resources

All can be reached at:

USDA Forest Service
P.O. Box 21628
Juneau, Alaska 99802



Caring for the Land and Serving People



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ALASKA STATE OFFICE
222 W. 7th Avenue, #13
ANCHORAGE, ALASKA 99513-7599



September 14, 1989

8372 (933)

Mr. W. Lewis Pamplin, Jr.
Director
Division of Wildlife Conservation
State of Alaska, Department of Fish and Game
333 Raspberry Road
Anchorage, AK 99518-1599



Dear Mr. Pamplin:

In response to your letter of August 30, 1989, we look forward to participating in your efforts in development of a new resource based management system to be used in allocating opportunities among guide/outfitters. The following is a list of key people who should receive information as you proceed.

Terry O'Sullivan
Branch of Renewable Resources
Alaska State Office
Bureau of Land Management
222 West 7th Avenue, #13
Anchorage, Alaska 99513-7599

Dick Vernimen
Anchorage District Manager
Bureau of Land Management
6881 Abbott Loop Road
Anchorage, Alaska 99507

Gene Keith
Glennallen District Manager
Bureau of Land Management
P.O. Box 147
Glennallen, Alaska 99588

Roger Bolstad
Kobuk District Manager
Bureau of Land Management
1150 University Avenue
Fairbanks, Alaska 99707

M. Thomas Dean
Arctic District Manager
Bureau of Land Management
1150 University Avenue
Fairbanks, Alaska 99707

Don Runberg
Steese/White Mts. District Manager
Bureau of Land Management
1150 University Avenue
Fairbanks, Alaska 99707

Thank you for this opportunity. If you have any questions, please contact Terry O'Sullivan at 271-5508.

Sincerely,

Bishop T. Buckle
Deputy State Director
Division of Lands & Renewable Resources

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

RECEIVED

SEP 25 1989

JAN FAIKS
SENATE OFFICE

September 11, 1989

The Honorable Jan Faiks
Chairman
Alaska Legislative Task Force
on Guiding and Game
Alaska State Senate
P.O. Box V
Juneau, AK 99811

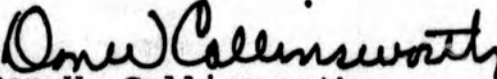
Dear Senator Faiks:

Thank you for your letter on the progress of the Task Force on Guiding and Game. Capable legal support will provide assistance in developing a workable management system for the big game industry in Alaska.

The Wildlife Conservation Division has hired an experienced and knowledgeable individual, Ms. Marianne See, to develop wildlife resource information for use by the Task Force. She and Wildlife Conservation Director, Lew Pamplin will continue to work closely with the Task Force during development of the management plan.

Thank you again for keeping us abreast of your progress.

Sincerely,


Don W. Collinsworth
Commissioner

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

STEVE COWPER, GOVERNOR

333 RASPBERRY ROAD
ANCHORAGE, ALASKA 99518-1599
PHONE: (907) 344-0541

RECEIVED

SEP 7 1989

JAN FAIKS
SENATE OFFICE

September 5, 1989

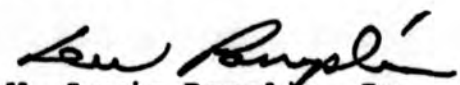
The Honorable Jan Faiks, Chairman
Alaska Legislative Task Force
on Guiding and Game
3111 "C" Street, Suite 525
Anchorage, Alaska 99503

Dear Senator Faiks:

According to the draft agenda, the next meeting of the Legislative Task Force on Guiding and Game will include discussion and presumably the selection of a process for involving the public. This meeting could also provide an excellent opportunity to report to the public on our progress to date, to describe the process for receiving public input, to present the initial criteria for developing guide-outfitter resource areas, and to receive public comment and answer general questions. I know that you share these concerns for meaningful public involvement.

Because of the impending January deadline, I believe the task force should take advantage of all practical opportunities to incorporate public participation in our upcoming meeting (and future meetings). With approximately a month of notification, a public session could be scheduled for the evening of October 5, following a full day of task force business. This would be consistent with the scheduling of prior task force public hearings, and more importantly, would provide needed public contact at the next possible opportunity. Please advise me of your thoughts on this suggestion. Thank you.

Sincerely,


W. Lewis Pamplin, Jr.
Director
Division of Wildlife Conservation

cc: SuzAnne Miller
Task Force Members

*next scheduled
public
hearing
10/5
7-9pm*

PLAN SCHEDULE

SUSITNA BASIN RECREATION RIVERS MANAGEMENT PLAN

1. Identify Issues

Hold public meetings to identify issues and concerns in the river corridors. (December 1988)

2. Gather Information

Collect information about natural resources, present and past land use, land ownership, and the local economy. (Occurs throughout planning process)

3. Prepare and Evaluate Land Use Alternatives

Describe possible choices for managing state land based on public interests, local resources, and state policies. Describe the effects of each choice on goals for the recreation river corridors. (Summer 1989)

4. Public Reviews Alternatives

Hold public meetings to review the land use choices and identify those that people prefer. (Fall 1989)

5. Prepare Draft Plan

The planning team and advisory board create a draft plan using public and agency comments. The agencies review the first draft and settle any land use conflicts that remain. (Spring 1990)

6. Public Reviews Draft Plan

Hold public meetings to provide the public the opportunity to comment on the draft plan and identify parts that need to be changed. (Summer 1990)

7. Prepare Final Plan

Review agency and public comments and revise the plan. The plan is prepared for publication. (Fall 1990)

8. Approve Plan

The Commissioner of the Department of Natural Resources approves and signs the plan. (December 1990)

9. Legislature Reviews Plan

The legislature reviews the plan. (Winter 1991)

10. Adopt and Implement Plan

The plan guides land management decisions in the recreational river corridors. (May 1991)

July 27, 1989

MEMORANDUM

TO: Jan

FROM: Cheryl 

SUBJECT: Public Comment Process for Guide Task Force

I talked with folks from Division of Lands and Division of Oil and Gas to learn what process they utilize in taking public comment on proposals:

Division of Lands
Ron Swanson (762-2680)

For comment on land management plans, DNR basically does the following which involves three public hearings (a general outline of their process is coming in the mail):

- Announce the hearing for public comment; advertise where they can get information on what is being discussed
- Hold the public hearing;
- Staff compiles the hearing's comments; sorts out what legally they can do from what they can't;
- Based on the comments, staff compiles a list of alternatives;
- Have a public hearing on the alternatives (they are sensitive, though, to the fact that special interests can pack a hearing, so try to balance public comment at the hearing with what may be the more general public's attitude);

- Make a preliminary decision based on comments on the alternatives;
- Hold a public hearing on the preliminary decision;
- Always gives at least 30 days notice before a hearing; use display ads in the newspapers instead of just legal notices; do press releases, radio spots and "rumor mill" in smaller communities.

Division of Oil and Gas:
Pam Rogers (762-2584)

- Preliminary notice of what proposing; provide packets of information for people prior to the hearing so they have been able to study it;
- Give 30 to 45 days notice before hold the hearing;
- At the hearing, have good maps with information on them (this contrasts with the not-so-good maps included in the information packets made available before the hearing); utilize a sign in sheet and assure people they will again be notified of hearings/meetings on this issue in the future.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

August 31, 1989

Handwritten: Mow
241

The Honorable Jan Faiks
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Thank you for keeping me informed about the work of the Task Force on Guiding and Game. As the state's land manager, the Department of Natural Resources continues its interest in the development of a new system for allocating big game hunting opportunities among guide-outfitters.

Please let me know if we may provide information or assistance to task force members.

Sincerely,

Lennie Gorsuch
Lennie Gorsuch
Commissioner

cc: Gary Gustafson, Director
Division of Land and Water Management

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF FISH AND GAME

333 RASPBERRY ROAD
ANCHORAGE, ALASKA 99518-1599
PHONE: (907) 344-0541

August 30, 1989

*Mark
F41*

RECEIVED

SEP 1 1989

The Honorable Jan Faiks
Chairman
Alaska Legislative Task Force
on Guiding and Game
3111 "C" Street, Suite 525
Anchorage, Alaska 99503

JAN FAIKS
SENATE OFFICE

Dear Senator Faiks:

I am pleased to announce that we have appointed Marianne See to the Wildlife Biologist position in charge of developing the guide-outfitter resource area maps which may be used in the future to assist in regulating this industry. Marianne has extensive experience as a biologist in Alaskan state, federal, and private sectors. Her diverse background includes statewide wildlife map and report production, geographic information management, technical writing, project coordination and management, interagency coordination, and biological research.

She previously has worked for the Department of Fish and Game, as well as the Bureau of Land Management, and an environmental consulting firm. She holds a Bachelor's degree in Environmental Sciences, and a Master's degree in Ecology from the University of Alberta.

We are fortunate to attract Marianne back to state service to work on this challenging project. Her phone number is 267-2420 in the Statistics Section, Division of Wildlife Conservation in Anchorage.

Sincerely,

W. Lewis Pamplin, Jr.

W. Lewis Pamplin, Jr.
Director
Division of Wildlife Conservation

cc: Task Force Members
SuzAnne Miller, Information Management Coordinator, Division
of Wildlife Conservation
Marianne See, Wildlife Biologist, Division of Wildlife
Conservation

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

STEVE COWPER, GOVERNOR

333 RASPBERRY ROAD
ANCHORAGE, ALASKA 99518-1599
PHONE (907) 344-0541

August 30, 1989

Mr. Walter O. Stieglitz, Regional Director
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, Alaska 99503

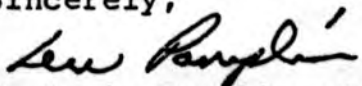
Dear Mr. ~~Stieglitz~~ ^{Walt}:

The Legislative Task Force on Guiding and Game has initiated development of a new resource based management system that may be used to assist in allocating access to big game hunting opportunities among guide-outfitters. Toward this end, the Department of Fish and Game is the designated lead agency to create maps of guide-outfitter resource areas that could be the basis of the management system. The criteria developed by the Task Force for delineating these areas include wildlife management concerns, enforcement concerns, land ownership, administrative restrictions (federal, state, and local government regulations), recognizable field boundaries, access availability and transportation considerations, and others. The task force plans to initiate a public process to receive input from interested parties.

Because it will be essential to keep federal and state agencies informed and involved in the development of this new system, we are asking your help with identifying the key people in your agency who should receive information and participate in the necessary meetings. Please indicate, at your earliest convenience, the names (and addresses) of your staff who should be included on our mailing lists.

Thank you for your assistance. Any specific inquiries may be directed to Marianne See, our project staff coordinator in Anchorage (267-2420).

Sincerely,


W. Lewis Pamplin, Jr.
Director

Division of Wildlife Conservation

cc: Senator Jan Faiks
SuzAnne Miller, Information Management Coordinator, Division
of Wildlife Conservation
Marianne See, Division of Wildlife Conservation

The same letter sent to the following:

VNameVMr. Walter O. Stieglitz, Regional Director
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, Alaska 99503
VNameIIVMr. Stieglitz

VNameVMr. Boyd Evison, Regional Director
U.S. National Park Service
2525 Gambell Street
Anchorage, Alaska 99503-2892
VNameIIVMr. Evison

VNameVMr. Gary Gustafson, Director
Division of Land and Water Management
Department of Natural Resources
Pouch 7-005
Anchorage, Alaska 99510
VNameIIVMr. Gustafson

VNameVMr. Michael Penfold, State Director
Alaska State Office
U.S.D.I. Bureau of Land Management
222 West 7th Avenue, #13
Anchorage, Alaska 99513-7599
VNameIIVMr. Penfold

VNameVMr. Michael A. Barton, Regional Forester
U.S.D.A. Forest Service
Alaska Regional Office
P. O. Box 21628
Juneau, Alaska 99802-1628
VNameIIVMr. Barton

The following letter was sent to all native corporations in Alaska as well as federal agencies interested in the task force activities.

August 18, 1989

Dear:

As you may be aware, the Alaska Legislature has created the Task Force on Guiding and Game. It is charged with formulating a recommendation for a comprehensive resource-based management system for the allocation of big game hunting opportunities among guide-outfitters.

The task force was formed in May, 1988 as part of the effort to find a legislative resolution to a growing conflict between licensed big game guides and unlicensed "outfitters". The panel recommended the sweeping changes incorporated in House Bill 112 which was signed into law in May, 1989. Legislation also passed to extend the life of the task force to January, 1990. This extension became necessary as a result of the October 1988 Alaska Supreme Court decision in the Owsichuk case. The court declared unconstitutional the previously used restrictive guide area system of big game industry management. It is now necessary for the Legislature to formulate a new management system.

In its directive to the task force, the Legislature stressed that conservation of the resource is the foremost purpose of the management system. The system must also provide broad access as guaranteed by the common use clause of the state's constitution. The plan must have statewide applicability to help ensure a more standardized system among state, federal and private landowners. The panel is required to present its findings and recommendations to the Legislature by January 15, 1990.

Because of the limited time frame for the panel's work, it retained the law firm of Birch, Horton, Bittner and Cherot to assist in developing recommendations for a management plan which would survive a constitutional challenge. The firm will also assist the task force in writing related legislation.

The 15 member task force met in June and July to organize and establish a work plan. The panel is scheduled to meet again October 5th and 6th in Anchorage.

I will keep you apprised of our meeting schedule. Additionally, the task force would welcome any comments or questions you may have regarding the development of the management plan. You may write to the task force at my office at 3111 C Street, Suite 525, Anchorage, 99503. Thank you for your interest.

Sincerely,

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

JF:mr

Where the hunting is done by hunters



RECEIVED

JUL 27 1989

JAN FAIKS
SENATE OFFICE

To: Senator Jan Faiks
3111 "C" Str. Suite 525
Anchorage, Alaska
99503

JOE WANT
P.O. BOX 10044
FAIRBANKS, ALASKA 99701

27 July 1989

Dear Senator Faiks;

Attached is a resource based proposal intended to allow the harvest of big game animals by non-residents and insure the wellbeing of these game stocks.

This proposed system would involve two levels of participation:

1. the Board of Game;
2. the Big Game Commercial Services Board.

The Attached proposal includes the following:

- a. a general description of a policy for regulating big game harvest levels by non-residents;
- b. a general scenario of how the system could be implemented;
- c. a general outline of potential industry impact;
- d. a request that the Task Force on Guiding and Game schedule a block of time in December 1989 for debating the proposal.

Thank you.

Respectfully,

Joe Want
Joe Want

POLICY

Regulating Harvest Level

[MINIMUM ACCEPTABLE HARVEST SIZE (MAHS) method]

The following resource proposal is intended to outline a policy and demonstrate a possible method for policy implementation. The objectives are to create a system that will maximize resource protection; minimize the necessity of monitoring guide-outfitters; and develop a system that minimizes the financial burden to the State of Alaska.

1. RESPONSIBILITY OF BOARD OF GAME

The Board of Game shall/may establish a minimum acceptable harvest size (MAHS) for any given big game species, in any area, faced with potential over harvest by non-resident hunters.

The Board of Game, in consultation with the Alaska Department of Fish and Game, would establish by specie, a reasonable size standard that will insure a healthy, viable game population. These size standards would be established through the existing process for formulating regulations.

2. RESPONSIBILITY OF THE BIG GAME COMMERCIAL SERVICES BOARD

The Big Game Commercial Services Board would develop a system for disciplining individuals licensed by the Board who fail to meet the standards, under MAHS, developed by the Board of Game.

HOW THE SYSTEM MIGHT OPERATE

Should the Board of Game, determine a statewide concern exists regarding the harvest level of a certain game animal, let's use moose as an example, by non-residents, the Board would establish a minimum antler width for all moose taken by non-residents. NON-RESIDENTS ACCOMPANIED BY SECOND-DEGREE KINDRED WOULD BE EXEMPT FROM THIS SYSTEM.

The Board of Game would have the latitude of establishing MAHS only in the game management unit (GMU) presenting potential resource problems. The MAHS could vary between GMU'S depending on the size animals produced in a particular area.

For example, in GMU 8, the MAHS for brown bear might be a minimum of 26" skull size. If warranted by the data, the MAHS GMU 9 might be 25", while in the Brooks Range a minimum of 23" might be used.

The Big Game Commercial Services Board would develop a system for disciplining guide-outfitters, class "A" guide-outfitters, and assistant guide-outfitters who fail to comply with MAHS.

One option would be a deficit point system. The following is an example of what might be considered:

BROWN BEAR: UNIT 8 - MAHS 26" Skull size:

Bear skull less than 26" but greater than 25" - 1 point

less than 25" but greater than 24" - 2 points

bear skulls less than 24" - 3 points.

Should a guide accumulate more than three points during the most recent three year calendar period he would be prohibited from guiding or outfitting for that species for a specified period. This system of regulating the harvest level merits consideration for the following reasons:

- a. It keeps decisions concerning game management strictly under the Board of Game;
- b. it creates a system for disciplining guide-outfitters while minimizing any additional burden on the court system;
- c. it allows the various land managing agencies, i.e. USF&WS, BLM, Forest Service and Native Corporations etc., to manage those lands as mandated;
- d. it allows the game management flexibility necessary to effectively meet the various big game circumstances found in Alaska;
- e. it creates a system that protects the game resources while minimizing the financial and administrative burden for the State of Alaska;
- f. it affords maximum protection of the game resources and minimizes the necessity of monitoring a particular species.

POTENTIAL INDUSTRY IMPACT

1. Initially, guide-outfitters may have to reduce the number of hunters they booked each year;
2. The training period for assistant guide-outfitters would be extended, thus reducing the pool of qualified assistant guide-outfitter available for employment;

3. Some guide-outfitters who have worked for guide-outfitters having exclusive guide areas may start booking their own hunts;
4. The average number of hunting days per trophy may increase for those animals designated under MAHS.

GENERAL STATEMENT

The concept of applying a minimum standard to regulate the harvest level of a particular species is not new. The State of Alaska currently employs a minimum size standard in conjunction with season length to regulate the harvest of dall sheep on a statewide basis and to regulate the harvest of moose in some GMU's.

To what degree can the Board of Game differentiate between residents and non-residents? If example can serve as the basis for the legal argument, the current Alaska Game Regulation No. 30 contains the following:

- a. thirteen plus examples of non-residents being excluded from specific big game seasons;
- b. six plus examples of permits being required for non-residents but not for residents;
- c. a minimum of four different bag limits for non-residents compared to residents;
- d. six examples of different bag limit compositions, i.e. bulls only, etc.

The above comparisons deal only with the differences between residents and non-residents and excludes subsistence hunters.

The ability of the guiding industry to determine whether a particular animal meets MAHS will vary depending on species and the standard established. Sheep will be the easiest and either caribou or bears the most difficult. Bears will probably create the greatest debate as to the feasibility of developing the MAHS system.

To maximize the opportunity for participation in the debating of this proposal, I would respectfully request that the Task Force schedule, in December 1989, a block of time for debating the above proposal. This allows the development of healthy debate concerning the above proposal.

Thank you.

Respectfully,

Joe Warr
Joe Warr

Alaska State Legislature

JUDICIARY
CHAIRMAN
907-465-4523



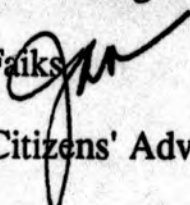
JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

July 26, 1989

MEMORANDUM

TO: Task Force on Guiding and Game

FROM: Senator Jan Faiks 

SUBJECT: Letter from Citizens' Advisory Commission on Federal Areas

Attached is a letter the Task Force received from the Citizens' Advisory Commission on Federal Areas. As you will read, the commission has been asked to investigate complaints from guides operating within national preserve units in Alaska.

This will be included on the agenda of the Task Force's next meeting.

cc: Stan Leaphart, Executive Director, Citizens' Advisory Commission on Federal Areas

OUT OF SESSION

3111 C STREET

ANCHORAGE, ALASKA 99503

907-561-7610



Citizens' Advisory Commission on Federal Areas

July 21, 1989

515 Seventh Avenue
Suite 310
Fairbanks, Alaska 99701
(907) 456-2012

RECEIVED

JUL 24 1989

JAN FAIKS
SENATE OFFICE

The Honorable Jan Faiks, Chairperson
Task Force on Guiding and Game
3111 C Street, Suite 525
Anchorage, Alaska 99503

Dear Senator Faiks,

The Citizens' Advisory Commission on Federal Areas staff has been asked to investigate a number of complaints received from hunting guides operating within national preserve units in Alaska. In addition to being contacted directly by two guides, Commission staff has also been made aware of complaints received by Senator Al Adams' office and by Alaska Department of Fish & Game staff. The complaints stem from changes made by the National Park Service in the permitting procedures for hunting guides as a result of the Owsichuk decision. The purpose of this letter is to advise you of our investigation of these complaints and of our intention to keep the task force informed of any substantive findings.

Following the Owsichuk decision extinguishing the state-assigned exclusive hunting guide areas, the National Park Service implemented an interim program for guided hunting within the national preserve units. The primary element in this interim program is a change from a commercial use license to a concession permit. The change to a concession permit system was made because of National Park Service concerns that the elimination of the exclusive guide areas would result in significant increases in the number of hunting guides seeking permits to operate within the preserve units. A concession permit system allows the Park Service to set limits on the number of guides authorized on preserve lands, where the previously used system of commercial use licenses does not. This interim measure essentially means that, insofar as the national preserves are concerned, the pre-Owsichuk arrangement of limited or exclusive guide areas will be maintained until a new allocation system, acceptable to the Park Service, is developed by the state.

Under the interim program fees have been dramatically increased. Fees for the concession permits will be \$500 in 1989 and \$1000 in 1990. Fees for the previously used commercial use licenses averaged around \$100 per year. A number of guides, particularly those with small operations, have expressed concerns about this increase in fees and their ability to absorb the extra costs. If a concession permit system is adopted permanently a franchise fee of 2% of gross revenues will be assessed annually. In addition, the concession permits will be issued on a competitive bid basis.

Senator Jan Faiks
July 21, 1989

Page 2

Another aspect of the interim program is a limit on the number of clients a guide can take into a preserve unit. The limit will be an average of the number of clients reported for the 1986, 1987, and 1988 seasons. The Park Service has indicated that the limit is designed to avoid over-harvest of the game resources by guides uncertain about their ability to operate in the national preserves in the future. Harvest levels are already regulated and closely monitored by the state. Some see this as unnecessary and an intrusion into the state's authority to regulate harvest levels.

There are other aspects of the interim program that concern some of the guides, but the increased fees and limits on the number of clients seem to head the list. We have contacted the National Park Service to request a list of guides who have been issued concession permits. Our next step will be to contact each of the guides individually to determine whether these concerns are wide-spread or if they are isolated to a few individuals.

While the Park Service program is designed to be an interim measure, there is some suspicion that it will be adopted on a permanent basis. The key point is whether or not the state will be able to develop an allocation system that is acceptable to that agency.

As stated previously, we will keep your office and the task force advised of the progress of our investigation. In the meantime if we can provide any additional information or assistance, please contact our offices.

Sincerely,



Stan Leaphart
Executive Director

cc: Sen. Al Adams
Sen. Bettye Fahrenkamp



Citizens' Advisory Commission on Federal Areas

August 29, 1989

515 Seventh Avenue
Suite 310
Fairbanks, Alaska 99701
(907) 456-2012

*Provided by
CACFA as a
sample*

RECEIVED

SEP 1 1989

SENATE OFFICE

Mr. Ray McNutt
Wrangell "R" Ranch
P.O. Box 469
Sterling, Alaska 99672

Dear Mr. McNutt,

The Citizens' Advisory Commission on Federal Areas is conducting a survey of hunting guides who operate within the national preserves units in Alaska. The Commission has been contacted by a number of hunting guides who have expressed some concerns about the interim permitting program recently implemented by the National Park Service in response to the Alaska Supreme Court decision which extinguished the exclusive hunting guide areas. Several guides have also contacted state legislators and the Alaska Department of Fish and Game to express similar concerns.

Commission staff has been asked to look into this issue and determine the substance and extent of the concerns, and the magnitude of the impacts to those guides operating on national preserve lands. We hope to present any substantive findings to the Legislative Task Force on Guiding and Game at its meeting on October 5 & 6 of this year. National Park Service records indicate that in 1988 you held either a commercial use license or a concession permit allowing you to operate on national preserve lands. We are asking for your assistance in helping us identify existing or potential problems, or concerns, that you may have about the National Park Service's interim permitting program.

In case you are not familiar with the Citizens' Advisory Commission on Federal Areas, we are a state commission established by the legislature in 1981. The Commission is charged with the responsibility of researching and assessing the impact of federal land management regulations and federal land management decisions on the people of the state. If a problem is identified during this process, the Commission may then make recommendations to the appropriate federal land management agency, state agencies or the state legislature.

We realize that this is your busiest time of the year, however, if you have any concerns about this interim permitting program we would appreciate hearing from you prior to the upcoming meeting of the task force. If you are satisfied with the program, we would like to know that also. We would also like to know if you have elected not to apply for an interim concession permit. If you do not have time to write, you may call collect. It would also be

August 29, 1989
Page 2

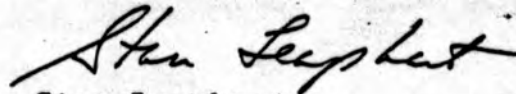
helpful if you could provide us a copy of you concession permit, including any stipulations for your particular operation.

The address that is on this letterhead is no longer correct. Our new address is:

Citizens' Advisory Commission on Federal Areas
250 Cushman Street, Suite 4H
Fairbanks, Alaska 99701
(907) 456-2012
FAX # 456-2039

The National Park Service has indicated that this interim program will remain in place until December 31, 1990 or until the agency accepts a new state program of assigning guides and guide areas within the national preserves. Regardless of what program will ultimately be used to permit hunting guide operations and to assign areas within the national preserves, we would like to help ensure that your concerns are addressed and that a program that is fair and equitable for all concerned is developed. Please let us hear from you.

Sincerely,



Stan Leaphart
Executive Director

cc: Sen. Adams
Sen. Faiks
Sen. Fahrenkamp

*IDENTICAL LETTER
SENT TO ALL
HUNTING GUIDES
AUTHORIZED TO
OPERATE IN THE
NATIONAL PRESERVES
IN 1988.*

FISHING AND FLYING
P.O. Box 51
Yakutat, AK 99689

RECEIVED
JUL 24 1989

17

GOVERNOR'S OFFICE

Ms. Sheila K. Gottehrer, Director
Boards and Commissions
P.O. Box A
Juneau, AK 99811

July 22, 1989
BOARDS & COMMISSIONS

JUL 25 1989

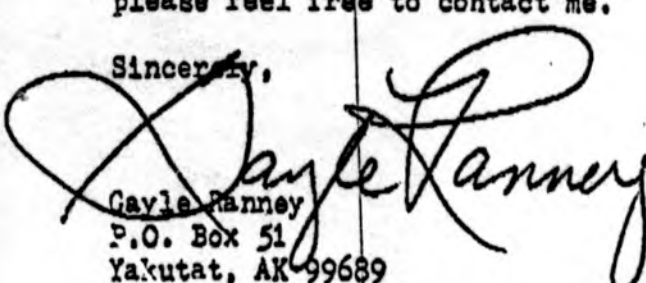
Dear Ms. Gottehrer,

At this time I would like to submit my resignation from the Task Force on Guiding and Game. I am honored to have had this privilege to serve on the task force. However, this time of the year is the busiest and most demanding, and my business requires my full attention. As a result, I find that I am unable to give adequate energies to the issues and concerns of the task force.

As a representative for air taxi, I would urge you to find an appropriate replacement to take my place as soon as it is possible. I feel that it is very important for air taxi to have adequate representation on the task force and regret that I am unable to continue to fill that need.

Thank you again for the opportunity to have served on the Task Force for Guiding and Game. If I can be of any assistance in the future, please feel free to contact me.

Sincerely,


Gayle Ranney
P.O. Box 51
Yakutat, AK 99689

also To ^{Rep} M. Davis
Rep Sam Cotton

JUDICIARY
CHAIRMAN
907-465-4523

Alaska State Legislature



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

July 21, 1989

MEMORANDUM:

TO: Senator Tim Kelly
President of the Senate

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

SUBJECT: Update on Task Force Efforts

The Legislative Task Force on Guiding and Game met for the first time June 29, 1989 for the purpose of selecting a chairman and beginning organizational activities.

The task force members elected me chairman with a show of hands. Juneau member Bob Hinman was elected vice-chairman at the panel's second meeting July 19th. I will submit to you a summary report following each task force meeting to keep you informed of our progress.

**The task force has unanimously voted to enter into a professional services contract with the law firm of Birch, Horton, Bittner, Cherot and Anderson. The firm will assist in researching and identifying options to be considered by the full task force as it develops a resource-based system to manage big game guiding activities which will be recommended to the Legislature for consideration. Heading the project for Birch Horton is Bill Horn, who's name is familiar to many Alaskans as a former Undersecretary of Interior. Mr. Horn will ensure that the panel's final recommendations to the Legislature are in compliance with the Alaska Supreme Court's Owsichuk decision which struck down the exclusive guide area designations. Task force members desire a very close working relationship with the firm to ensure the final product's Alaska flavor.

OUT OF SESSION

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

****The proposed contract with Birch Horton is to cover 6 months at a cost of \$4000 per month with an additional \$3000 in travel expenses to be approved by the chairman as needed. The remaining \$12,000 in the task force budget will be used for travel expenses for members during the life of the panel. This contract will be submitted to the next Legislative Council meeting for approval.**

****The task force discussed the continuing development by the Division of Wildlife Conservation of Guide-Outfitter Resource Area Maps and began consideration of methods to provide for public input in the process.**

****Wildlife Conservation mapping efforts will utilize several criteria during the development of the maps. Among the more important criteria are:**

- Wildlife management concerns such as species abundance and diversity;**
- Administrative wildlife management boundaries (Game Management Unit/Subunits;**
- Harvest history (targeting the number of potential hunt opportunities;**
- The use of Uniform Geographic Coding Areas as used by the Department of Game.**

The panel members expressed a great deal of concern about the controversial guide-outfitter proof of insurance requirements implemented by the Division of Occupational Licensing. Division Director Randall Burns listened to the lengthy discussion and the day following the meeting issued a letter to Guide-Outfitters rescinding the proof of insurance requirement for licensing. Insurance during a guided hunt remains a requirement.

The task force is not expected to meet again until October because of the approaching hunting season. It is anticipated that if the contract is approved, Birch Horton will proceed during this interim period to identify and compile the options which may be available for task force and legislative consideration. Birch Horton will be meeting with each task force member for input and will conduct a series of work sessions with officials of both the Departments of Law and Fish and Game.

The following task force members were present at the July 19th meeting:

Pete Buist
Randall Burns
Vernita Cassidy
Ralph Eluska
Ken Fanning
Senator Jan Faiks
Phillip Gilson
Bob Hinman

Representative Lyman Hoffman
Paul Johnson
Representative Mike Navarre
Lew Pamplin

The three members who were unable to attend were Mathew Iya, Nick Pierskalla and Gayle Ranney.

copy

JUDICIARY
CHAIRMAN
907-465-4523

Alaska State Legislature



JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

July 5, 1989

MEMORANDUM

TO: Gayle Ranney and Nick Pierskalla

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

SUBJECT: Organizational Meeting of June 29, 1989

This is to apprise you of the results of the organizational meeting of the Task Force. I am enclosing a copy of a press release on the meeting as provided by my office to many of the newspapers and radio stations in Alaska. A list of task force members present at the meeting is also attached.

Nominations for chairman of the panel included myself and Bob Hinman. With a show of hands the members of the panel elected me chairman.

Of primary concern was a schedule for future meetings. We felt it imperative that at least one meeting be held prior to the start of hunting season, August 10th. Following that, meetings of the entire panel will not resume in earnest until fall. An actual schedule has not yet been attempted. My staff has been contacting the members individually to determine a date in July or very early August which a high number of members will be able to attend.

The task force briefly discussed the possibility of hiring an outside consultant to help members arrive at the widest possible array of viable options for a big game hunting management plan. For example, I have been in contact with former Undersecretary of State Bill Horn and others who have indicated a willingness to assist the task force. Panel members urged direct involvement in the process of determining whichever options may be available, rather than giving the task completely to a consultant. I am in the process now of

OUT OF SESSION

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

discussing the cost of hiring a consultant with Senate and House leaders.

If you have questions or comments please feel free to call me or Mark Riehle at my Anchorage office at 561-7610.

July 5, 1989

TASK FORCE ON GUIDING AND GAME - members present at June 29,
1989 meeting:

Jan Faiks
Pete Buist
Randall Burns
Vernita Cassidy
Ralph Eluska
Ken Fanning
Phil Gilsch
Bob Hinman
Lyman Hoffman
Paul Johnson
Matthew Lya
Mike Navarre
Lew Pamplin

MEMBERS ABSENT:

Nick Pierskall
Gayle Ranney

News . . .

from Senator Jan Faiks

FOR IMMEDIATE RELEASE

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-outfitters.

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.

###

STEVE COWPER, GOVERNOR

DEPARTMENT OF FISH AND GAME

333 RASPBERRY ROAD
ANCHORAGE, ALASKA 99518-1599
PHONE: (907) 344-0541

RECEIVED

JUL 5 1989

JAN FAIKS
SENATE OFFICE

June 30, 1989

The Honorable Jan Faiks
Senate Judiciary Committee
Alaska State Legislature
3111 "C" Street, Suite 525
Anchorage, Alaska 99503

Dear Senator Faiks:

Thanks again for organizing and conducting the first meeting of the Guiding and Game Task Force. I look forward to working with you and the other task force members on this important wildlife management issue.

With respect to alternates, SuzAnne Miller served as my alternate on the previous Guiding and Game Task Force and she will continue in this role. One point that probably needs further discussion by the task force is whether or not alternates can vote. Last time they could vote if they were designated as alternates in writing. I favor this approach.

Concerning upcoming meetings, I could attend a meeting in Anchorage during the first week of August and sometime in late September or early October. I think we should plan on a minimum of 2-day work sessions when we meet in the fall and early winter.

For our August meeting, I recommend that the draft criteria (enclosed) which I passed out at yesterday's meeting be reviewed by all task force members and that they be prepared to discuss and finalize the mapping criteria at the next meeting. In determining the future schedule of meetings for the task force, we must consider the public process for input to the mapping project. I feel it is imperative that the task force play a lead role and provide guidance for this project to be successful.

As stated yesterday, I support your suggestion of contracting with a legal consultant to assist us in developing legally viable alternative options. Along with your suggestion of Mr. Bill Horn, I would like to add Mr. Paul Lenzini (based in Washington, D.C.) and Mr. Avrum Gross of Juneau to the list of potential consultants.

June 30, 1989

One final point is that I must emphasize the need for additional funds to be able to complete the guide-outfitter resource area map project. A copy of the fiscal note submitted to the legislature is enclosed. As mentioned yesterday, the funds were reduced from \$90,000 to \$45,000. I recommend that this subject be placed on the next meeting's agenda for discussion.

Thank you for your assistance and willingness to serve as chairperson.

Sincerely,



Lew Pamplin
Director
Division of Wildlife Conservation

Enclosures

cc: SuzAnne Miller, Data Management Coordinator, Division of
Wildlife Conservation
Task Force Members

Possible Criteria for Developing the Guide-Outfitter
Resource Area Maps*

In order of priority

1. Wildlife management concerns
 - Species abundance and diversity
 - Administrative wildlife management boundaries (Game Management Unit/Subunits)
 - Harvest history (target number of potential hunt opportunities)
2. Enforcement concerns
3. Land ownership
4. Administrative restrictions
5. Easily recognizable (in the field) boundary features
6. Access availability and transportation considerations (methods and means restrictions)
7. General approach to the size and number of individual areas
8. The number of guide-outfitters per area
9. Other land uses
10. Existing facilities
11. Others considerations

* Provided to the Legislative Task Force on Guiding and Game
by Lew Pamplin, ADF&G, June 29, 1989

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Relating to Commercial
Services for Big Game Hunters
Sponsor: Resources Committee
Requestor: _____

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	31.5	76.8	67.5	58.2	58.2	58.2
TRAVEL	1.5	5.0	3.0	1.0	1.0	1.0
CONTRACTUAL		.5	.5	.5	.5	.5
SUPPLIES		1.7	1.0	1.0	1.0	1.0
EQUIPMENT		6.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	3.0	90.0	72.0	60.7	60.7	60.7

CAPITAL	0	0	0	0	0	0
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach separate page if necessary) The FY89, FY90, and FY91 expenditures are necessary to coordinate the development of a computerized area-based management system for use in administering the guide/outfitting industry. The FY92, FY93, and FY94 expenditures would depend on the guide/outfitter area management system which is devised and ADF&G's role in that system.

Prepared by: W. Lewis Pamplin, Jr., Director Phone: 465-4190
Division: Wildlife Conservation Date: 2/15/89

Approved by Commissioner: [Signature] Date: 2/15/89
Agency: Fish and Game

Distribution (by preparer):

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

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-outfitters.

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.

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JUN 29 1989

JAN FAIKS
SENATE OFFICE



NORTHERN
WILDERNESS
ADVENTURES
INC.

June 16, 1989

Senator Jan Faiks
P.O. Box 4
Juneau, AK 99811

Dear Jan,

I regret that I will not be able to attend the Task Force meeting on June 29th, my appearance is mandatory at my King Salmon Camp on that day.

Also, please relay to the Task Force that my schedule is such that I will not be able to attend any meetings until after October 15th.

Sincerely,

Nick Pierskalla
sp

Nick Pierskalla



Alaska State Legislature

P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3755

June 12, 1989

MEMORANDUM

TO: All Legislators

FROM: Senator Jan Faiks 

SUBJECT: Guiding and Game Task Force Meeting

At the request of Legislative Council, I am coordinating the first organizational meeting this interim of the Guiding and Game Task Force. It will be:

Thursday, June 29th
10 a.m.
Anchorage Legislative Information Office
3111 C Street
First Floor Conference Room

The agenda will include selection of a chairman, discussion of a work plan to meet statutory responsibilities, and establishing a meeting schedule for the remainder of 1989. It is my hope the Task Force's business can be concluded by noon.

For questions or further information, please give my Anchorage office a call at 561-7610.

Jan Faiks, Senator

June 8, 1989

Mr. Bob Hinman, Member
Guiding and Game Task Force
9119 Tournure Street
Juneau, Alaska 99801

Dear Mr. Hinman:

The first meeting this interim of the Guiding and Game Task Force will be:

Thursday, June 29th
10 a.m.
Anchorage Legislative Information Office
3111 C Street
First Floor Conference Room

At the request of Legislative Council, I am coordinating the Task Force's initial organizational meeting. The agenda will include selection of a chairman, discussion of a work plan to meet statutory responsibilities, and establishing a meeting schedule for the remainder of 1989. It is my hope the Task Force's business can be concluded by noon. Should you have other items to add to the agenda, just give my office a call.

Please let me know if you will be able to attend the June 29th meeting by calling my Anchorage office at 561-7610. If necessary, I will then provide you with a TR for your travel.

Sincerely,

Jan Faiks
Senator