

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1697 SCOMM 67: GUIDING AND GAME TASK FORCE, 1989-1990

1265

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

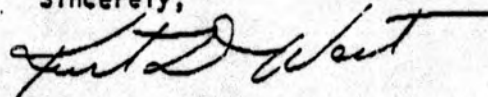
-2-

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**P.O. BOX D-LIC
JUNEAU, ALASKA 99811-0900
PHONE: (907) 485-2534**DIVISION OF OCCUPATIONAL LICENSING**

DATE: June 26, 1989

TO: All Members, Task Force on
Guiding and Game

FROM: Randall P. Burns, Director *RRB*
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.

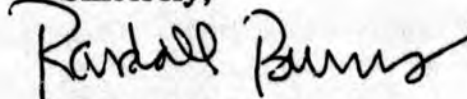
The division apologizes for the confusion and anger that this matter has engendered among the guide-outfitting industry. As you know, the Task Force opposed the insurance requirement and the division itself argued before legislative committees against adding an insurance requirement for guide-outfitters.

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

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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 Joseph W. Want

MIKE TINKER AA 480 PO Box 25197 ESTER AK 99725 Mike Tinker

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

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DOUGLAS BLANKENSHIP
PHILIP BLUMSTEIN
CORY R. BORGESON
WILLIAM BUMPERS*
JOHN J. BURNS
RODNEY B. CARMAN**
GERALDINE M. CARR
SUZANNE CHEROT**
JOSEPH M. CHOMSKI**

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PAUL EWERS
WILLIAM W. GARNER*
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MINDY R. KORNBERG**
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PAUL MILAN
GREGORY A. MILLER
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TIMOTHY J. PETUMENOS
STEVEN PRADDELL
MICHAEL V. REUSING
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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.

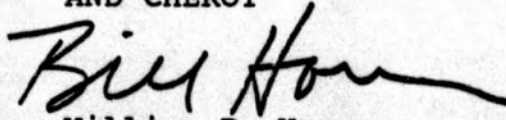
As you described the effort, we estimate that we can provide the requisite services for a monthly retainer of \$4000 for the next six months. Travel costs would be additional, but we would expect such to be minimal.

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

DONALD DUKAKIS, HAWAII
JIM BUNN, SOUTH CAROLINA
QUENTIN N. BURDICK, LOUISIANA
PATRICK J. LEAHY, VERMONT
JIM SASSER, TENNESSEE
DENNIS D'CONCINI, 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 KERR, NEBRASKA

MARK O. MATFIELD, OREGON
TED STEVENS, ALASKA
JAMES A. MCCLURE, IDAHO
JACK BARN, 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 NICLES, OKLAHOMA
PHIL GRAMM, TEXAS

JAMES H. ENGLISH, STAFF DIRECTOR
J. 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:

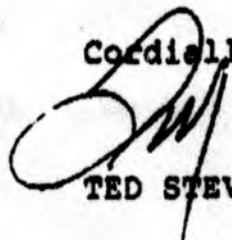
Thanks for sending me a copy of the final report of the Task Force on Guiding and Game along with the draft bill you introduced. You had a lot of competing issues to address in this process, Jan, and I know you worked your tail off to develop a consensus position.

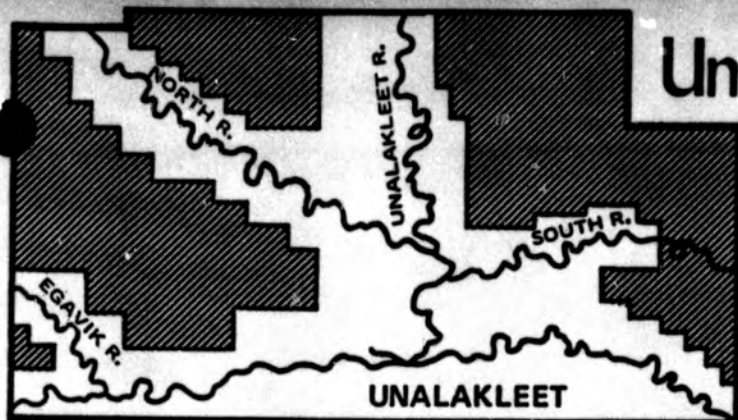
If there is anything I can do to help, let me know. If the legislation passes, we'll need to work Fish and Wildlife Service and National Park Service into the new system. I'd be glad to help with that.

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

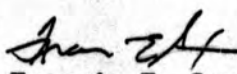
Dear Senator Faiks,

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