

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672
1700 SCOMM 67: GUIDING AND GAME TASK FORCE, 1989-1990 1268

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

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

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

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

(14) "unethical activity" means

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the spouse of the nonresident; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* Sec. 12. AS 44.62.330(a)(35) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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license; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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this Act.

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

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

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

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

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

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

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

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person and must provide the following information:

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

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

(i) A person who

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

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

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

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

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

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

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

(1) In this section,

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

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

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

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

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

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

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

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

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

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the person;

(2) a final determination under (a) of this section that

the person is not eligible to receive a guide-outfitter license; or

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

* Sec. 16. INITIAL APPOINTMENTS TO BIG GAME COMMERCIAL SERVICES BOARD.

Notwithstanding AS 08.54.300(b), as enacted by sec. 3 of this Act, the initial appointments to the Big Game Commercial Services Board under

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

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

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

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

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

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

(1) January 15, 1990; or

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

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

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

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

In order of priority

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

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

copy

June 29, 1989

PRESS RELEASE

Subject: Legislative Task Force on Guiding and Game

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

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

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

The task force will conduct meetings throughout the legislative interim.

For additional information please call 561-7610.

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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JUNEAU, ALASKA 99811
907 465-3800

MEMORANDUM

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JUL 13 1989

JAN FAIKS
SENATE OFFICE

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

FROM: Pamela Stoops, Director
Administrative Services

DATE: July 10, 1989

SUBJECT: FY 90 Task Force on Guiding and Game

The Task Force on Guiding and Game's FY 90 funding will have two separate appropriations:

1. FY 90 Guiding and Game

HB 100 - New Legislation - SB 139 \$24,000
Collocation Code: 31925603

2. FY 90 Guiding and Game Lapse 89

HB 163 - Reappr. Bill - Balance as of 7/11/89 \$15,280
Collocation Code: 31925604

We would like to spend the FY 89 funding first which is collocation code 31925604. The Governor vetoed sections in the reappropriations bill that carried forward funding for two consecutive years. It is best to spend the 89 funding first and 90 second in case there is any carryforward for the reappropriations bill next year.

Representative Davis is in charge of these funds as Legislative Council Chair. Any bills will need to be sent to his attention.

I hope this clarifies your funding for the Task Force.

For your information FY 89 expenditures as of 7/11/89 are as follows:

Personal Services	219
Travel	11,195
Contractual	<u>4,725</u>
	16,140

For your tracking purposes we will send you and Representative Davis monthly reports on both accounts.

RECEIVED

JUL 12 1989

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JAN FAIKS

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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 Owsichuk 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.

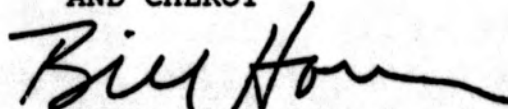
As you described the effort, we estimate that we can provide the requisite services for a monthly retainer of \$4000 for the next six months. Travel costs would be additional, but we would expect such to be minimal.

The Honorable Jan Faiks
July 11, 1989
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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

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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 we 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.

SCOMM

67:7

①

1. request from budget & audit
to authorize a transfer of
program receipts from
Commerce to Fish & Game
for resource maps.

2 years ago - guide license were
increased for resource maps ??
what happened to the money.

1 year only appropriated - that was
passed. Randall. Burn.

② get the public process used.
by DNR for public input
of oil & gas / land auctions etc.

write up the various processes used
for public input in the
technical agencies for next
task for meeting.

~~Veronica~~
~~Kane~~
~~Steve~~
~~Bob~~
~~Randall~~
~~Scott~~
~~Calvin~~
~~Gene~~
~~John~~
~~Tom~~
~~Veronica~~
~~Paul~~
~~Steve~~
~~Sam~~
~~Bob~~
~~Harvey~~
~~Calvin~~
~~John~~
~~Steve~~

Taskforce Subcommittees

(everyone once / Fanning 2x)

3) Subcommittee for public input and testimony

2) Subcommittee for coordination of the industry (as defined)
(in SB 191)

1) Subcommittee for Management system evaluation / coord.
First by contractors.

Lew Pauplin
Randall Burns
Ken Fanning
Bob Hinman
Ralph Eleuska

Conn: Steve White AG

2) Coord. of Industry

Jail Ramsey
Ken Fanning
Paul Johnson
Vernita Cassidy
Nick Pierskalla

3) Public

Jan Faich
Nasare
Hoffman

Mar. Iya
Pete Brust
Gilson

Ken
Bob?
Verneta
Ken

Ken
Ken
Verneta
Ken

~~* write letter to Ag re insurance
requirement~~

~~be prepared by soon -
for Hoffman
fax to Meranie.
fax # 262-1881~~

Guiding and Game Task Force

Meeting
of
July 19, 1989
10 a.m.

PROPOSED AGENDA

- I. Call to Order - Senator Jan Faiks, Chairman
- II. Approval of Agenda
- III. Business
 - A Task Force Funding
 - B Professional Services Contract
 - C Management Plan Options
 - D Guide-Outfitter Resource Area Maps
 - E. Public Process for*
 - ~~E~~F. Voting Option for Task Force Alternates
 - ~~F~~G Future Meeting Schedule
 - ~~G~~H Guide-Outfitter Insurance Requirements
- IV. Other Business
- V. Member Comments
- VI. Adjournment

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

~~In order of priority~~

1. Wildlife management concerns 63

---Species abundance and diversity

---Administrative wildlife management boundaries (Game
Management Unit/Subunits)

---Harvest history (target number of potential hunt
opportunities) ~~by group~~ *NON Resident &*

2. Enforcement concerns

3. Land ownership

4. Administrative restrictions

5. Easily recognizable (in the field) boundary features

6. Access availability and transportation considerations
(methods and means restrictions)

7. General approach to the size and number of individual
areas

8. The number of guide-outfitters per area

9. Other land uses

10. Existing facilities *air strips, lodges,*

11. Other considerations

a) *susistence*

b) *common use.*

① ~~12) old guide areas.~~

1/10 failed

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

436 guides license

② uniform geographic coding areas

*26 units game management
sub-units
300 former guide areas.*

*unrenewable
delete #8 ④*

*③ withdrawn
of harvestable
species.*

all

RECEIVED

JUL 12 1989

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BIRCH, HORTON, BITTNER AND CHEROT

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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 Owsichuk 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.

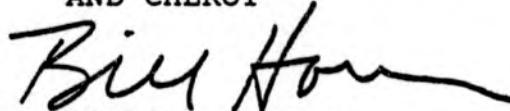
BIRCH, HORTON, BITTNER AND CHEROT
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The Honorable Jan Faiks
July 11, 1989
Page Two

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

PROFESSIONAL SERVICES CONTRACT BETWEEN

BIRCH, HORTON, BITTNER AND CHEROT

AND

ALASKA LEGISLATIVE COUNCIL

CONTRACT AMOUNT: \$30,000

The parties to this contract, made and entered into this ____ day of _____, 1989, are the Alaska Legislative Council on the behalf of the Legislative Task Force on Guiding and Game, (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

*(Jan this section will be beefed up To include qualifications)
(sole source justification will be separate)*

Consultant shall assist the Task Force in developing options for a big game management plan which conforms to the Alaska Supreme Court's Owsichak decision. The Consultant will perform research for the Task Force, such as comparisons of game management plans used in other locations. 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.

CLAUSE II - PERIOD AND DATES OF PERFORMANCE AND TERMINATION

- (A) The work under this contract shall begin August 1, 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 Four Thousand and No/100 Dollars (\$4,000.00) for the months of August, September, October, November, December, and January for Consultant's services after submittal and approval of a proper billing.
 - (2) reimbursed for travel expenses and related costs in an amount not to exceed Six Thousand and No/100 Dollars (~~\$6,000.00~~ ^{3,000.}).
- (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 may not exceed Thirty Thousand and No/100 Dollars (\$30,000.00).

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 - CERTIFICATION

Execution of this contract was authorized by a majority of the members of the Alaska Legislative Council on July 25, 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

Alaska Legislative Council

Tax ID No.: 92-0046806

Bill Horn Date
Partner

Rep. Mike Davis, Chair Date
Procurement Officer

Project Director:

Certifying Authority:

Senator Jan Faiks Date
Chair, Task Force on Guiding
and Game

Warren Endicott Date
Executive Director
Legislative Affairs Agency

Approved as to form:

Michael F. Ford 7/14/89

Legal Counsel Date

LAW OFFICES

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

July 19, 1989

TO: All Members, Legislative Task Force on Guiding and Big Game

From: William P. Horn and Steven Pradell, Retained Counsel
File No. 100,700.1

Re: Options to the Owsichek decision.

I. INTRODUCTION

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

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

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

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

Alaska Const., art. VIII, §3.

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

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

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

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

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

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

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

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

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

III. SUMMARY OF EXISTING OPTIONS

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

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

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

facilities, administration costs and the public interest.²

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

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

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

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

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

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

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

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

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

IV. CONCLUSION

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

⁴See 16 USC §3.

would survive constitutional challenge.

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

P.O. BOX Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 485-3800

MEMORANDUM

RECEIVED

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

FROM: Pamela Stoops, Director
Administrative Services

DATE: July 10, 1989

SUBJECT: FY 90 Task Force on Guiding and Game

JUL 13 1989

JAN FAIKS
SENATE OFFICE

The Task Force on Guiding and Game's FY 90 funding will have two separate appropriations:

1. FY 90 Guiding and Game

HB 100 - New Legislation - SB 139 \$24,000
Collocation Code: 31925603

2. FY 90 Guiding and Game Lapse 89

HB 163 - Reappr. Bill - Balance as of 7/11/89 \$15,280
Collocation Code: 31925604

We would like to spend the FY 89 funding first which is collocation code 31925604. The Governor vetoed sections in the reappropriations bill that carried forward funding for two consecutive years. It is best to spend the 89 funding first and 90 second in case there is any carryforward for the reappropriations bill next year.

Representative Davis is in charge of these funds as Legislative Council Chair. Any bills will need to be sent to his attention.

I hope this clarifies your funding for the Task Force.

For your information FY 89 expenditures as of 7/11/89 are as follows:

Personal Services	219
Travel	11,195
Contractual	<u>4,725</u>
	16,140

For your tracking purposes we will send you and Representative Davis monthly reports on both accounts.

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 we 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.

DRAFT

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 Paxplin 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 h's 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.

SCOMM

67:8

#1 Conservation of wildlife
#2 Commercial limits re guiding non resident - must
non-resident limits re: guiding goat, sheep, be bear
no restraints for residents - hunters
GUIDING AND GAME TASK FORCE

MEETING

Must have complete/thorough OF Findings section

AUGUST 16, 1989

2:00 P.M.

AGENDA

Proved by historical data from F+G

I. PROGRAM ELEMENTS:

A. Limitation -

threshold - some leg. finding that a limitation program is necessary for conservation

B. Guide District Establishment

COMMERCIAL USE ZONES

C. Open Competition

State MUST SET # of LICENSES PER AREA

D. Award Criteria

- 1) Experience/Knowledge
- 2) Economic Background
- 3) Safety
- 4) Fish and Wildlife Legal Background

restriction - commercial guiding
AUTHORITY TO ADEQ TO SET-UP DISTRICTS USES LEWIS CRITERIA BY STATUTE

E. Post Award Conditions

ABILITY TO GET LAND PERMITS

CRITERIA
① *sustainable limits of wildlife*
② *economic viability of guide*

II. FEDERAL RECOGNITION:

III. OTHER MATTERS:

IV. ADJOURNMENT:

cc: Senator Jan Faiks

Ken Fanning

W. Lewis Pamplen
Director, Division of Wildlife
Conservation
Department of Fish and Game

① *limited duration tied to economic viability*
② *grant of interest can not be transferred w/o STATE REVIEW*
③ *STATE MUST SET A fee*

1/3 of F+G \$ from Pittman-Bowles - EXCISE TAX ON FIREARMS + AMMO ETC

Randall P. Burns
Director, Division of Occupational
Licensing
Department of Commerce and
Economic Development

Stephen M. White
Assistant Attorney General

William Horn
Steven Pradell
Retained Counsel
Birch, Horton, Bittner & Cherot

SCOMM

67:9

Task Force on Guiding & game

10/5/89

Tape 1, side 1

Bill Horn, Steve Pradell, Vermita Cassidy, Richard Stern, Ralph Eklund, Pete Bunt, Lew Pamplin, CH Parks

000

CH call to order

Rep Lyman Hoffmann, Paul Johnson, Phil Gilson, Sen Fenning, Randall Burns, Steve White, Suzanne Miller

agenda items before us, agenda discussion, etc

Lew Discussion BC DE

Reports then discussion

Introduction of members:

015

Bill Horn, Presentation

Steve Pradell, concerns expressed

incentives for guides, dovetailing w/ Feds, DNR, ^{state} state agencies

Land owners, boundary problems

obligations of the State - successful hunt, licensing
rational mgmt of game; ^{outlines} concerns expressed by Ruralcap
Report.

125

Bill Horn: open competition, limited duration
transferability, = discussion of handout #1:Terms & conditions - working from game mgmt
proposal & Checklist, or state would set areas, notify, public
apply for areas, criteria (B) open competition, staggered fashion,
who decides: authority. (C) ^{should criteria} items, experience ...

350

CH: ?

350

Randall Burns: carrying capacity?

Horn: guide area & setup. If only 1 or 2 operations
could be issued due to carrying capacity. both wildlife
and economic factors.

375

RB-transferability

Steve Pradell: property interests, some want shorter, some
want real

388

Horn: 5 year, trans. in yr 2, health problems occur,

Horn: ability to then transfer.

2

410 Lew: carrying capacity. really, people not animals.

435 KB: animals are considered. Horn yes

440 CH: clarifies for the audience what the task force is doing.
Get several reports, then, this afternoon, work on answering questions. 7 PM Public comment.

470 Lew: most members want wildlife mgmt compensated.

495 Horn: dedicated acct if legislature wishes

505 Panglin: Dedicated Funds and: "should go"

517 Horn: " " ^{others} re: Maryland etc - and: ^{Fish} management -

532 Faiks - AK very strict on dedicated Funds - AG? ~~to be~~
"and Bill"

550 White.

551 Faiks - "To do"

558 Cassidy - (compliment Horn) - ^{Continued} on side 2

000 any public interested in guiding will look at access to system

025 CH - asks Bill to respond.

030 Horn: must be able to demonstrate financing or ability (if intent)
private or state decision, small scale operators could be lost.

055 Fanning: award criteria - question banks loaning w/o collateral, Hrs of
intent non-existent, also concerned about permits, licenses - wordless

090 Horn: traditional state agency - ins, \$, certificate before grant lic. permit.
wants ability for new entrants to enter the system.

105 KB: keep low, level of operation shouldn't be dictated. diligence issue.

116 Horn: method of screening fly-by-night operation. That's why it's in there.

130 Vermite: acc. clients too. Those wanting less than 1st

140 Paul: already a requirement to rep. on fed?

145 Horn: spec. use permit, why econ. data? ops.

150 CH: outline.