

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7203 HOUSE RESOURCES

16. Are there any areas of the state where the scallop fishery is regulated in such a manner that ADF&G is able to conserve and manage the scallop fishery?

17. Are regulations and other Permit Requirements that govern the Alaskan scallop fishery applied uniformly throughout the state, or have different management areas developed specific management regimes, Permit Requirements and Regulations that allow ADF&G to conserve and manage the scallop fishery?

It appears that the legal notice that pertains to the Board action on the Scallop Moratorium Petition may allow the Board to take a variety of regulatory action, apart from action on the Scallop Moratorium Petition, during your current meeting. Also, there are several options that are available to the Board, and several options that are at the immediate disposal of the Commissioner, that would address any ADF&G or Industry concerns regarding the scallop fishery. Independent of Board direction or action, the Commissioner may stipulate, at his discretion, any variety of Permit Requirements regarding any aspect of the Alaskan scallop fishery

AS 16.05.251(g) states, "The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days' public notice of the board's intention to consider approval of the petition. The board shall consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition." (emphasis added)

We understand that the required official request of the Commissioner for approval of the petition was not transmitted to the Board prior to the date that the legal notice was published (2/26/92); that is, that the legal notice relative to this issue was published prior to the Board having received the required official request from the Commissioner. We further understand that as of today, the Commissioner has not yet transmitted the required official request to the Board. Therefore, we believe that the legal notice was improperly and prematurely released, which would not permit the Board to take action on this issue at this meeting. Additionally, as we have submitted previously, the Commissioner has not adequately shown that the fishery meets the requirements for a moratorium on new entrants under AS 16.05.050.

We respectfully request that the Board judge that the issue of a moratorium in the Alaskan scallop fishery is not properly or legally before you at this meeting. If the Board decides to take action on this issue at this meeting, we respectfully request that the Board disapprove any Petition from the Commissioner regarding a moratorium in the Alaskan scallop fishery. Thankyou for your consideration of our comments regarding this issue.

Sincerely,



Jeffrey R. Stephan

5 AAC 39.205 ALASKA AD

sonal use fisheries. The primary purpose is to protect the sustained yield of the fishery at the same time providing an equitable distribution of fish between various users. The regulations are intended to aid in the achievement of these goals and apply to all fishery management plans contained in 5 AAC 03 - 1 AAC 39.

(b) In some fishery management plans, the distribution of harvestable fish between various users is determined by the harvest that occurs during a specific time period, at a specific location or by a specific group or groups of users. At times fishermen, due to circumstances that are beyond the control of the department, such as weather or price disputes, will not harvest fish. When this happens in a fishery governed by a management plan, the goals of that plan may not be achieved. Therefore, when a fishery is open to the taking of fish and the group or groups of users whose catch determines the distribution of the harvest as set out in the applicable management plan is not taking the harvestable fish available to them, the department shall manage the fishery as if the available harvest is being taken. When determining the available harvest, the department shall consider the number of fish needed to meet spawning requirements, the number of fish present in the fishery and in spawning areas that are in excess of spawning requirements and the estimated harvesting capacity of the group or groups of users that would normally participate in the fishery. (Eff. 4/16/83, Register 86)

Authority: AS 16.05.251

5 AAC 39.205. CRITERIA FOR THE ALLOCATION OF FISHERY RESOURCES AMONG PERSONAL USE, SPORT, AND COMMERCIAL FISHERIES. Before adopting regulations that allocate fish among personal use, sport, and commercial fisheries, the board will, as appropriate to particular allocation decisions, consider factors such as those set out in AS 16.05.251(e). (Eff. 6/10/82, Register 102)

Authority: AS 16.05.251

5 AAC 39.210. MANAGEMENT PLAN FOR HIGH IMPACT EMERGING FISHERIES. (a) To guide management of high impact emerging commercial fisheries, a plan is needed that ensures resource conservation, minimizes impacts on existing users, and provides orderly development of new fishery resources.

(b) The department may regulate a commercial fishery as a high impact emerging commercial fishery if the commissioner determines

Any of the following conditions apply to a species or species group in an area or region:

- (1) harvesting effort has recently increased beyond a low sporadic level;
 - (2) interest has been expressed in harvesting the resource by more than a single user group;
 - (3) the level of harvest might be approaching a level that might not be sustainable on a local or regional level;
 - (4) the board has not developed comprehensive regulations to address issues of conservation, allocation, and conduct of an orderly fishery.
- (c) The commissioner shall notify the board if a determination is made to manage a fishery as a high impact emerging fishery.
- (d) The department shall close a high impact emerging commercial fishery once it has been designated as such by the commissioner, and may not reopen the fishery until an interim management plan and associated regulations have been adopted by the commissioner. If an interim management plan and regulations have been adopted, the commissioner may allow the fishery to continue.
- (e) The department shall develop an interim management plan for each high impact emerging commercial fishery. An interim management plan shall contain at least the following information:
- (1) a review of the history of commercial exploitation of the species in Alaska and other relevant jurisdictions;
 - (2) a review of the life history of the organism;
 - (3) identification of specific management goals and objectives;
 - (4) an evaluation of potential impacts on existing users;
 - (5) designation and justification of the preferred management measures;
 - (6) an evaluation of the conservation impacts of the preferred management approach on non-target species and on non-target individuals of the same species;
 - (7) a plan for determining the productivity of the species and impact of the fishery;
 - (8) a list of proposed interim regulations;
 - (9) a cost estimate for plan implementation;
 - (10) an analysis of customary and traditional subsistence use patterns.
- (f) The commissioner may adopt regulations and open the fishery consistent with measures identified in the interim management plan. The regulations will remain in effect until the board adopts regulations under (g) of this section.
- (g) Upon completion of an interim plan, the department shall petition the board under 5 AAC 96.625 to consider adoption of the management plan and associated regulations at its next regularly scheduled meeting.

EMERGING FISHERIES

Change Request

5 AAC 39.230 ALASKA ADMINISTRATIVE CODE 5 AAC 39.250

(h) The department may require onboard observers as specified in 5 AAC 39.141 and 5 AAC 39.645 on fishing vessels, catcher/processors and floating processors that participate in high impact emerging commercial fisheries. (Eff. 4/30/91, Register 118)

Authority: AS 16.05.251

Article 2. Salmon Fishery

Section	Section
230. Gear	240. Identification of stationary fishing gear
240. General gear specifications and operations	281. (Repealed)
250. Gill net specifications and operations	290. Closed waters
260. Seine specifications and operations	292. (Repealed)
270. Troll specifications and operations	

5 AAC 39.230. GEAR. Only those gill nets, seines, troll lines, fishwheels, spears or other appliances as provided for in 5 AAC 03-5 AAC 39 may be used to take salmon. (In effect before 1988)

Authority: AS 16.05.251

5 AAC 39.240. GENERAL GEAR SPECIFICATIONS AND OPERATIONS. (a) A salmon fishing vessel shall operate, assist in operating, or have aboard it or any boat towed by it, only one legal limit of salmon fishing gear in the aggregate except as otherwise provided in this title.

(b) Unhung gear sufficient for mending purposes may be carried aboard fishing vessels.

(c) A purse seine, hand purse seine or beach seine may not be fished simultaneously with gill net gear by any individual or vessel.

(d) Salmon fishing nets must be measured, either wet or dry, by determining the maximum or minimum distance between the first and last hanging of the net when the net is fully extended with traction applied at one end only.

(e) The interim-use or entry permit card holder is responsible for the operation of the net. (In effect before 1985; am 5/31/85, Register 94)

Authority: AS 16.05.251

5 AAC 39.250. GILL NET SPECIFICATIONS AND OPERATIONS. (a) The trailing of gill net web is prohibited at any time or place where fishing is not permitted.

(b) Set gill nets shall be removed from the water during any closed period.

... 20 elements, except that

5 AAC 39.260 FISH AND GAME

(1) in the Southeast Alaska, Yakutat, Pri Cook Inlet Areas, gill net web must meet requirements:

(A) the web must contain at least 30 meshes must be of equal diameter, or

(B) the web must contain at least six f. must be at least 0.20 millimeter in dia

(2) effective 1/1/89, the requirements in subsection apply in the Kodiak, Chignik, A Peninsula, Bristol Bay, Kuskokwim, Yuk Clarence, and Kotzebue-Northern Areas.

(d) The float line and floats of gill nets r surface of the water while the net is fishing, t cause the net to temporarily sink. The restr does not apply to the Kotzebue-Northern (Sound-Port Clarence (5 AAC 04.100), Y: Kuskokwim (5 AAC 07.100), and Kodiak (5 effect before 1983; am 4/16/83, Register 86; a am 2/88, Register 105)

Authority: AS 16.05.251

5 AAC 39.260. SEINE SPECIFICATIONS. (a) In the use of purse seines and nar than one anchor may be used to hold the se during a set.

(b) Repealed 3/26/76.

(c) Unless otherwise provided in 5 AAC (seine is considered to have ceased fishing wh the water.

(d) A hand purse seine is considered to h both ends of the seine are fast to the ves:

(e) A beach seine is considered to have ce the lead line is above the water on the b.

(f) Where the use of leads is permitted, a p have or use more than one lead of legal le purse rings attached, and with a minimum r

(g) If a purse seine and a lead are oper

(1) the lead must be attached to the

(2) the lead may be attached to only or

(3) the lead may not be attached at an

seine;

(4) the web of the purse seine must over at least one fathom, or the web of the pu: the end of the lead for the entire depth

(5) — (8) repealed 6/2/88.

SB

302

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 17, 1991

302

The Honorable Richard I. Eliason
President of the Senate
P.O. Box V
Juneau, AK 99811

Dear President Eliason:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to credits for drilling stratigraphic test wells. The bill authorizes the commissioner of natural resources to extend exploration incentive credits under AS 38.05.180(i) to persons drilling stratigraphic test wells between July 1, 1991 and July 1, 1993 on land in the state.

Currently, AS 38.05.180(i) permits the commissioner to grant oil and gas lessees credits against royalty and tax payments due the state. The credits are limited to one-half of a lessee's costs for drilling an exploratory well or performing geophysical work.

The purpose of the new credits is to encourage the drilling of stratigraphic test wells on land not currently under oil or gas lease. In an effort to obtain information that would help the state complete, by January 1994, its selection of land under the Alaska Statehood Act, all the major oil and gas companies operating in the state have already been asked to consider drilling stratigraphic test wells on unleased land; none are motivated in the absence of credits.

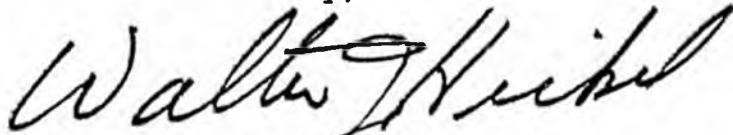
The bill requires the driller to provide the state with well data before a credit is approved. This assures that no credit will be granted unless the state receives, in exchange for the credit, information bearing on the selection of land under the Alaska Statehood Act.

The total of all credits granted for drilling stratigraphic test wells may not exceed \$20,000,000. If drillers' costs approved for credit exceed \$20,000,000, then \$20,000,000 in credits would be pro-rated among the drillers on the basis of approved costs.

The Honorable Richard Eliason - 2 -

AS 38.05.180(i) is rewritten by the bill to prevent that subsection from becoming unduly cumbersome through the addition of the language providing for the new credits. No substantive change has been made in the existing provisions.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel". The signature is written in dark ink and is positioned above the typed name and title.

Walter J. Hickel
Governor

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

No. 46

Bill Version: CSSB 302 (FIN)

(S) Publish Date: 5-4-92

Revision Date: 4-May-92

Department Affected: Natural Resources

Title: Strat. Test Well Credits

BRU: Petroleum Management

Components: Petroleum Management

Sponsor: Senate Rules (for Governor)

Requestor: Senate Finance

COMPONENT SERIAL NO. 439

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	**	**	**	**	**	**
Funding Source:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
Funding Source: 1007						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact: -0-

ANALYSIS: (Attach a separate page if necessary)
 ** Will result in \$0 to \$30 million in total credits against taxes, royalties, bonuses, etc. for work approved by the Commissioner.

Prepared by: Carol Wilson Phone: 465-2400

Division: Commissioner's Office Date: 4-May-92

Approved by Commissioner: Harold C. Hein Date: 4-May-92

Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

No. 5

Bill Version: CSSB 302 (FIN)

(S) Publish Date: 5-4-92

STATE OF ALASKA
LEGISLATIVE SESSION

Effective Date: May 4, 1992

Relating to exploration incentive credits...

Department Affected: Revenue

BRU: Revenue Operations

Component: Oil & Gas Audit

Requested by: Sen Rules by Request of Governor

Requestor: Sen Finance

Component Serial No.

0	1	1	5
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
LEVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
DEBTS, CLAIMS						
CELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE FUND SOURCE
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Other: (Thousands of Dollars)

GENERAL FUND						
OTHER GENERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0	0	0	0	0	0

EMPLOYMENT:

FULL-TIME						
PART-TIME						
TEMPORARY						

Net of current year impact: 0

ANALYSIS: * Over the course of the five year term exploration credits could total between \$0 and \$30 million. It is impossible to predict the actual year and dollar amount.

Requested by: Rod Mourant

Phone: 463-2300

Address: Commissioner's Office

Date: 5/4/92

Approved by Commissioner: [Signature]

Department: Revenue

Prepared by (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

S B

3 4 5



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 485-3473 • 485-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • Pribilof Islands • SHUMAGIN ISLANDS

MEMORANDUM

TO: Representative Cliff Davidson
Chairman
House Resources Committee

FROM: Senator Fred F. Zharoff

DATE: May 9, 1992

RE: CS For Senate Bill 345 (Finance) - "An Act relating to the commercial fisheries development endowment; and providing for an effective date."

BILL SUMMARY: CSSB 345 establishes a commercial fisheries development endowment in the Department of Revenue. The endowment would benefit the Alaska Fisheries Development Foundation.

The endowment would be managed and invested by the Division of Treasury. At the end of each fiscal year, AFDF would receive the earnings. The endowment would exist for a 10 year period. This would give the legislature the ability to review and reevaluate the state's fisheries research and development funding needs at that time.

The endowment would not be established without the passage of a separate appropriation bill.

FISCAL IMPACT: No financial cost to the general fund. The bill authorizes administrative expenses (estimated at \$9,000) to be paid for out of the net income generated by the endowment.

PREVIOUS ACTION: Moved out of the Senate Resources Committee on Feb. 12 (5 DP). Moved out of the Senate Finance Committee on April 29 (4 DP, 1 NR). Passed the State Senate 19-0 on May 5. Moved out of the House Labor and Commerce Committee on May 7 (3 DP, 3 NR).

BACKGROUND INFORMATION: The Alaska Fisheries Development Foundation was founded in 1978 and has operated primarily on federal Saltonstall-Kennedy fisheries development funds made available through a national competitive grant program. These funds were used for a variety of fisheries development projects, including a surimi demonstration project that led

directly to the establishment of a new shorebased industry in Alaska.

Due to changing federal budget priorities, the S-K funds (from tariffs on imported fisheries products) have been increasingly siphoned off to fund National Marine Fisheries Service administrative functions. The grant program has been reduced from \$7-9 million available throughout the 1980's to \$3.4 million available in federal fiscal year 1992 to \$500,000 available for federal fiscal year 1993.

AFDF -- if it is to continue to provide benefits to the people who live and work in Alaska -- must find a new source of funding.

The advantages of the endowment are that it provides AFDF with an annual source of funding, and it allows the state to retain control of the money and to monitor AFDF's efforts. AFDF also would conduct a fund raising campaign to establish its own private endowment.

ATTACHED BACKUP INFORMATION:

1. Sectional analysis.
2. Letter of support from Mr. Carl Rosier, commissioner of the Department of Fish and Game.
3. Letter from Mr. Ed Crane, president of the Alaska Commercial Fishing and Agricultural Bank.
4. Resolution from the Kodiak Chamber of Commerce.
5. AFDF fact sheet.

SECTIONAL ANALYSIS

Proposed CS For Senate Bill No. 345 (Resources)

"An Act relating to the commercial fisheries development endowment; and providing for an effective date."

SECTION 1

FINDINGS.

Explains the bill's intent and background.

SECTION 2

Sec. 37.14.350. COMMERCIAL FISHERIES DEVELOPMENT ENDOWMENT ESTABLISHED.

- (a) Establishes the commercial fisheries development endowment in the Department of Revenue as a separate endowment trust fund of the state in order to benefit the Alaska Fisheries Development Foundation. Explains the purpose of the endowment.
- (b) Requires the commissioner of revenue to determine the net income of the endowment and, in doing so, preserve the distinction between principal and income.

Sec. 37.14.360. ENDOWMENT UTILIZATION.

- (a) Requires retention of gains and losses in the endowment principal.
- (b) Allows for two general uses of the endowment income. These are commercial fisheries development research projects and research on the effects of oil spills on commercial fisheries, and the department's expenses in administering the endowment.
- (c) Requires unexpended net income to be invested until paid or expended.

Sec. 37.14.370. POWERS AND DUTIES OF THE COMMISSIONER OF REVENUE.

Lists the commissioner's responsibilities in managing the endowment.

Sec. 37.14.380. DUTIES OF THE FOUNDATION.

- (a) Requires the foundation to provide copies of annual reports and financial audits to the commissioner of revenue and the legislature by Jan. 15 of each year.
- (b) Authorizes the legislative auditor to have access to foundation records.

Sec. 37.14.390. DEFINITIONS.

Defines "department", "endowment", and "foundation".

SECTION 3

- (a) Sunset clause, effective July 2, 2003.
- (b) Requires the endowment principal, upon repeal of this statute, to be deposited into the fund from which it was appropriated.

SECTION 4

Immediate effective date.

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

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

February 19, 1992

RECEIVED FEB 25 1992

The Honorable Jay Kerttula
and Pat Pourchot
Co-Chairs
Senate Finance Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senators Kerttula and Pourchot:

I believe that the effort to develop new products for Alaskan salmon is such an important part of a successful marketing strategy for Alaskan salmon, that I wish to offer my support for Senate Bills 345 and 346.

The development of new product forms for salmon has been a topic of interest for many years. The greatest attention that the subject received in recent years was during the aftermath of the botulism incident in the early 1980s, which resulted in a massive disruption of traditional markets for canned salmon.

New product development is a high risk endeavor. Many times, the most promising ideas do not develop the way their promoters hope they will. An example of this was the development of a skinless and boneless form of canned salmon. While this idea seemed initially to have great promise, the industry has had only limited success with this product form.

In order to succeed in the development of new product forms, a coordinated and sustained effort is required. It would be wonderful if the salmon industry recovered from its current crisis with the speed that the industry recovered from the botulism incident a decade ago, but I question this occurring. If I am proven wrong on the recovery issue, the efforts to develop new products and new consumers for Alaskan salmon still must continue.

Senate Bills 345 and 346 create a long needed instrument that can provide the type of sustained, coordinated, and successful effort that Alaska's salmon industry needs. The Alaska Fisheries Development Foundation (AFDF) is guided by an industry board that brings broad experience in food production and marketing to AFDF's program. AFDF has been successful with similar product development efforts for other species. They are the right choice to tackle this large task.

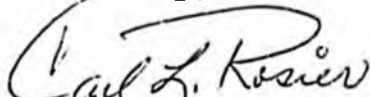
Hon. Kerttula and Pourchot

-2-

February 19, 1992

Funding for this project is, of course, problematic. With state revenues falling from both declining salmon and oil prices, the job of finding the money for this or any other new project, no matter how commendable, is a very difficult problem. Your consideration and interest in this area of industry support is appreciated.

Sincerely,


Carl L. Rosier
Commissioner

✓cc: Senator Fred Zharoff



2550 Denali Street, Suite 1201
P. O. Box 92070
Anchorage, Alaska 99509-2070
(907) 276-2007

January 23, 1992


RECEIVED JAN 27 1992

Senator Fred F. Zharoff
Alaska State Legislature
Post Office Box V
Juneau, Alaska 99811

Dear Senator Zharoff,

This is to express strong personal and institutional support for the substance and purpose of Senate Bill 345 (and related SB 346). The Alaska Fisheries Development Foundation seems to be one of the most highly regarded and widely respected organizations in and around the Alaska seafood industry. Although there has never been occasion for a direct relationship between CFAB and AFDF, we have had many opportunities to observe the relevance of its efforts, the professionalism of its staff and structure, and the broad and positive impacts of its results. We believe it is an effective and efficient organization. Please advise us if there is an opportunity to assist your efforts in connection with this legislation.

Very truly yours,


Edward E. Crane
President

EEC:dav

Alaska Commercial Fishing and Agriculture Bank

JAN-28-91 MON 3:21 BURCH BROTHERS

P. 1

KODIAK CHAMBER OF COMMERCE
01-01-91

WHEREAS the Alaska Fisheries Development Foundation was established in 1978 by the Alaska seafood industry to develop the commercial fisheries resources of Alaska; and

WHEREAS previously the seafood industry did not work together to develop new opportunities and, because of the small size of most companies, was not effectively pursuing opportunities; and

WHEREAS the industry recognized the value of collectively working to identify and carry out research and development projects to further the industry; and

WHEREAS the Alaska Fisheries Development Foundation has used its industry base to identify, fund, manage, and complete projects which have resulted in millions of metric tons of new seafood products from Alaska; and

WHEREAS the results and benefits from these efforts are available to any company or individual who requests the information, unlike previous limited internal efforts by private interests; and

WHEREAS these projects have benefited fishermen, processors, and the support sectors of the seafood industry throughout Alaska; and

WHEREAS the Foundation has successfully brought to the State more than \$13 million in industry research funds; and

WHEREAS specific projects have resulted in the development of the domestic surimi industry, flatfish fillet processing, minced pink salmon production, innovative seafood by-product processing methods, vessel harvesting modifications, and improved quality control for our seafood harvesters and processors; and

WHEREAS in Alaska six shore-based and at least fifteen vessel-based surimi processing plants are in operation with employees numbering in the thousands; and

WHEREAS many of the Foundation's projects have resulted in expanding and extending the production of seafood products resulting in more employment and a longer production season; and

JAN-26-91 MON 3:24 BURCH BROTHERS

P. C

WHEREAS there are many more opportunities for the seafood industry to expand to benefit Alaska; and

WHEREAS the industry directed methods developed and perfected by the Foundation to fully develop opportunities have been proven repeatedly over the past thirteen years; and

WHEREAS a fully endowed administration for fisheries development would further the goals of fisheries development in Alaska;

NOW THEREFORE BE IT RESOLVED that the Kodiak Chamber of Commerce expresses its appreciation for the results of past Foundation development projects; and be it

FURTHER RESOLVED that the Kodiak Chamber of Commerce respectfully requests the Governor and legislature of Alaska to support funding an administration endowment for the Alaska Fisheries Development Foundation in the amount of five million dollars.

Copies of this resolution shall be sent to the Governor and legislators of Alaska.

Signed this 22 day of January, 1991

KODIAK CHAMBER OF COMMERCE

Linda Stapleton

 Linda Stapleton
 Secretary to the Board

Joanne Demke

 Joanne Demke
 President

KH



ALASKA FISHERIES DEVELOPMENT FOUNDATION ENDOWMENT

What Is The Foundation And What Is Its Goal?

* The Alaska Fisheries Development Foundation (AFDF) is a private non-profit corporation formed in 1978 by the Alaska seafood industry to satisfy the research and development needs of Alaska's commercial fishing industry.

* The Foundation acts as a catalyst for all segments of the seafood industry, including the scientific and research communities, to demonstrate new technologies and ideas for the benefit of Alaskan seafood producers, users, consumers and fishery managers.

What Does The Foundation Do?

* AFDF conceptualizes and acquires funding for demonstration projects which allow the Alaskan seafood industry to test and apply new technologies in plants or aboard vessels that expand opportunities, increase yields and make better use of Alaska's fish resources. These are projects that few companies could afford or have the ability to conduct on their own.

* AFDF demonstration projects have helped Alaskan fishermen and processors develop new harvesting and processing techniques, create new markets for seafood products, experiment with new product forms, create economic opportunities for coastal communities, reduce fisheries waste, increase yields and pioneer technologies that return the maximum benefit to Alaskans and the people of the United States.

* In its first 14 years, AFDF brought over \$13 million in federal Saltonstall-Kennedy research and development funds to Alaska, and conducted hundreds of successful projects--many of which brought multi-million-dollar benefits to the Alaska seafood industry and to seafood-dependent communities.

What Has AFDF Accomplished?

* In the past, AFDF projects have:

- Pioneered surimi and pollock production technology on shore in Alaska, resulting in a \$500 million/year industry in Alaska;

- Developed a whole new fishery based on Alaskan flatfish species, a bountiful resource that was not commercially used before AFDF'S project. In the first three years since AFDF's flatfish development project, commercial flatfish fillet production has already brought \$12 million/year into Alaska's economy and has not yet realized its full potential;

- Led ground-breaking research into surimi production from arrowtooth flounder, a development that could lead to a second raw material source for surimi in Alaska;

- Spearheaded the development of new, profitable uses for

seafood processing byproducts to help seafood producers turn waste into marketable products;

- AFDF demonstration projects have resulted in over 2,000 full-time year-round jobs, which are a permanent addition to the Alaska economy; and

- Identified and realized hundreds of opportunities for fishermen, processors and secondary processors to make fuller use of the protein from Alaska's fish, to reap more long-term, year-round benefits from Alaska's fisheries, and to return more benefits to the state of Alaska and the public.

Why is AFDF Pursuing A State-Funded Endowment?

- * AFDF has obtained a vast majority of its project funding from the federal Saltonstall-Kennedy program, which was set-up to fund industry conceived and directed development projects.

- * The Saltonstall-Kennedy program, like many federal programs, has suffered considerable funding cuts. These reductions accurately reflect the fully developed status of commercial fisheries opportunities in most of the United States. But, Alaska has only recently begun to develop its commercial fishing resources beyond traditional species such as salmon and crab, and these federal budget reductions are limiting one of the greatest economic development opportunities in the country.

- * AFDF is now seeking a fisheries development endowment to ensure that Alaska can continue to reap economic benefit from successful research and development, and to ensure that such development projects remain within the control of Alaskan fishermen and processors, and the citizens of Alaska, and are not controlled by the whims of federal funding and/or national politics.

- * Fisheries make up Alaska's second most important private industry, and its largest private employer. AFDF has contributed, directly and indirectly, to the growth, stability and competitiveness of this industry. Alaska cannot afford to allow such an effective force to be lost due to a lack of federal fisheries funding priorities.

Why Doesn't Industry Pay For The Endowment?

- * Industry already provides more than \$350,000 dollars each year to the operations and projects of the Foundation.

- * The Foundation is also soliciting endowment funds from private industry and already has made a deposit to the endowment.

- * The benefits of high risk industry research and development accrue to all sectors of Alaska and is therefore an investment within the purview of State expenditures.



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 486-3473 • 405-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Representative David Finkelstein
Chairman
House Labor and Commerce Committee

FROM: Senator Fred F. Zharoff

DATE: May 6, 1992

RE: CS For Senate Bill 345 (Finance) - "An Act relating to the commercial fisheries development endowment; and providing for an effective date."

BILL SUMMARY: CSSB 345 establishes a commercial fisheries development endowment in the Department of Revenue. The endowment would benefit the Alaska Fisheries Development Foundation.

The endowment would be managed and invested by the Division of Treasury. At the end of each fiscal year, AFDF would receive the earnings. The endowment would exist for a 10 year period. This would give the legislature the ability to review and reevaluate the state's fisheries research and development funding needs at that time.

The endowment would not be established without the passage of a separate appropriation bill.

FISCAL IMPACT: The Department of Revenue submitted a \$9,000 fiscal note to cover the endowment's administrative expenses. This is contingent on an appropriation for the endowment. The \$9,000 would be deducted from the endowment's earnings. The Department of Fish and Game submitted a zero fiscal note.

PREVIOUS ACTION: Moved out of the Senate Resources Committee on Feb. 12 (5 DP). Moved out of the Senate Finance Committee on April 29 (4 DP, 1 NR). Passed the State Senate 19-0 on May 5.

BACKGROUND INFORMATION: The Alaska Fisheries Development Foundation was founded in 1978 and has operated primarily on federal Saltonstall-Kennedy fisheries development funds made available through a national competitive grant program. These funds were used for a variety of fisheries development projects, including a surimi demonstration project that led

directly to the establishment of a new shorebased industry in Alaska.

Due to changing federal budget priorities, the S-K funds (from tariffs on imported fisheries products) have been increasingly siphoned off to fund National Marine Fisheries Service administrative functions. The grant program has been reduced from \$7-9 million available throughout the 1980's to \$3.4 million available in federal fiscal year 1992 to \$500,000 available for federal fiscal year 1993.

AFDF -- if it is to continue to provide benefits to the people who live and work in Alaska -- must find a new source of funding.

The advantages of the endowment are that it provides AFDF with an annual source of funding, and it allows the state to retain control of the money and to monitor AFDF's efforts. AFDF also would conduct a fund raising effort to establish its own private endowment.

ATTACHED BACKUP INFORMATION:

1. Sectional analysis.
2. Department of Revenue fiscal note.
2. Department of Fish and Game fiscal note.
3. Letter of support from Mr. Carl Rosier, commissioner of the Department of Fish and Game.
4. Letter from Mr. Ed Crane, president of the Alaska Commercial Fishing and Agricultural Bank.
5. Resolution from the Kodiak Chamber of Commerce.
6. AFDF fact sheet.



SENATOR FRED F. ZHAROFF

ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

1

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

SECTIONAL ANALYSIS

CS For Senate Bill No. 345 (Finance)

"An Act relating to the commercial fisheries development endowment; and providing for an effective date."

SECTION 1

FINDINGS.

Explains the bill's intent and background.

SECTION 2

Sec. 37.14.350. COMMERCIAL FISHERIES DEVELOPMENT ENDOWMENT ESTABLISHED.

- (a) Establishes the commercial fisheries development endowment in the Department of Revenue as a separate endowment trust fund of the state in order to benefit the Alaska Fisheries Development Foundation. Explains the purpose of the endowment.
- (b) Requires the commissioner of revenue to determine the net income of the endowment and, in doing so, preserve the distinction between principal and income.

Sec. 37.14.360. ENDOWMENT UTILIZATION.

- (a) Requires retention of gains and losses in the endowment principal.
- (b) Allows for two uses of the endowment income. These are commercial fisheries development research projects and the department's expenses in administering the endowment.
- (c) Requires unexpended net income to be invested until paid or expended.

Sec. 37.14.370. POWERS AND DUTIES OF THE COMMISSIONER OF REVENUE.

Lists the commissioner's responsibilities in managing the endowment.

Sec. 37.14.380. DUTIES OF THE FOUNDATION.

- (a) Requires the foundation to provide copies of annual reports and financial audits to the commissioner of revenue and the legislature by Jan. 15 of each year.
- (b) Authorizes the legislative auditor to have access to foundation records.

Sec. 37.14.390. DEFINITIONS.

Defines "department", "endowment", and "foundation".

SECTION 3

- (a) Sunset clause, effective July 2, 2003.
- (b) Requires the endowment principal, upon repeal of this statute, to be deposited into the state general fund.

SECTION 4

Immediate effective date.

FISCAL NOTE

2

STATE OF ALASKA
992 LEGISLATIVE SESSION

BILL NO. CSSB 345

Revision Date: 4/24/92

Department Affected: Revenue

Title: An act relating to the commercial fisheries develop-
ment endowment; and providing for an effective date.

BRU: Operations

Component: Treasury Management

Sponsor: Senator Zharoff

Component Serial No.

Requestor: Senate Finance Committee

0	1	2	1
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	3.0	3.0	3.0	3.0	3.0	3.0
TRAVEL						
CONTRACTUAL	6.0	6.0	6.0	6.0	6.0	6.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	9.0	9.0	9.0	9.0	9.0	9.0

CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND/Unrestricted						
FEDERAL FUNDS						
OTHER	9.0	9.0	9.0	9.0	9.0	9.0
TOTAL	9.0	9.0	9.0	9.0	9.0	9.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Impact of current year impact: None

ANALYSIS: The 6.0 expenditure in total operating costs is the basic contractual costs for a trust managed by the Treasury Division. Contractual costs would consist of internal investment management, accounting and custodial services. Future cost increases are dependent on the asset growth of the trust fund from contributions and market gains.

Prepared by: Brian C. Andrews, Deputy Commissioner Phone: 2300

Division: Treasury Date: April 24, 1992

Approved by Commissioner: [Signature]

Account: Revenue

Contribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 345 and SB 346

Revision Date: 1/27/92 Department Affected: Fish and Game
 Title: Commercial Fisheries Development BRU: Commercial Fisheries
 Endowments: _____ Component: Commercial Fisheries
 Sponsor: Senator Zharoff
 Requestor: Senate Resources Committee COMPONENT SERIAL NO.

4	5	9
---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
-------------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Bob Clasby Phone: 465-4210
 Division: Commercial Fisheries Date: 1/27/92
 Approved by Commissioner: Cliff R. Rainey
 Agency: Dept. of Fish and Game Date: 1/29/92

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

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

February 19, 1992

RECEIVED FEB 25 1992

4

The Honorable Jay Kerttula
and Pat Pourchot
Co-Chairs
Senate Finance Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senators Kerttula and Pourchot:

I believe that the effort to develop new products for Alaskan salmon is such an important part of a successful marketing strategy for Alaskan salmon, that I wish to offer my support for Senate Bills 345 and 346.

The development of new product forms for salmon has been a topic of interest for many years. The greatest attention that the subject received in recent years was during the aftermath of the botulism incident in the early 1980s, which resulted in a massive disruption of traditional markets for canned salmon.

New product development is a high risk endeavor. Many times, the most promising ideas do not develop the way their promoters hope they will. An example of this was the development of a skinless and boneless form of canned salmon. While this idea seemed initially to have great promise, the industry has had only limited success with this product form.

In order to succeed in the development of new product forms, a coordinated and sustained effort is required. It would be wonderful if the salmon industry recovered from its current crisis with the speed that the industry recovered from the botulism incident a decade ago, but I question this occurring. If I am proven wrong on the recovery issue, the efforts to develop new products and new consumers for Alaskan salmon still must continue.

Senate Bills 345 and 346 create a long needed instrument that can provide the type of sustained, coordinated, and successful effort that Alaska's salmon industry needs. The Alaska Fisheries Development Foundation (AFDF) is guided by an industry board that brings broad experience in food production and marketing to AFDF's program. AFDF has been successful with similar product development efforts for other species. They are the right choice to tackle this large task.

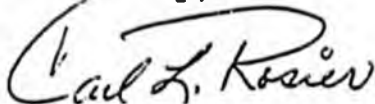
Hon. Kerttula and Pourchot

-2-

February 19, 1992

Funding for this project is, of course, problematic. With state revenues falling from both declining salmon and oil prices, the job of finding the money for this or any other new project, no matter how commendable, is a very difficult problem. Your consideration and interest in this area of industry support is appreciated.

Sincerely,



Carl L. Rosier
Commissioner

✓cc: Senator Fred Zharoff



2550 Denali Street, Suite 1201
P. O. Box 92070
Anchorage, Alaska 99509-2070
(907) 276-2007

January 23, 1992


5
RECEIVED JAN 27 1992

Senator Fred F. Zharoff
Alaska State Legislature
Post Office Box V
Juneau, Alaska 99811

Dear Senator Zharoff,

This is to express strong personal and institutional support for the substance and purpose of Senate Bill 345 (and related SB 346). The Alaska Fisheries Development Foundation seems to be one of the most highly regarded and widely respected organizations in and around the Alaska seafood industry. Although there has never been occasion for a direct relationship between CFAB and AFDF, we have had many opportunities to observe the relevance of its efforts, the professionalism of its staff and structure, and the broad and positive impacts of its results. We believe it is an effective and efficient organization. Please advise us if there is an opportunity to assist your efforts in connection with this legislation.

Very truly yours,


Edward E. Crane
President

EEC:dav

JAN-28-91 MON 3:21 BURCH BROTHERS

P. 1

6

KODIAK CHAMBER OF COMMERCE
01-01-91

WHEREAS the Alaska Fisheries Development Foundation was established in 1978 by the Alaska seafood industry to develop the commercial fisheries resources of Alaska; and

WHEREAS previously the seafood industry did not work together to develop new opportunities and, because of the small size of most companies, was not effectively pursuing opportunities; and

WHEREAS the industry recognized the value of collectively working to identify and carry out research and development projects to further the industry; and

WHEREAS the Alaska Fisheries Development Foundation has used its industry base to identify, fund, manage, and complete projects which have resulted in millions of metric tons of new seafood products from Alaska; and

WHEREAS the results and benefits from these efforts are available to any company or individual who requests the information, unlike previous limited internal efforts by private interests; and

WHEREAS these projects have benefited fishermen, processors, and the support sectors of the seafood industry throughout Alaska; and

WHEREAS the Foundation has successfully brought to the State more than \$13 million in industry research funds; and

WHEREAS specific projects have resulted in the development of the domestic surimi industry, flatfish fillet processing, minced pink salmon production, innovative seafood by-product processing methods, vessel harvesting modifications, and improved quality control for our seafood harvesters and processors; and

WHEREAS in Alaska six shore-based and at least fifteen vessel-based surimi processing plants are in operation with employees numbering in the thousands; and

WHEREAS many of the Foundation's projects have resulted in expanding and extending the production of seafood products resulting in more employment and a longer production season; and

JAN-28-91 MON 3:24 BURCH BROTHERS

P. 6

WHEREAS there are many more opportunities for the seafood industry to expand to benefit Alaska; and

WHEREAS the industry directed methods developed and perfected by the Foundation to fully develop opportunities have been proven repeatedly over the past thirteen years; and

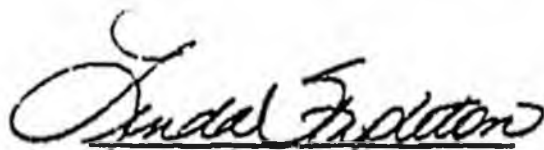
WHEREAS a fully endowed administration for fisheries development would further the goals of fisheries development in Alaska;

NOW THEREFORE BE IT RESOLVED that the Kodiak Chamber of Commerce expresses its appreciation for the results of past Foundation development projects; and be it

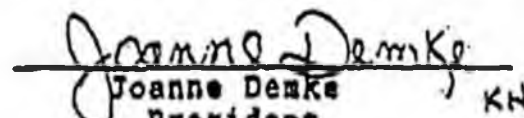
FURTHER RESOLVED that the Kodiak Chamber of Commerce respectfully requests the Governor and legislature of Alaska to support funding an administration endowment for the Alaska Fisheries Development Foundation in the amount of five million dollars.

Copies of this resolution shall be sent to the Governor and legislators of Alaska.

Signed this 22 day of January, 1991


 Linda Stapleton
 Secretary to the Board

KODIAK CHAMBER OF COMMERCE


 Joanne Denke
 President KN



ALASKA FISHERIES DEVELOPMENT FOUNDATION ENDOWMENT

What Is The Foundation And What Is Its Goal?

* The Alaska Fisheries Development Foundation (AFDF) is a private non-profit corporation formed in 1978 by the Alaska seafood industry to satisfy the research and development needs of Alaska's commercial fishing industry.

* The Foundation acts as a catalyst for all segments of the seafood industry, including the scientific and research communities, to demonstrate new technologies and ideas for the benefit of Alaskan seafood producers, users, consumers and fishery managers.

What Does The Foundation Do?

* AFDF conceptualizes and acquires funding for demonstration projects which allow the Alaskan seafood industry to test and apply new technologies in plants or aboard vessels that expand opportunities, increase yields and make better use of Alaska's fish resources. These are projects that few companies could afford or have the ability to conduct on their own.

* AFDF demonstration projects have helped Alaskan fishermen and processors develop new harvesting and processing techniques, create new markets for seafood products, experiment with new product forms, create economic opportunities for coastal communities, reduce fisheries waste, increase yields and pioneer technologies that return the maximum benefit to Alaskans and the people of the United States.

* In its first 14 years, AFDF brought over \$13 million in federal Saltonstall-Kennedy research and development funds to Alaska, and conducted hundreds of successful projects--many of which brought multi-million-dollar benefits to the Alaska seafood industry and to seafood-dependent communities.

What Has AFDF Accomplished?

* In the past, AFDF projects have:

- Pioneered surimi and pollock production technology on shore in Alaska, resulting in a \$500 million/year industry in Alaska;

- Developed a whole new fishery based on Alaskan flatfish species, a bountiful resource that was not commercially used before AFDF'S project. In the first three years since AFDF's flatfish development project, commercial flatfish fillet production has already brought \$12 million/year into Alaska's economy and has not yet realized its full potential;

- Led ground-breaking research into surimi production from arrowtooth flounder, a development that could lead to a second raw material source for surimi in Alaska;

- Spearheaded the development of new, profitable uses for

SB

375



Alaska State Legislature

Please enter into the record my testimony to the

House Resources

committee on

HR 478, 429+375

bill/subject

dated

committee name

21 April 92

I came to testify in support
of HR 478, 429, and 375 -
however the meeting did not
begin on time, and I did not
receive time to testify.

I felt treated with contempt by
the AK state govt.

Signed:

Jahmi Wayne Pruitt
Testifier

Representing (Optional)

Box 73223 FBKS, AK 99707

Address

452-2043

Phone No.

Senator Lyman F. Hoffman

Alaska State Senate
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4453



MEMORANDUM

TO: Representative Cliff Davidson
Chairman, House Resources Committee

FROM: Senator Lyman Hoffman *L. Hoffman*

DATE: April 15, 1992

RE: Request for public hearing, SB 375

I respectfully request your favorable consideration to schedule Senate Bill 375, "An Act prohibiting certain law enforcement officers from holding big game guide-outfitting licenses", for a House State Affairs Committee public hearing.

This legislation passed out of the Senate State Affairs Committee with one amendment requested by Division of Occupational Licensing, and the Senate Resources Committee with two technical amendments, both committees reported out all "do pass". The vote on the Senate floor was unanimous.

The House State Affairs Committee considered this legislation today and added one amendment on page one, line 9, after "assistant guide-outfitter license". The bill was reported out with all "do pass".

I have introduced this legislation based on the audit recommendations that an appearance of a conflict of interest between guiding and the state's enforcement officers currently exists. I am available to testify on this legislation and to answer your committee's questions concerning this issue.

Please find attached, a complete bill backup as presented to the Senate committees of referral, if there are any questions or concerns that you may have, please call me at your earliest convenience and opportunity.

Thank you.

INDEX

- 1) Memorandum requests
- 2) All versions of Senate Bill 375
- 3) SB 375 sectional analysis
- 4) fiscal note
- 5) audit summary
- 6) complete audit
(note: department responses are pages 21-29)
- 7) ethics/standards of professional conduct (Fish&Game)
- 8) outside employment policy (Fish&Wildlife Protection)
- 9) Ombudsman suggestions
- 10) Standing Committee Reports



Senator Lyman F. Hoffman

Alaska State Senate
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4453

- (District 11
- Adak
- Alaina
- Alitka
- Arctic Village
- Barrow
- Beaver
- Bethel
- Bettles
- Bird Creek
- Chalkyitsik
- Chitina
- Chuathocuk
- Crooked Creek
- Etka
- Evansville
- Fort Yukon
- Galena
- Goodnews Bay
- Grayling
- Holy Cross
- Hughes
- Huslia
- Kaiska
- Kaliak
- Kasigliuk
- Kipnuk
- Kongigan
- Koyukuk
- Kwethluk
- (Kwiglingok
- Le Mercurino
- Lower Kalskag
- Manley Hot Springs
- Marshall
- McGrath
- Mekonguk
- Minto
- Mountain Village
- Nadikak
- Napakuk
- Nawick
- Nightmute
- Nikola
- Nulato
- Nunapituk
- Oscarville
- Pilot Station
- Pitkas Point
- Platinum
- Quinnagak
- Rampart
- Red Devil
- Ruby
- Russian Mission
- Saga
- Sedukte
- St. Mary's
- Stevens Village
- Stony River
- Talona
- Tarana
- Telida
- (Toksook Bay
- Ukpea
- Umanak
- Upernivik
- Vanessa
- Wainwright

MEMORANDUM

TO: Senator Fred Zharoff
Chairman, Rules Committee

FROM: Senator Lyman Hoffman

DATE: March 30, 1992

RE: Request for calendar scheduling for SB 375

I respectfully request your favorable consideration to schedule Senate Bill 375, "An Act prohibiting certain law enforcement officers from holding big game guide-outfitting licenses", for the Senate floor calendar.

This legislation passed out of the Senate State Affairs Committee with one amendment requested by Division of Occupational Licensing, and the Senate Resources Committee with two technical amendments, both committees reported out all "do pass".

The complete bill backup was presented to the first committee of referral, if there are any questions or concerns that you may have, please call me at your earliest convenience and opportunity.

Thank you.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

January 24, 1992

SUBJECT: Sectional Summary: Draft bill prohibiting state troopers and fish and wildlife protection personnel from holding big game guide-outfitting licenses (Work Order No. 7-LS1809)

TO: Representative Lyman Hoffman

FROM: George Utermohle, *GU*
Legislative Counsel

This memorandum is a sectional summary of a draft bill that prohibits state troopers and fish and wildlife protection personnel from concurrently holding active big game guide-outfitting licenses.

The bill adds a new section to AS 08.54, the big game guide-outfitting statutes. Subsection (a) prohibits state troopers and fish and wildlife protection personnel of the Department of Public Safety from holding an active guide-outfitter license, marine mammal guide-outfitter license, class-A assistant guide-outfitter license, or assistant guide-outfitter license. This subsection would prevent all state troopers and fish and wildlife protection personnel from acquiring guide-outfitter licenses after the effective date of the bill.

Subsection (b) suspends any guide-outfitter license held by a person who becomes employed by the Department of Public Safety as a state trooper and fish and wildlife protection officer after the effective date of the bill. Many persons who become guide-outfitters are also well-suited for employment as state troopers and fish and wildlife protection officers and can provide valuable services to the Department of Public Safety and the state as law enforcement officers. This provision allows the Department of Public Safety to hire such persons as state troopers and fish and wildlife protection personnel while preventing these persons from being actively engaged in guide-outfitting by suspending their guide-outfitting licenses.

If I may be of further assistance, please advise.

GU:pl:gc
92-038.plm
Enclosure

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 375

Revision Date: _____ Department Affected: Public Safety
 Title: "An Act prohibiting certain law enforcement officers from holding...licenses" BRU: Fish & Wildlife Protection
 Component: Enforcement & ISU
 Sponsor: Senator Hoffman
 Requestor: Senate State Affairs COMPONENT SERIAL NO.

4	9	0
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact is anticipated.

Prepared By: Captain Conrad G. Seibel Phone: 269.5509
 Division: Fish & Wildlife Protection Date: 2/1/92
 Approved by Commissioner: *[Signature]* for Richard L. Burton
 Agency: Department of Public Safety Date: 2/3/92

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box W
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

October 11, 1991

Summary of: A Report on the Department of Commerce and Economic Development, and the Department of Public Safety, Big Game Commercial Services Board, Consistency of Disciplinary Penalties, October 1, 1991.

PURPOSE OF THE REPORT

In accordance with Title 24 of the Alaska Statutes, and a special request of the Legislative Budget and Audit Committee, we conducted an audit of the Big Game Commercial Services Board (BGCSB). Our audit had two objectives:

1. Determine if the board has been consistent in applying sanctions such as license suspensions and revocations for similar violations of professional standards as set out in statute and regulations.
2. Review the role and impact that the Division of Fish and Wildlife Protection within the Department of Public Safety has had on the license disciplinary process, and assess if that agency has acted consistently and objectively.

REPORT CONCLUSIONS

Penalties involving an individual's guide license may be imposed by the courts prior to any sanction imposed by BGCSB. When this happens, the board's disciplinary action essentially ratifies the decision of the courts. Because of differing circumstances involved with each case, the penalties imposed by the courts for similar offenses may vary. Such differences, while within the latitude granted the courts in imposing sentences, often makes BGCSB appear inconsistent in the actions it takes against licensees. Aside from these apparent differing sanctions, we found that, with one minor exception, BGCSB has been consistent in the penalties and sanctions it has imposed on various license holders.

FINDINGS AND RECOMMENDATIONS

1. The Division of Fish and Wildlife Protection (FWP) should emphasize and strictly enforce its policies prohibiting participation in the guiding industry.

In December 1984, then Department of Public Safety Commissioner Sundberg first issued a policy prohibiting outside employment as guides for all departmental personnel. Since that time, the department's policy has not always been effectively enforced. In the past, supervisory management did not believe that guiding was necessarily a conflict with enforcement despite the policy set by upper management. Accordingly, there appears to have been little effort to enforce the policy, and it has been reported that supervisors actually encouraged officers to work in the guiding industry.

By failing to be sure that the policy was effectively enforced, the department allowed its investigatory methods and approaches to be called into question. Recently, the department redoubled its efforts to enforce the policy, and has clarified the policy to be consistent with the requirements of the Executive Branch Ethics Act.

2. DPS should conduct an internal review regarding the basis and procedures involved in developing undercover law enforcement actions on guiding and game violations.

According to the director of FWP, most game law violations are detected and prosecuted through the use of undercover police operations. The director acknowledged that there is a great deal of discretion allowed over who to "target" for an undercover operation. The officer most prominently involved working as an assistant guide was in the position to influence and use his discretion over who would and would not be subject to an undercover operation.

At a minimum, these circumstances give the appearance that this individual could have suppressed information regarding the activities of licensed guides with which he was associated, while at the same time making decisions to target others who were competitors of his guide associates. We believe it is important that FWP satisfy the guiding public that undercover operations are appropriately directed and are carried out on the basis of sufficient and reliable criteria.

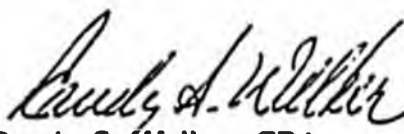
AUDITOR'S COMMENTS

In our view, BGCSB should be made aware of the situation involving FWP officers and their guiding activities in violation of departmental policy. In one particular case, an officer testified in court that he had acted as an unpaid assistant guide. Since a key part of the statutory definition of guiding involves compensation, BGCSB should carefully scrutinize any assistant guiding experience claimed by this individual if, and when, he applies to be licensed as a guide.

not have been acting unreasonably in asserting that he had not received "compensation," while at the same time seeking to rely on that experience as an assistant guide in attempting to become qualified as a registered guide . . .

The primary purpose of raising the point in the audit report was to more fully substantiate our audit evidence that the Fish and Wildlife Protection officer was on record as serving as an assistant guide. The issue of compensation and the apparent contradiction with court testimony was a secondary issue that had been raised by the investigator at the Division of Occupational Licensing at the time of the original internal investigation. In our review of the records and documents related to that investigation, we found no evidence that this particular issue had been satisfactorily resolved or analyzed. In view of DOLaw's response this issue has now been formally addressed.

The central point of our discussion remains unaffected. To restate, the Big Game Commercial Services Board (BGCSB) has a vital interest in maintaining the integrity and independence of the investigations involved in the licensing disciplinary process. The board should do all it can within its statutory powers to strengthen and improve that process. Accordingly, BGCSB should carefully consider granting guide licenses to individuals who gained necessary, qualifying experience when they were employed in positions involving either real or apparent conflicts of interest.


Randy S. Welker, CPA
Legislative Auditor

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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Juneau, AK 99811-3300
(907) 465-3830
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October 8, 1991

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DEPARTMENT OF PUBLIC SAFETY
BIG GAME COMMERCIAL SERVICES BOARD
CONSISTENCY OF DISCIPLINARY PENALTIES

October 1, 1991

08-4402-91

This report reviews the disciplinary actions taken by the Big-Game Commercial Services Board since its first meeting in December 1989. The board was created as part of a comprehensive 1989 revision of the statutes related to the licensing of professional hunting guides. The board's primary disciplinary sanction is the authority to suspend or revoke a guide's license.

The audit was conducted in accordance with generally accepted government auditing standards. In this report we discuss our analysis and review of the board's consistency in assessing licensing sanctions. We also discuss the large role that the Division of Fish and Wildlife Protection within the Department of Public Safety plays in the investigations and hearings involved in the disciplinary process.

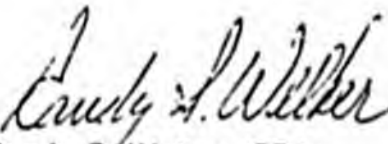

Randy S. Welker, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

In accordance with Title 24 of the Alaska Statutes, and a special request of the Legislative Budget and Audit Committee, we conducted an audit of the Big Game Commercial Services Board (BGCSB). Our audit had two objectives:

1. Determine if the board has been consistent in applying sanctions such as license suspensions and revocations for similar violations of professional standards as set out in statute and regulations.
2. Review the role and impact that the Division of Fish and Wildlife Protection within the Department of Public Safety has had on the license disciplinary process, and assess if that agency has acted consistently and objectively.

Scope and Methodology

The period covered by our audit review involves disciplinary actions taken by BGCSB since its inception in December 1989. Many of the licensing sanctions taken by the board involved cases and allegations that happened as long ago as 1988.

In order to evaluate the consistency of the board's licensing sanctions, we reviewed and considered the following documents:

1. Minutes of all BGCSB meetings, with particular emphasis on the discussion and voting involving proposed hearing officer decisions regarding sanctions against licensees.
2. All hearing officer rulings and proposed decisions submitted to BGCSB.
3. Investigative files at the Division of Occupation Licensing related to the cases that resulted in license sanctions.
4. Transcripts of court testimony of selected disciplinary cases that were adjudicated prior to being considered by BGCSB.
5. Documents provided by individuals disciplined by BGCSB related to their cases.
6. Ombudsman investigation reports and correspondence with the Department of Public Safety and the Department of Commerce and Economic Development.
7. Guide licensing files and files of applicants for guide licenses maintained by the Division of Occupational Licensing.

We also interviewed individuals involved in the disciplinary process including the following:

1. Individual guides or assistant guides that had their licenses suspended or revoked.
2. Division of Occupational Licensing officials and personnel responsible for assisting BGCSB in administering its responsibilities.
3. The director of the Division of Fish and Wildlife Protection, in addition to other officials in the Department of Public Safety.

ORGANIZATION AND FUNCTION

In 1989 the Legislature extensively revised the statutes (Chapter 37, SLA 1989) related to the licensing and regulation of guiding, outfitting, transportation, and other commercial services provided to big game hunters. These extensive revisions were brought on by conflict and confusion within the guiding industry. Guides complained that individuals, calling themselves either "outfitters" or "transporters" were providing unregulated guiding services. Outfitters and transporters claimed that they were not guiding, that their activities were legal, and that the guides were acting to protect their exclusivity and control rather than out of concern for providing better regulation of the industry.

The legislature acted to restore stability and provide comprehensive regulation of all of the professions. The legislature broadened the scope of the pertinent statutes to provide regulatory oversight of both outfitters and transporters in addition to guides. Part of this extensive restructuring was the establishment of the Big Game Commercial Services Board (BGCSB), which replaced its forerunner, the Guide Licensing and Control Board and its more circumscribed regulatory scope.

Big Game Commercial Services Board

The new nine member BGCSB is made up of two licensed guide-outfitters (the new, broader classification for guides and outfitters set out under the revised statutes), two licensed transporters, a commercial use permit holder, a representative from the Board of Game, a representative of Native landholders, and two members from the general public.

The board is responsible for:

1. Administering the licensing examinations for the various licenses it issues.
2. Establishing qualifications necessary for the various licenses it issues.
3. Establishing performance standards for providers of big game commercial services, and regulating the activities of those providers.
4. Compiling and publishing an annual register of service providers in good standing.
5. Prohibiting big game commercial service activities that are "unsportsmanlike, unethical, unsafe, against principles of game conservation, degrading to a profession [regulated by the board], or that adversely affect natural resources."
6. Revoking, suspending, or denying renewal of various licenses or permits it issues, following the requirements of due process.
7. Issuing transporter licenses.

8. Issuing commercial use permits.
9. Registering base camps and facilities used by individuals regulated by the board.

The statutes require BGCSB to meet at least twice annually, specifying that one of the meetings must be in Anchorage and the other "in another municipality."

Division of Occupational Licensing

The Division of Occupational Licensing within the Department of Commerce and Economic Development (DCED) provides administrative assistance and coordination to 21 boards and commissions. These boards and commissions are responsible for establishing qualifications for entry into various professions, proposing legislative amendments, adopting regulations, developing examinations, and disciplining licensed professionals for incompetent, unethical, or illegal behavior.

The division also has a staff of investigators who are responsible for investigating complaints and allegations of license holders violating the standards, ethics, or prohibitions established for the various professions licensed by the State.

DCED employs hearing officers who are responsible for conducting the formal hearings required by the Administrative Procedures Act. These hearings, necessary to the provision of due process, are a central aspect of the license sanctioning process.

Fish and Wildlife Protection:

The Division of Fish and Wildlife Protection (FWP) is within the Department of Public Safety. The division is responsible for enforcing various statutes and regulations adopted to protect fish and game resources. FWP officers patrol the State by road, air, and waterway. They have the authority to issue citations, make arrests, seize fish and game taken illegally, and seize equipment used to commit violations.

BACKGROUND INFORMATION

This section discusses three aspects of guiding and licensing which relate to the issues discussed in other sections of this report. The three aspects discussed are: (1) the statutory requirements to be licensed as a guide, (2) the role that the Fish and Wildlife Protection (FWP) Division plays in investigating and disciplining guides, and (3) the investigation and hearing process followed by the Big Game Commercial Services Board (BGCSB) in disciplining guides.

GUIDE LICENSING REQUIREMENTS

To be a guide, an individual must work as an assistant

Under AS 08.54.350(a) an individual must meet 12 statutory requirements in order to receive a guide license. In addition to passing the qualification examinations prepared and administered by the board, two other key requirements are that:

1. the individual has been licensed and active as an assistant guide in three separate years; and
2. the individual has obtained written recommendations from six big game hunters, two for each year of the three most recent years that the individual was active as an assistant guide.

To be an assistant guide, the requirements are less numerous and demanding. Essentially, an applicant must be at least 18 years old, pass a required examination, have been a hunter two of the last five years, be in sound physical condition, and demonstrate a practical knowledge of first aid.

LAW ENFORCEMENT AND COURTS AFFECT GUIDE PENALTIES

There is a close relationship between law enforcement and the disciplinary process of guiding licensees. Disciplinary actions against licensees have historically involved either violation of game laws or guiding without a license. Up until the early 1980s this close relationship was administratively recognized when the Department of Public Safety (DPS) was responsible for administering the guide licensing system.

This relationship is also reflected in the guide licensing statutes. The statutes related to penalties for licensees specifically list four game violations that can result in license revocation: (1) waste of a wild food animal, (2) hunting on the same day airborne, (3) hunting during a closed hunting season, and (4) hunting in areas closed by state or federal regulation.

Because of this close relationship, the licensing board, when taking disciplinary action against license holders, is often in a situation of essentially ratifying a decision made by the courts. The courts often direct that action be taken against an individual's license as part of sentencing. Both BGCSB and its predecessor, the Guide Licensing and Control Board, have disciplined licensees following their arrest and conviction (although conviction is not always required, see inset at right) for game offenses.

FWP investigations affect licensees

The relationship with law enforcement also results in DPS officers (Fish and Wildlife Protection officers, and to a lesser extent the Alaska State Troopers) playing a central part in the investigations and hearings involved in the licensing process. Likewise, the efforts of federal game officers, are also relied on in assessing penalties against licensees.

Investigators at the Division of Occupational Licensing still do play a role in developing accusations involving licensees. However, most of the sanctions taken against licensees are primarily from the arrests made by FWP and Federal game officers. As a result, the manner in which these organizations conduct investigations and develop cases has a direct impact on how effective BGCSB is, and how objective it is perceived to be, in policing its licensees.

ADMINISTRATIVE PROCEDURES ACT

The procedures followed by the Division of Occupational Licensing and BGCSB in disciplining guides are illustrated by the Investigation and Administrative Hearing flowcharts on opposite and following pages respectively. Investigation (typically started by receipt of a notice of judgment, if a guide has been convicted in court) results in an administrative hearing or case closure. Administrative hearing begins with an accusation drafted by the Division of Occupational Licensing and reviewed by the attorney general.

GUIDES COMPLAIN OF "DOUBLE JEOPARDY"

Even when guides are found not guilty by the courts, they may still be subject to licensing penalties from BGCSB. Some guides reported to us that they felt this represented "double jeopardy" that is, being tried twice for the same offense.

The Department of Law's position is that the criminal prosecution and licensing action under the administrative procedures act are two separate judicial processes. Each process requires a different standard of proof.

In a criminal action before the courts, the State must prove guilt "beyond a reasonable doubt." At an administrative hearing the State must only show that an individual is guilty of the accusation by a "preponderance of evidence."

On occasion, the State's "case" is strong enough to meet the preponderance of evidence standard, but not strong enough for the reasonable doubt standard. In those instances, guides often face the same evidence, the same testimony of FWP officers, and the same attorney arguments. As a result, they may find themselves facing a licensing penalty despite being found "not guilty" in court.

Investigation

Complaint received

Case opened

Case declined
 (lack of jurisdiction,
 frivolous)

Case Closed

Investigation (may involve review
 by board member)

Litigation

Summary suspension*
(AS 08.01.075(c):
 "Licensee poses a clear
 and immediate threat
 to the public health and
 safety.")

Closure*
(Lack of sufficient evidence
 or no violation found)

Case Closed

Accusation
(Division drafts accusation and
 sends to AG)

Memorandum of Agreement*
 Case closed**

Accusation accepted, filed,
 and sent to respondent

Accusation rejected
 by AG Case closed*

Back to Investigation

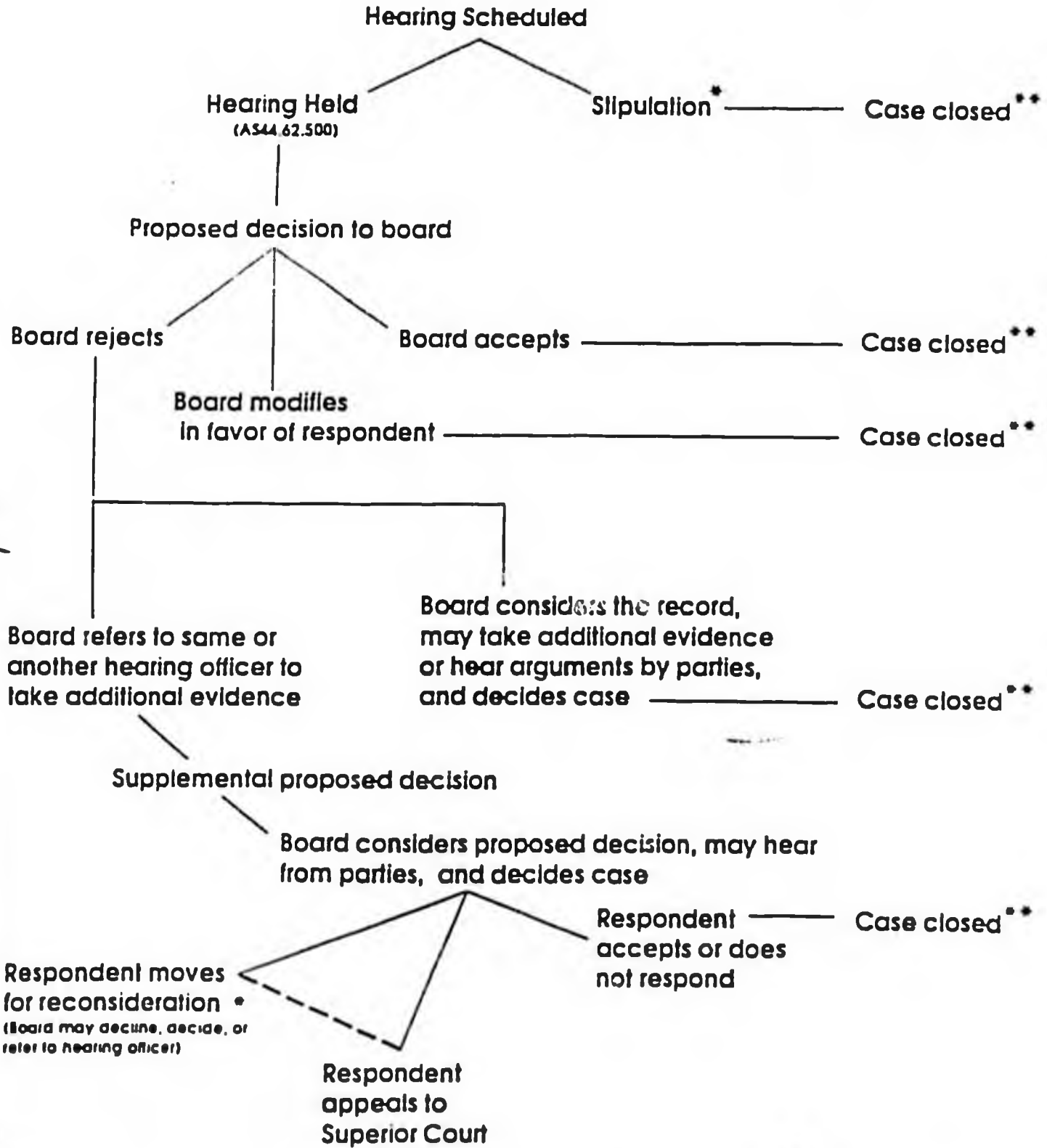
Respondent requests
 hearing

Respondent doesn't
 respond: Default hearing Case closed*/**

* Respondent petitions for reinstatement or reduction of penalty after one year

** Board approval necessary

Administrative Hearing



* Respondent petitions for reinstatement or reduction of penalty after one year

* Board approval necessary

Once an accusation has been accepted by the attorney general, it is sent to the guide or "respondent" who then can request a formal hearing. If the individual does not respond to the accusation, a default hearing is held and a proposed decision is prepared for board consideration and action.

The respondent may request a hearing, but even after it is scheduled the guide may contact the Department of Law and work out an agreement. This agreement, called a stipulation, is essentially a negotiated settlement between the respondent and the Department of Law which sets out various restrictions and penalties.

If a hearing is held, the hearing officer listens to the evidence presented by both the State and the respondent. The hearing officer then issues a proposed decision to the board. The board may in turn reject, accept, or modify the decision to reduce the recommended penalties.

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REPORT CONCLUSIONS

As discussed in the Background Information section, penalties involving an individual's guide license may be imposed by the courts prior to any sanction imposed by the Big Game Commercial Services Board (BGCSB). When this happens, the board's disciplinary action essentially ratifies the decision of the courts. Because of differing circumstances involved with each case, the penalties imposed by the courts for similar offenses may vary. Such differences, while within the latitude granted the courts in imposing sentences, often makes BGCSB appear inconsistent in the actions it takes against licensees. Aside from these apparent differing sanctions, we found that, with one exception (see inset below) BGCSB has been consistent in the penalties and sanctions it has imposed on various license holders.

Results of Review

Since December 1989, BGCSB has taken 17 licensing sanction actions. Of those actions, two have gone completely through the administrative hearing process. In both instances the board adopted the hearing officer decisions unanimously.

In five of the eleven actions where licenses were revoked or suspended, the penalty imposed was directed by the courts as a condition of sentencing. In two instances the courts made recommendations regarding license sanctions, but the board chose to impose a more severe penalty. In the four remaining cases, the courts made no recommendation, but the board either suspended or revoked the license.

ONE INSTANCE WHERE BGCSB ACTED INCONSISTENTLY

Two guides both pled no contest to charges of unlawful possession or transportation of game. In both their cases, the courts recommended probation for two years. For one guide, BGCSB followed the court's recommendation. No action was taken against his license but he was put on a two-year probation period.

In contrast, the other guide was prohibited from obtaining a license for three years (his license had expired after the violation) and was placed on probation for two years if he obtained a new license when again eligible.

We found no documented evidence why these two apparently similar situations were treated differently.

Stipulated agreements contained different sanctions

Two assistant guides were both convicted of failure to salvage game. In both cases the court required each individual be denied licensure for two years. Subsequent to this court action the board reached stipulated agreements with both individuals. The board suspended one guide's license for 3½ years as part of her stipulation. The other guide, by contrast, received a 4 year suspension as part of his stipulation agreement.

It has been reported to us that when a stipulation agreement is being developed that the individual being disciplined is generally an active participant in the negotiation process. While it is unclear why there was a difference in the sanctions imposed, it would seem that the slight difference in sanctions is a result of the negotiating posture and success of the two respondents rather than any active decision on the part of BGCSB.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Division of Fish and Wildlife Protection (FWP) should emphasize and strictly enforce its policies prohibiting participation in the guiding industry.

In December 1984, then Department of Public Safety Commissioner Sundberg issued a policy prohibiting outside employment as guides for all departmental personnel. In a January 1985 memorandum he wrote in response to a FWP officer, he discussed the reasoning behind the policy. Commissioner Sundberg wrote the officer, who had asked that the policy be reconsidered, that

. . . I am convinced that a conflict of interest exists between guiding and enforcement. . . .

Also, the probability of risk to the officer's career and of embarrassing this agency is increased if we allow our personnel to become engaged in this activity. Public perception can be as harmful as an actual occurrence. A complaint, even if unfounded, could cost the Department thousands of dollars to investigate and create unfavorable publicity. . . .

Your request for reconsideration for outside employment as a guide is denied.

Supervisors did not support, and even contradicted, policy

Since 1984, the department's policy has not always been consistently enforced. In the past, supervisory management did not believe that guiding was necessarily a conflict with enforcement. Accordingly, there appears to have been little effort to enforce the policy, and it has been reported that supervisors actually encouraged officers to work in the guiding industry.

Although one officer in particular was widely known to work as an assistant guide, his evaluations did not reflect any concerns over this activity and the individual was even promoted from sergeant to lieutenant during this period.

The clearest reflection of this past attitude on the part of supervisory management can be found in the department's response to the 1988 ombudsman investigation (see discussion in inset on the next page). In response to the ombudsman's report involving an officer's guiding activities, the department stated that the individual had not violated departmental policy because he did not receive compensation. In defending this rather narrow perspective involving the interpretation of the policy, the department wrote that:

[Guiding] is not incompatible or in conflict with the proper discharge of official duties. We have assigned other members of this division to assist in guiding activities in a guide's camp to increase their knowledge of, and familiarity with, guiding operations. It actually makes them better in their enforcement work. . . .

In the case at hand [the department does not] think that there has been a violation so [we] have not passed the complaint on to any other authority. Furthermore we have gone beyond what I think is strictly required and prohibited the activity in question just to avoid the appearance of conflict.

FWP OFFICER CONTINUED TO GUIDE DESPITE DENIAL

The officer who was denied continued outside employment as a guide by Commissioner Sundberg, continued his guiding activities. According to records filed with the Division of Occupational Licensing, the officer guided during 1985, 1986, and 1987. His file included recommendations from hunters he accompanied in the field and evidence that he intended to apply for, and take, the guide licensing examination to be certified as a guide.

1988 Ombudsman Investigation

In September 1988, the Ombudsman investigated a complaint alleging that the officer involved had violated both departmental policy and Executive Branch Ethics Act prohibitions against outside employment that present a conflict of interest with official duties. In a December 1988 finding the ombudsman made a determination that the complaints lodged against the officer were partially justified.

In our view, these statements are not consistent with the intent of the original policy. Such a position by a middle-management DPS official is indicative of a past lax attitude by departmental supervisors regarding the policy. By failing to be sure both the spirit as well as the letter of the policy was enforced, the department allowed its investigatory methods and approaches to be called into question. Since its response to the ombudsman in December 1988, the department is beginning to recognize these past practices and attitudes as a problem.

Department recognizes importance of policy

By November 1990, DPS was taking compliance of the policy much more seriously. The department emphatically reprimanded an officer regarding his unpaid guiding activities. While acknowledging that unpaid assistant guiding may comply with the letter of the policy, the department clearly felt that the activities violated its spirit.

Additionally, DPS acknowledged that the requirements of the Executive Branch Ethics Act of 1986 made it clear that no employee may work in a situation that presents a conflict of interest, irrespective of whether or not they are paid for the work. The department acknowledged that the guiding activities caused the very accusations and allegations that the

policy was designed to avoid and was a source of embarrassment to DPS.

The tone and emphasis of this position represented a different attitude, that is consistent with the intent and philosophy behind the department's original policy. The department should reevaluate the current policy within the context of the Executive Branch Ethics Act, and clearly communicate both the letter and spirit of the prohibition on guiding to all affected personnel.

Recommendation No. 2

DPS should conduct an internal review regarding the basis and procedures involved in developing undercover law enforcement actions on guiding and game violations.

According to the director of FWP, most game law violations are detected and prosecuted through the use of undercover police operations. Our review of disciplinary actions taken against guides by the Big Game Commercial Services Board, tend to confirm this observation. Seven of the ten disciplinary actions reviewed used undercover operations to make the original arrest. The director acknowledged that there is a great deal of discretion allowed over who to "target" for an undercover operation. The officer most prominently involved working as an assistant guide was in the position to influence and use his discretion over who would and would not be subject to an undercover operation.

At a minimum, these circumstances give the appearance that this individual could suppress information regarding the activities of licensed guides with which he was associated, while at the same time making decisions to target others who were competitors of his guide associates. We believe it is important that FWP satisfy the guiding public that undercover operations are appropriately directed and are carried out on the basis of sufficient and reliable criteria.

COMPENSATION A KEY PART OF THE STATUTE'S DEFINITION OF GUIDING

It late 1988 it was DPS' position that the officer involved in allegations of guiding did not violate departmental policy because he did not receive compensation. If the officer did not receive compensation, it appears that he may have misled the Division of Occupational Licensing.

On application forms filed with that agency, the officer attested that he was indeed acting as an assistant guide, and submitted written documentation that he guided hunters under the supervision of a licensed guide. The officer also testified in court that he was not paid as an assistant guide.

AS 08.54.240 (3) defines guiding as:

accompanying or directing a hunter in the field, personally or through an assistant, for compensation, while the hunter or the person accompanying or directing the hunter spots, stalks, pursues, tracks, kills, or attempts to kill big game. . .

Under this definition, if the officer did not receive compensation, then it appears that representations made to the Division of Occupational Licensing were inaccurate.

As discussed in the Auditor's Comment section of this report, BGCSB should scrutinize any assistant guiding experience claimed by this individual, in the context of the statutory definition, if in the future he should apply for licensure as a guide.

OMBUDSMAN DISCUSSES POSSIBILITY OF FUTURE BENEFIT

In response to the complainant who initiated his agency's 1988 investigation, the Ombudsman replied that

You allege that the real conflict in [the FWP officer's] work as an assistant guide will not be realized until he retires. You assert upon retirement, [the officer] can and will reactivate his assistant guide time (allegedly acquired improperly while he was employed by the division as a fish and wildlife protection officer) and apply it toward his application for a master guide license.

It is altogether possible that this may happen. It is also possible that it will never happen. We can only know for certain what [the officer] will do when he retires when that time comes. I cannot and will not make a guess about [the officer's] future behavior. I cannot hold a case open for years, waiting for a potential conflict of interest to emerge in the form of [the officer's] application for a master guide license.

If, and when, [the officer] does apply for the master guide license, the use of his assistant guide time will be a factual issue. With your keen interest in [the officer's] activities, it is reasonable to expect you to submit testimony to the [BGCSB] if that event occurs in the future. Today, it is a speculative issue....

With the transmission of this letter, I am closing the complaint. You are free to file a new complaint if and when [the officer] reactivates his assistant guide time in an application for a master guide license. You may also file a written complaint under the auspices of the Executive Ethics Act if you wish to press that issue further.

The Ombudsman's response suggests that the only avenue to resolve the complainant's issues lies in how the licensing board will view the "experience" of the FWP officer, if and when he attempts to use it in applying for his guide license.

AUDITOR'S COMMENTS

Former Commissioner Sundberg warned in 1985 about the dangers of allowing Department of Public Safety personnel to participate in the guiding industry. As cited in Recommendation No. 1, his concerns over embarrassment to the agency, negative public perceptions, and the cost of investigating and dealing with even unfounded complaints all proved to be prophetic.

BGCSB should scrutinize any future guide application

As observed by the Ombudsman, (see inset on the opposite page) the real possible incentive or compensation for the FWP officer-assistant guide, is in the future at the time of his retirement or separation from an FWP.

In our view, the Big Game Commercial Services Board (BGCSB), may offer the best opportunity to provide some equitable, objective resolution of the situation. The board can do this by carefully scrutinizing any assistant guiding experience accumulated while an individual served as an FWP officer.

As discussed in the inset on page 15, accompanying individuals on a guided hunt is not necessarily guiding. The statute requires that an individual receive compensation for guiding a hunter in order for the experience to be relevant to the licensing process. An FWP officer has submitted an application for licensure as a guide, (an application that subsequently has been withdrawn) with documentation substantiating his assistant guiding activities. However, if he was unpaid, as he testified to in court, BGCSB should carefully consider whether or not this experience meets the statutory definition of guiding.

Such scrutiny would nullify any advantage or "indirect" compensation that the FWP officer gained by acting as an assistant guide. Leaving aside the legal discussion of whether uncompensated assistant guiding is qualifying experience in the strictest sense of the law, such scrutiny and consideration would enhance the integrity of the regulatory process.

BGCSB relies in large part on the efforts of FWP to effectively meet its statutory mandate. Any flaw in the integrity of that enforcement effort, either real or perceived, reflects to some degree on the board. By carefully scrutinizing the circumstances and documentation supporting any former FWP officer's application for a guiding license, the board can enhance the integrity of the investigatory efforts of both FWP and itself.

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ISSUES NEEDING FURTHER STUDY

Department of Public Safety (DPS), Fish and Wildlife Protection (FWP) officers have testified in court that decisions regarding investigations and development of possible undercover operations often have been developed from "tips" received through a program known as the Wildlife Safeguard Program.

The Wildlife Safeguard Program encourages the public to phone a toll-free "800" number and report any observations or information they may have about possible game law violations. If these tips are used in the successful prosecution of an individual, then rewards are paid to the hotline informants. The program is run by a private nonprofit organization, and does not receive any direct state funding. DPS does provide support services to the organization such as answering the hotline, selling fund-raising posters, and arranging for the organization to raffle off a hunting permit to raise funds.

As discussed in Recommendation No. 2 in the Findings and Recommendations section, we suggest that DPS reevaluate the criteria it uses to develop undercover operations. In addition, we suggest that the Legislative Budget and Audit Committee may want to consider reviewing the information received over the Wildlife Safeguard hotline and determine if it is being used in a consistent, objective, and unbiased manner.

The conflict of interest discussed at length in this report may be reflected not only in what cases and reported violators that FWP have elected to pursue, but also in the tips and information that may have been ignored. If the agency has received numerous complaints regarding possible violations by a professional guide, the fact that no investigatory action was taken may be significant.

Controls over reward payments may also be possible area of concern

Although state funds are not being directly used, FWP protection officers have, in the past, been involved in passing rewards to informants. Reportedly the rewards are paid in cash, and have been as much as \$2,000. Payouts of these amounts in cash, with the involvement of state employees, provides another possible area or issue that may warrant further study or review.

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**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

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OFFICE OF THE COMMISSIONER

November 21, 1991

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LEGISLATIVE AUDIT

Mr. Randy Welker
Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box W
Juneau, AK 99811

Dear Mr. Welker:

Thank you for the opportunity to review the preliminary audit report regarding consistency of disciplinary penalties of the Big Game Commercial Services Board.

The department concurs with Recommendation No. 1, The Division of Fish and Wildlife Protection (FWP) should emphasize and strictly enforce its policies prohibiting participation in the guiding industry. We believe a state policy should go a step further and include Division of Occupational Licensing staff involved in licensing and investigations of guide-outfitters, as well as Department of Fish and Game employees/biologists who are involved in game management/harvest decisions. During the time period of Commissioner Sundberg's policy on prohibiting outside employment as a guide for FWP employees, the Division of Occupational Licensing requested its employees who were, at the time, licensed as assistant guides, but not employed or associated with any guides, to voluntarily not renew their assistant licenses. This request was made on the basis of possible public perception of impropriety rather than actual complaints. Most recently, it has been brought to our attention that the activities of the Department of Fish and Game employee(s) who are licensed guides and conducting guiding activities may be causing some concern within the guiding industry and public. We believe that employees should be allowed to place their licenses in a suspended status for reactivation at the same level when they leave employment in the job which creates the conflict.

Mr. Randy Welker

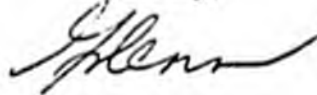
-2-

November 21, 1991

With regard to Recommendation No 2, DPS should conduct an internal review regarding the basis and procedures involved in developing undercover law enforcement actions on guiding and game violations. the department agrees that there should be a system in place which ensures some degree of uniformity and consistency in developing undercover operations.

Again, thank you for this opportunity to comment.

Sincerely,



Glenn A. Olds
Commissioner

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DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

P.O. BOX 111200
JUNEAU, ALASKA 99811-1200
PHONE (907) 465-4322

LEGISLATIVE AUDIT

December 5, 1991

Mr. Randy S. Welker
Legislative Auditor
Alaska State Legislature
P. O. Box W
Juneau, AK 99811

Dear Mr. Welker:

Re: Audit No. 08-4402-91

I am writing in response to your letter and preliminary audit report of October 28, 1991. Thank you for the opportunity to review and comment on the preliminary report, and for your courtesy in allowing us an extension of time. My comments are as follows:

Recommendation No. 1: "The Division of Fish and Wildlife Protection (FWP) should emphasize and strictly enforce its policies prohibiting participation in the guiding industry."

I agree, and we are doing just that. Under the Executive Branch Ethics Act, all requests for outside employment (paid or unpaid) must be submitted to and approved by me. I assure you that I will not approve any requests for involvement in the guiding industry while I am Commissioner. F&WP personnel are well aware of this.

Recommendation No. 2: "DPS should conduct an internal review regarding the basis and procedures involved in developing undercover law enforcement actions on guiding and game violations."

I agree, and we are doing this. The FWP Director and his staff are drafting a policy statement for my review. I anticipate that a final policy will be in place by early next year. For your information, since being appointed Commissioner I have reestablished an Office of Planning and Research within the Department. My staff are reviewing all existing DPS policies and procedures and suggesting revisions for my consideration.

Mr. Randy S. Welker
December 5, 1991
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On page 15 of your report, in the first paragraph under Recommendation No. 2, I suggest the following changes to the present language: "According to the director of FWP, [most game law violations] most serious guiding violations are detected and prosecuted through the use of undercover police operations." I believe this is a more accurate summary of Col. Jordan's comments, in the context in which they were made. Also: "At one time, the officer most prominently involved working as an assistant guide..." This additional language would make it clear that the situation being described is not the current one, but refers to the past.

Other comments:-- On page 15 of your preliminary report there is a colored block of text which discusses your office's interpretation of the statutory definition of "guiding" as it relates to licensure requirements. I asked the Alaska Department of Law to review the relevant language, and found that they do not agree with your legal interpretation. In light of this, I do not agree with your conclusion that "if the officer did not receive compensation, then it appears that representations made to the Division of Occupational Licensing were inaccurate." I have attached a copy of the memorandum which we received from the Department of Law on this issue.

On page 19 of your report, you suggest that the Legislative Budget and Audit Committee may want to consider reviewing the information received over the Wildlife Safeguard hotline. We certainly have no objection to such a review, and we are confident that information received over the hotline is being handled appropriately, with no bias or special interests involved.

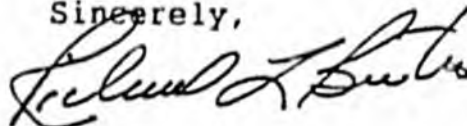
Regarding your comments on controls over reward payments, we would welcome suggestions about the best way to get rewards to informants, while still protecting confidentiality. As you undoubtedly know, no rewards are paid out unless authorized by the Safeguard Boards, which are made up entirely of volunteer private citizens. Contrary to the impression left by your report, the majority of rewards are paid by check. If the informant insists upon anonymity, however, obviously a check cannot be issued. On those occasions when cash must be used, Wildlife Safeguard considers using commissioned officers to deliver it as the safest procedure. The one \$2,000 payment to which you refer was delivered personally to the informant

Mt. Ranly S. Welker
December 5, 1991
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by the Director of FWP. If you can think of a safer or more reliable way to handle these payouts to sources who wish to remain anonymous, please let us know.

Thanks again for the opportunity to comment on your preliminary report. I would be glad to discuss my responses with you further, if you would like.

Sincerely,



Richard L. Burton
Commissioner

Attachment

MEMORANDUM

State of Alaska
Department of Law

Gayle Horetski
Deputy Commissioner
Department of Public Safety

DATE December 4, 1991
FILE NO 663-92-0271
TEL NO 465-3428
SUBJECT Assistant guiding under
former AS 08.54.110

FROM

Dean J. Guaneli *DJG*
Assistant Attorney General
Criminal Division Central Office

This is in response to your request for our opinion whether one of the qualifications for becoming a registered guide, under former AS 08.54.110 (repealed in 1989), was that a person have received compensation for acting as an assistant guide. After reviewing the applicable statutes, it is my opinion that, prior to July 1, 1986, it was not necessary to have received compensation in order to have accumulated the necessary level of experience as an assistant guide to become a registered guide, and that after that date a person would not have been acting unreasonably in coming to that same conclusion.

The genesis of your question is an ombudsman's draft report which concludes that to have "performed the services of an assistant guide" under former AS 08.54.110 meant "being employed by a registered guide."¹ The draft report therefore proposes to find that a departmental employee "improperly made conflicting statements" by saying he was qualified to be a registered guide, while at the same time asserting that he had not received compensation for being an assistant guide. For the reasons set out in this memorandum, the ombudsman's conclusion is incorrect.²

Prior to 1989, in order to have been qualified to become a registered guide, a person must have previously "performed the services of an assistant guide." Former AS 08.54.110(a)(7) (prior to 1986 numbered AS 08.54.110(a)(8)). There was no definition of

¹ A preliminary audit report by the Legislative Budget and Audit Committee reviewed an earlier version of the ombudsman's report and came to the same conclusion. Neither the ombudsman's report nor the auditor's report contains any detailed analysis of the statutes involved.

² There also exists an opinion, written by a private attorney representing the subject of the ombudsman's report, concluding that the ombudsman is incorrect. While I have agreed as a general matter with the private attorney's conclusion, I disagree with his analysis and reasoning.

the phrase "performed the services of an assistant guide," although the verbs "guide" and "guiding" were defined in former AS 08.54.240 to include the requirement of compensation.

Under this definition, if you were assisting or directing a hunter in the field for compensation you were "guiding."³ This definition appears, however, to have been inclusive, rather than exclusive, that is, it established that anyone assisting hunters for compensation had to be licensed as a guide, rather than establishing that one who did not receive compensation could not be considered to have performed as a guide.⁴

This definition does not, therefore, answer the question of whether a person must have accepted compensation to have been acting as an assistant guide for purposes of qualifying to become a registered guide. To answer that question, other statutes must be analyzed.

Former AS 08.54.130 required that a "class-A assistant guide" be "under the supervision" of a registered or master guide. There was no requirement of compensation, nor was there a requirement of an employment relationship. Perhaps it was an oversight, but there was no similar requirement that non-class-A assistant guides be supervised by a registered guide, much less employed or compensated. Former AS 08.54.140. In addition, prior to July 1, 1986, AS 08.54.210(a)(6) made it unlawful for a registered or master guide "to employ or supervise" more than three assistant guides at the same time, thus indicating a difference between the concepts of employment and supervision. (Emphasis added.) Again, there was no requirement of compensation.

Moreover, in former AS 08.54.110(a) the legislature used the phrase "performed the services of an assistant guide," rather than the simpler phrase "employed as an assistant guide." The obvious purpose of AS 08.54.110(a) was to assure that, before someone became a registered guide, he had obtained sufficient experience as an assistant guide. There is no indication the legislature intended to require that an assistant guide have accepted compensation.

Based on this statutory scheme, prior to July 1, 1986, a person could have "performed the services of an assistant guide" under former AS 08.54.110, and have been qualified to become a registered guide, without having accepted compensation.

³ The definition of "guiding" changed somewhat in 1986, but that change does not affect this opinion. Sec. 23, ch. 71, SLA 1986.

⁴ The definition of "guide" was used to determine whether a person had committed the offense of "guiding without a license". Former AS 08.54.210.

July 1, 1986, was the effective date of amendments to some of the statutes in AS 08.54. Ch. 71, SLA 1986. In particular, former AS 08.54.210 was amended to make it unlawful for an assistant guide to be along on a guided hunt "except while employed and supervised by a registered or master guide." Former AS 08.54.210(a)(8). (Emphasis added.) Despite this new statute which seemingly required that assistant guides be both employed and supervised by a registered or master guide, there was no change made to former AS 08.54.130, which required class-A assistant guides merely to be under the "supervision" of a licensed guide, with no requirement of either "employment" or "compensation." There was, however, a new statute enacted that required non-class-A assistant guides to be employed and supervised by a registered guide. Former AS 08.54.141.

This ambiguity is difficult to resolve, however a definitive resolution is not necessary. In my opinion, even after July 1, 1986, a reasonable person could have concluded that a person "performed the services of an assistant guide" under former AS 08.54.110, and was qualified to become a registered guide, without having accepted compensation.

Even if there was a requirement of both employment and supervision, the statutes made no mention of "compensation" for assistant guides. The ombudsman's draft report seems to refer to employment and compensation interchangeably, but it appears that in AS 08.54 the legislature treated them differently and recognized three types of master-servant relationships: "supervision," "employment," and "compensation."

Before 1986, the definition of "guide" in AS 08.54.240 included the concept of "monetary or material remuneration." In 1986 that definition was modified to refer to "compensation or with the intent to receive compensation." Neither version of the definition referred to "employment." If the legislature had simply intended to refer to the concept of being "employed," it could have more easily done so than using the complicated phrases necessary to convey the concept of money changing hands.

It is not necessary at this point to try to fully explain the differences between "supervision," "employment," and "compensation." Suffice to say that, even after July 1, 1986, a person, who had waived payment or received only transportation and food while acting as an

Gayle Horetski, Deputy Commissioner
Department of Public Safety
File No. 663-92-0271

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assistant guide on a hunt, would not have been acting unreasonably in asserting that he had not received "compensation," while at the same time seeking to rely on that experience as an assistant guide in attempting to become qualified as a registered guide under AS 08.54.110.³

Please contact me if you have questions.

DJG:jf

cc: Division of Occupational Licensing
Department of Commerce and Economic Development

³ It should be noted that the current definition of "compensation" in AS 08.54.590 excludes "reimbursement for actual expenses incurred", which suggests that an assistant guide who obtains transportation and food has not accepted "compensation". It should also be noted that the current guide-outfitter statutes in AS 08.54.350 -- 590 contain the same ambiguity as past statutes, by continuing to refer to the concepts of "supervision", "employment" and "compensation". As a practical matter, the division of occupational licensing did not previously, and does not now, inquire whether assistant guides have been paid in determining their qualifications to become a registered guide.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box W
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

January 2, 1992

Members of the Legislative Budget and Audit Committee:

A formal legal review of the language in the guide licensing statutes is included in the response of the Department of Public Safety. The analysis addresses the issue raised in the inset on page 15 regarding the concept of compensation and how it relates to the statutory definition of guiding. From a layman's reading of the statute it appears that if an individual serves as an assistant guide but is not paid for their services, then perhaps that experience does not qualify as assistant guiding experience.

The Department of Law's (DOLaw) analysis concluded that

...prior to July 1, 1986, it was not necessary to have received compensation in order to have accumulated the necessary level of experience as an assistant guide to become a registered guide, and that after that date a person would not have been acting unreasonably in coming to that same conclusion.

The analysis is developed from DOLaw's review of the history of the changes in statutory language, especially with the amendments made in 1986. After concluding that the concept of compensation was absent from the statutes prior to July 1, 1986, DOLaw feels the changes made created some ambiguity by introducing the concept of compensation. The analysis goes on to conclude

This ambiguity is difficult to resolve, however a definitive resolution is not necessary. In my opinion, even after July 1, 1986, a reasonable person could have concluded that a person "performed the services of an assistant guide" under former AS 08.54.110, and was qualified to become a registered guide, without having accepted compensation. ... Suffice to say that, even after July 1, 1986, a person, who had waived payment or received only transportation and food while acting as an assistant guide on a hunt, would

not have been acting unreasonably in asserting that he had not received "compensation," while at the same time seeking to rely on that experience as an assistant guide in attempting to become qualified as a registered guide . . .

The primary purpose of raising the point in the audit report was to more fully substantiate our audit evidence that the Fish and Wildlife Protection officer was on record as serving as an assistant guide. The issue of compensation and the apparent contradiction with court testimony was a secondary issue that had been raised by the investigator at the Division of Occupational Licensing at the time of the original internal investigation. In our review of the records and documents related to that investigation, we found no evidence that this particular issue had been satisfactorily resolved or analyzed. In view of DOLaw's response this issue has now been formally addressed.

The central point of our discussion remains unaffected. To restate, the Big Game Commercial Services Board (BGCSB) has a vital interest in maintaining the integrity and independence of the investigations involved in the licensing disciplinary process. The board should do all it can within its statutory powers to strengthen and improve that process. Accordingly, BGCSB should carefully consider granting guide licenses to individuals who gained necessary, qualifying experience when they were employed in positions involving either real or apparent conflicts of interest.


Randy S. Welker, CPA
Legislative Auditor

STATE OF ALASKA DEPARTMENT OF FISH AND GAME STANDARD OPERATING PROCEDURE			No. II-040	PAGE 040-1
			ISSUED 06/19/91	EFFECTIVE 06/19/91
SUBJECT ETHICS/STANDARDS OF PROFESSIONAL CONDUCT				
CHAPTER DEPARTMENT POLICIES				
SUPERSEDES	No. ALL PREVIOUS EDITIONS	PAGE	DATE	APPROVED BY <i>Carl L. Rosier</i>

PURPOSE

This policy shall be known as the departmental ethics code or Standards of Professional Conduct. Its intent is to establish uniform standards of conduct for employees of the Alaska Department of Fish and Game (ADF&G). The policy is adopted pursuant to AS 39.52.920 which states:

Subject to the review and approval of the attorney general, an agency may adopt a written policy that, in addition to the requirements of this chapter, limits the extent to which a public officer in the agency or an administrative unit of the agency may

- (1) acquire a personal interest in an organization or a financial interest in a business or undertaking that may benefit from official action taken or withheld by the agency or unit;
- (2) have a personal or financial interest in a state grant, contract, lease, or loan administered by the agency or unit; or
- (3) accept a gift.

OBJECTIVE

The objective of establishing Standards of Professional Conduct is to recognize and ensure the legal rights, privileges, and personal beliefs and activities of departmental employees are protected while providing guidance regarding activities which might substantially and materially call into question an employee's integrity. It is the intent of this policy to protect the rights and reputations of departmental employees by providing standards of conduct that will apply to all similarly situated employees of the department. Employees who engage in activities appearing to be outside the bounds of these standards may request a review of such activities by the designated supervisor as defined in AS 39.52.960(8)(A) and (G). Decisions regarding the activities of department employees will be made based on AS 39.52, applicable Personnel Rules, and the following Standards of Professional Conduct. Acceptance of employment with ADF&G is an affirmation of acceptance on the part of the employee that the rights and obligations established in the Standards of Professional Conduct are necessary for both the employee and the department.

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	ISSUED 06/19/91	EFFECTIVE 06/19/91

SUBJECT ETHICS/STANDARDS OF PROFESSIONAL CONDUCT

CHAPTER DEPARTMENT POLICIES

SUPERSEDES	No. ALL PREVIOUS EDITIONS	PAGE	DATE	APPROVED BY <i>Carl L. Riser</i>
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DISTRIBUTION

All SOP manual holders.

RATIONALE

ADF&G is mandated to "manage, protect, maintain, improve, and extend the fish, game and aquatic plant resources of the state . . ." [AS 16.05.020(2)]. The people of Alaska have thus placed in the hands of the employees of the department their faith and trust in the department's ability to meet its obligations of professional resource stewardship. Public acceptance of the department's programs depends, to a great degree, on how the public perceives the activities of employees, both in the workplace and to an extent in their personal lives. This high degree of public trust carries an obligation to maintain high standards of professional conduct. If the public recognizes employees of the department as impartial and unbiased, regardless of their position within the department, the management programs developed by professional employees have a far better chance of being approved and publicly accepted. As professional resource managers, employees of the department must accept that the public expects higher standards of them in conducting certain activities than is expected of other public employees. While some might see this as burdensome, it can better be seen as an indication of the public's high expectations and high degree of interest in the work of the department.

Employees generally recognize that it is difficult for many citizens of the state to see a department representative on one occasion as a professional manager of a resource, and another time that same employee is seen engaged in a commercial activity involving the same resource. However, the extent and degree of this public perception varies widely. The department recognizes that substantial and material conflicts that call into question the integrity of the employee or the department must be prevented. Instances of perceived conflict will be individually evaluated pursuant to AS 39.52, pertinent Alaska Personnel Rules, and the Standards of Professional Conduct, including the following considerations:

1. The extent of management jurisdiction an employee may have over a departmentally managed resource and the extent to which

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- 1. an employee may have access to information not generally distributed to the public.
- 2. The potential an individual employee may have by virtue of his or her position in the department to affect or influence management decisions.
- 3. The extent to which a conflict is real or immediate or whether it is significant, conjectural, or contrived.
- 4. The extent to which a perceived conflict will adversely affect the credibility of the employee and the department. If the conflict is found to be genuine in nature and perception, the department and the employee will be called upon to determine a remedy that will remove or acceptably minimize questions regarding the credibility of either.

DEFINITIONS

Commercial Activities: Activities for which an employee receives compensation, as defined in AS 39.52.960(7).

Commercial Guiding: Accompanying or being present with a hunter or fisherman in the field, personally or through an assistant, for direct financial compensation. "Commercial guiding" does not include:

- 1. Accompanying or being present with a hunter or fisherman guided by another person if the employee has also engaged the services of a guide.
- 2. Providing transportation to or from the field, if the persons providing transportation and the persons being transported do not stalk, pursue, track, kill, or attempt to harvest fish and wildlife resources.
- 3. Engaging in personal, lawful recreational or subsistence hunting or fishing, either alone or with friends or relatives, when such activities are not conducted for the purpose of, or with the intent of, receiving compensation. (Inconsequential compensation, such as sharing expenses, is not guiding. Also see AS 39.52.130.)

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Commercial Harvest: An activity which involves the taking or harvest of a resource managed by the department for compensation from a commercial processor, fur buyer, guide client, or retailer. (Also see ethics policy, department findings on exclusions to this definition.)

Benefit: As defined in AS 39.52.960(3).

Department Employee: A person with official status, holding a position control number, and receiving compensation for work performed, but does not include the employee's spouse, children, siblings, or other family members for the purposes of this ethics policy. (Note: Certain additional prohibitions extend to an employee's spouse, blood relation to the second degree of kindred, and members of the employee's household under the Executive Branch Ethics Act. See AS 39.52).

Designated Supervisor: The commissioner or the commissioner's designee.

PROFESSIONAL CODE OF CONDUCT

In an effort to maintain high professional standards of the department and to retain the public trust necessary for the department and its employees to meet statutory obligations, each department employee shall:

1. Use sound biological information in an unbiased manner in recommending and making management decisions.
2. Present information to the public and to peers factually and impartially, and not let personal preference or bias interfere with this obligation.
3. Recognize that some activities and actions may be perceived by the public as inappropriate for an employee of the department.
4. Recognize that employee activities associated with natural resource use, particularly commercial uses, are often viewed unfavorably by the public and peers.
5. Refrain from commercial harvest activities unless specifically approved by this policy or the division director and the designated supervisor.

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6. Use discretion expected of professional employees when conducting activities which might tend to call into question personal or departmental credibility, and consult with supervisors if there is any such doubt in an employee's mind.
7. Obey fish and game laws and regulations.
8. Not use their positions for personal financial gain or to give unwarranted benefit or treatment to any person or group, or to coerce subordinates for his or her personal or financial benefit.
9. Recognize that off-duty activities of many department employees substantially benefit their job performance, public acceptance, and confidence expressed in the department. Fishing, hunting, trapping, photography, camping, and other similar activities provide employees the opportunity to obtain personal awareness and understanding of the public's involvement in the resources managed by the department. Membership in professional societies and community clubs and organizations, to the extent suggested by the standards, provides benefits to both the individual and the department.

INTERPRETATION

This policy will be interpreted in conformity with the Executive Ethics Act (AS 39.52). All employees are urged to read "Ethics--A Handbook for Public Employees," available through personnel officers or from the designated supervisor. Provisions of the Standards of Professional Conduct will apply to all employees of ADF&G.

Any departmental employee convicted of violating a state or federal fish and game law or regulation is subject to disciplinary action by the department. The violation will be reviewed by the appropriate division director, the designated supervisor, and the commissioner.

Disciplinary action taken as a result of a violation of these standards may range from a verbal warning, to a written reprimand, to termination, depending upon the severity of the violation and any extenuating circumstances.