

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7922 HOUSE JUDICIARY - HOUSE LABOR & COMMERCE

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8-LS1626M ✓
Luckhaupt
5/3/94

HOUSE CS FOR CS FOR SENATE BILL NO. 370(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATE TRANSPORTATION COMMITTEE BY REQUEST**

A BILL

FOR AN ACT ENTITLED

1 "An Act providing an exemption from gambling laws for gambling conducted by
2 cruise ships for their ticketed passengers in the offshore water of the state;
3 relating to promotions on board cruise ships; defining 'cruise ship'; providing for
4 exemption procedures for certain cruise ships before they can conduct gambling
5 in the offshore water of the state; and providing for an effective date."

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

7 * **Section 1.** AS 05.15 is amended by adding a new section to read:

8 **ARTICLE 4. CRUISE SHIP EXEMPTION.**

9 **Sec. 05.15.250. EXEMPTION OF CRUISE SHIPS.** (a) A cruise ship may
10 conduct gambling as permitted under AS 11.66.275 in the offshore water of the state
11 if

12 (1) the operator of the cruise ship annually applies on a date set by the
13 department on a form provided by the department;

1 (2) the operator of the cruise ship agrees to comply with AS 45.50.474;
2 and

3 (3) the operator pays the annual exemption fee required under (b) of
4 this section.

5 (b) The exemption fee for a cruise ship to conduct gambling under (a) of this
6 section is for cruise ships with a capacity of

- 7 (1) 500 or fewer passengers \$10,000;
- 8 (2) 501 - 999 passengers \$20,000;
- 9 (3) 1000 - 1999 passengers \$30,000;
- 10 (4) 2,000 passengers or more \$40,000.

11 (c) The department shall revoke the exemption of a cruise ship that becomes
12 ineligible to hold an exemption under this section, provides false information in an
13 application for an exemption, violates an order issued under AS 05.15.200, or conducts
14 gambling in violation of the provisions of AS 11.66.275. When revoking an
15 exemption under this subsection, the department may bar a cruise ship from obtaining
16 an exemption under this section in the future or for a specified number of years in the
17 future.

18 (d) Except for AS 05.15.195, 05.15.200, and 05.15.210, other provisions of this
19 chapter do not apply to gambling on a cruise ship.

20 (e) In this section,

21 (1) "cruise ship" means a ship that operates at least 120 days a year
22 anywhere in the world, provides cruises of at least 72 hours in length for ticketed
23 passengers, provides on board the ship overnight accommodations and meals for those
24 passengers, is operated by an authorized cruise ship operator, and is certified under
25 the International Convention for the Safety of Life at Sea or otherwise certified by the
26 United States Coast Guard;

27 (2) "offshore water of the state" has the meaning given in
28 AS 11.66.275.

29 * Sec. 2. AS 05.15.200(b) is amended to read:

30 (b) A person who, with the intent to mislead a public servant in the
31 performance of the public servant's duty, submits a false statement in an application

1 for a permit, license, exemption, or vendor registration under this chapter is guilty of
2 unsworn falsification.

3 * Sec. 3. AS 05.15.200(b) is amended to read:

4 (b) A person who, with the intent to mislead a public servant in the
5 performance of the public servant's duty, submits a false statement in an application
6 for a permit, license, [EXEMPTION,] or vendor registration under this chapter is guilty
7 of unsworn falsification.

8 * Sec. 4. AS 11.66 is amended by adding a new section to read:

9 Sec. 11.66.275. CRUISE SHIP EXEMPTION. (a) The provisions of
10 AS 11.66.200 - 11.66.280 do not apply to gambling conducted by a cruise ship for its
11 ticketed passengers in the offshore water of the state if

12 (1) the cruise ship is exempt under AS 05.15.250;

13 (2) the cruise ship does not conduct gambling in, or within three miles
14 of, a state port visited by the cruise ship; and

15 (3) the gambling is ancillary to the cruise and the cruise has as its main
16 purpose scenic cruising and port visits at maritime communities in the state.

17 (b) In this section,

18 (1) "cruise ship" means a ship that operates at least 120 days a year
19 anywhere in the world, provides cruises of at least 72 hours in length for ticketed
20 passengers, provides on board the ship overnight accommodations and meals for those
21 passengers, is operated by an authorized cruise ship operator, and is certified under
22 the International Convention for the Safety of Life at Sea or otherwise certified by the
23 United States Coast Guard;

24 (2) "offshore water of the state" means the marine water over which
25 the state has jurisdiction.

26 * Sec. 5. AS 45.50.471(b) is amended by adding a new paragraph to read:

27 (37) violating AS 45.50.474 (on board promotions).

28 * Sec. 6. AS 45.50 is amended by adding a new section to read:

29 Sec. 45.50.474. REQUIRED DISCLOSURES IN PROMOTIONS ON BOARD
30 CRUISE SHIPS. A person may not conduct a promotion on board a cruise ship that
31 mentions or features a business in a state port that has paid something of value for the

1 purpose of having the business mentioned or featured, unless the person conducting
2 the promotion clearly and fully discloses orally and in all written materials used in the
3 promotion that the featured businesses have paid to be included in the promotion. A
4 violation of this section constitutes an unfair trade practice under AS 45.50.471. In
5 this section, "cruise ship" means a ship that operates at least 120 days a year anywhere
6 in the world, provides cruises of at least 72 hours in length for ticketed passengers,
7 provides on board the ship overnight accommodations and meals for those passengers,
8 is operated by an authorized cruise ship operator, and is certified under the
9 International Convention for the Safety of Life at Sea or otherwise certified by the
10 United States Coast Guard.

11 * Sec. 7. AS 05.15.250 and AS 11.66.275 are repealed December 31, 1996.

12 * Sec. 8. Section 3 of this Act takes effect December 31, 1996.

13 * Sec. 9. Except for sec. 3 of this Act, this Act takes effect immediately under
14 AS 01.10.070(c).

(7)

Date Referred: May 3, 1994

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Finance

Date of Committee Action: 4 May 94

The JUDICIARY Committee considered:

CSSB 370(FIN)

CS FOR SENATE BILL NO. 370(FIN)

ALLOW GAMBLING ON CRUISE SHIPS

"An Act providing an exemption from gambling laws for gambling conducted by cruise ships for their ticketed passengers in the offshore water of the state; relating to promotions on board cruise ships; defining 'cruise ship'; providing for exemption procedures for certain cruise ships before they can conduct gambling in the offshore water of the state; and providing for an effective date."

RECOMMENDATIONS:

be replaced with HCS 03 SB 370 (sub) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: House Judiciary letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

fiscal impact _____

zero fiscal note _____

APPROVES PREVIOUS: (Dept/Date)

^{Senate} fiscal note(s) Revenue 5/2/94

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Pete Kott</u> Kott	X	<u>Paul Phillips</u> Phillips		<input checked="" type="checkbox"/>	
<u>Janette James</u> James	<input checked="" type="checkbox"/>	<u>John Green</u> Green		<input checked="" type="checkbox"/>	
<u>Brian Porter</u> Porter	<input checked="" type="checkbox"/>	<u>Steve Nordlund</u> Nordlund		<input checked="" type="checkbox"/>	
	(3)			(3)	

Brian Porter
CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 4

Bill Version: CSRB 370 (FIN)

(S) Publish Date: 5-2-94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

Revision Date: April 28, 1994 Dept. Affected: Revenue
 Title: "An Act providing an exemption from gambling laws for gambling BRU: Revenue Operations
conducted by cruise ships for their ticketed passengers in the offshore waters of Alaska Component: Charitable Gaming Division
 Sponsor: Senate Transportation Committee by Request
 Requestor: Senate Rules COMPONENT SERIAL NO. 1883

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	27.0	27.0	27.0	27.0	27.0	27.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	11.7	11.5	11.5	11.5	11.5	11.5
SUPPLIES	.1	.1	.1	.1	.1	.1
EQUIPMENT	4.8	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	43.6	38.6	38.6	38.6	38.6	38.6

CAPITAL						
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REVENUE FUND SOURCE:	620.0	620.0	620.0	620.0	620.0	620.0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	43.6	38.6	38.6	38.6	38.6	38.6
1006 GF/MHTIA						
Other						
TOTAL	43.6	38.6	38.6	38.6	38.6	38.6

POSITIONS:

FULL-TIME (Seasonal)	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Don Stolworthy, Director Phone: 465-2229
 Division: Charitable Gaming Division Date: April 28, 1994
 Approved by Commissioner: Darrel J. Rexwinkel Date: April 28, 1994
 Agency: Department of Revenue

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CSSB 370 (FIN)

Estimated Costs

Personal Services	[Seasonal Investigator II]	\$27.0
Contractual		
Legal Services		10.0
Communications		.5
Printing & Binding		.5
Postage		.5
Supplies	[pens, paper, file folders, etc.]	.1
Total Annual Costs		<u>\$38.6</u>

One Time Costs

Contractual	[phone line installation]	.2
Equipment		
Office Furniture		1.0
Phone		.3
Computer		3.5
Total Start-up Costs		<u>\$5.0</u>

CSSB 370 (FIN)

Estimated Revenues

Fee Schedule

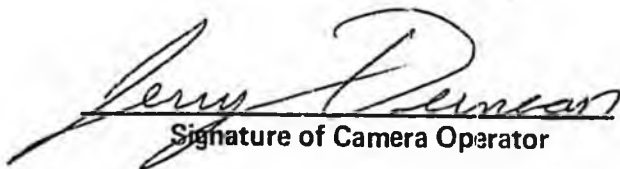
Passengers	Fee	1994	1995
		Total Ships	Total Ships
Fewer than 500	\$10.0	10	10
500 to 1,000	\$20.0	08	08
1,000 or more	\$30.0	11	12
	Total Exemption Fees	\$590.0	\$620.0

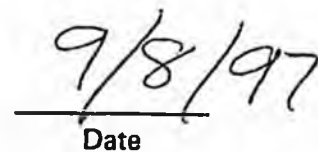
Prepared by: Alaska Department of Revenue
Charitable Gaming Division
April 27, 1994



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Signature of Camera Operator


Date

SCR

4

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 3/29/93

FURTHER:

Date of 5-Day Notice: 8 April 1993
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 12 April 1993

JUDICIARY Committee considered SCR 4

Relating to the Alaska Supreme Court's interpretation of Alaska Rule of Civil Procedure 82 and requesting that the court modify its interpretation of that rule.

and recommends:

replace with _____ CS _____ ()

same title
 new title
 technical title change
(HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
Senate Judiciary	4/05/93	✓	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

Rick Halford
George Farley

OTHER RECOMMENDATIONS:

Suzanne K. Little no Rec
[Signature]

Miss L. Taylor Dubois
Chair: Signature and Recommendation

Alaska State Legislature

Senate Majority Leader
Chair, Judiciary Committee
Vice Chair, Community &
Regional Affairs

Member, State Affairs Committee
Committee on Committees
Western States Legislative Forestry Task Force
Legislative Council



State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

352 Front Street
Ketchikan, Alaska 99901
(907) 225-8008
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Senator Robin L. Taylor

SPONSOR STATEMENT

SCR 4

The purpose of this Resolution is to petition the Supreme Court to review the special status afforded "public interest groups" in the award of attorneys fees under Rule 82 of the Alaska Rules of Civil Procedure.

For all Alaskans except "public interest groups," Rule 82 provides for partial repayment of attorneys fees to the prevailing party by the losing party. This rule designed to discourage frivolous litigation in Alaska and it tends to reduce the judicial case load as a result.

The exception to this rule is "public interest litigation." Based on the Supreme Court's exception for public interest litigants, Rule 82 in fact provides an economic incentive for various groups to sue because full attorneys fees are paid to the public interest group if it prevails and no attorneys fees are charged if it loses. (See attached Brief Legal History of Rule 82.)

This raises a number of public policy issues which, to this point, have not been examined by the Legislature:

- 1) What is the "public interest" that the Court is protecting with its Rule 82 exception? For example, is it really in the "public interest for environmental groups to sue to close down businesses in Alaska?
- 2) How much of a legal subsidy is realized by these groups and who pays for it? For example, if the Legislature funds a particular group through the Appropriations process (such as Alaska Legal Services), is that group obtaining additional funds from the State under Rule 82? If so, to what extent?

3) Is it good public policy to encourage litigation by the groups the Supreme Court has decided to favor? How much does the Supreme Court's policy cost the State of Alaska?

In reviewing these issues the Legislature should not violate the Constitutional separation of powers by crossing into the province of the Judiciary. However, by the same token, it is worth investigating whether the Judiciary is assuming the Legislative authority of public policy determination. Certain groups are being encouraged to litigate as the State is compelled by the Court to partially fund those groups with moneys from other Alaskans, including appropriated funds from the State.

In court order number 1118, the Supreme Court reviewed certain parts of Rule 82 and reenacted the rule effective July 15, 1993 (see attached rule change). It elected not to change the public interest litigation rules (ID. at S 2.).

In summary, under Rule 82 as currently interpreted by the Court, certain parties are encouraged with significant economic incentives to bring litigation against the State. The question of whether the interest of the public is truly being served by these "public interest" parties is also at issue. Finally, the State is being directed to subsidize these questionable "public interest" litigants at great expense to the public itself. Senate Concurrent Resolution 4 urges the Supreme Court to review these issues.

BRIEF HISTORY OF PUBLIC INTEREST LITIGATION UNDER RULE 82

When the Alaska Supreme Court was established in 1960 and adopted rules under Article IV, Sec. 15, Alaska constitution, it adopted what has been known as the "English" rule with respect to the award of attorney fees and costs to successful litigants. The so-called "American" rule generally did not provide for the award of attorney fees and costs, except when specifically authorized in the statute creating the cause of action.

The "American" rule derives in part from the concepts of sovereign immunity so long upheld by the federal courts--that the federal government may not be sued unless Congress has specifically consented. Most, if not all, of the states started out with that rule. Over time, the rule has been eroded, both by the Congress and in the states, but probably no state has had the benefit of a rule such as Rule 82 that has general application in all cases and with all litigants, both private and governmental.

"Public interest" litigation, especially with respect to environmental issues, is of relatively recent origin. It has its roots, however, in the concept of the "private attorney general," best exemplified in the federal anti-trust legislation. This type of litigation began to be a chosen method of action with the passage of the Voting Rights Act of 1964 which contained a provision authorizing an award of attorney fees and costs to

successful litigants. 42 U.S.C. 2000a-3(b) provides: "In any action commenced pursuant to this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person."

In 1968, the U. S. Supreme Court, interpreting this provision, stated in Newman v. Piggy Park Enterprises, Inc., 390 U.S. 400, 19 L.Ed. 2d 1263, 88 S. Ct. 964 (1968), that:

If successful plaintiffs were routinely forced to bear their own attorneys' fees, few aggrieved parties would be in a position to advance the public interest by involving the injunctive power of the federal courts. Congress therefore enacted the provision for counsel fees--not simply to penalize litigants who deliberately advance arguments they know to be untenable but, more broadly, to encourage individuals injured by racial discrimination to seek judicial relief under Title II.

It follows that one who succeeds in obtaining an injunction under that title should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust.

Although the Supreme Court in Piggy Park justified its holding in some respects by pointing out that a person litigating under the Act was entitled only to an injunction, not damages, and an award of attorney fees was particularly justified, therefore, the Alaska Supreme Court used the case to establish its own interpretation of Rule 82 as it applied to public interest litigants.

The Alaska Supreme Court had, in 1964, interpreted Alaska Civil Rule 82 to provide partial compensation for attorney fees and costs to prevailing litigants. Preferred General Agency of Alaska, Inc. v. Rafetto, 391 P.2d 951 (Alaska 1964). Much litigation followed about how much of the whole cost would be "partially" compensated. In 1973 the court had determined that partial could not be full compensation and held in Malvo v. J. C. Penney Company, Inc., 512 P. 2d 575, that it was an abuse of discretion for a court to award full attorney fees to prevailing parties unless the conduct of the losing party was egregious, holding that the purpose of Rule 82 was "to partially compensate a prevailing party for the costs and fees incurred where such compensation is justified and not to penalize a party for litigating a good faith claim. Malvo involved only private litigants.

In 1974 the Alaska Supreme Court first faced the "public interest litigant" issue in a case in which the public interest litigant lost. In reliance on Piggy Park, the court decided that

it would be an abuse of discretion to award attorneys' fees against a losing party "who has in good faith raised a question of genuine public interest before the courts." Gilbert v. State, 526 P.2d 1131 (1974). In Girves v. Kenai Peninsula Borough, 536 P.2d 1221 (Alaska 1975), the court reiterated its holding in Gilbert and reversed an award to the borough, stating again that public interest litigants should not be penalized by an award of attorney fees against them.

In 1977 the Alaska Supreme Court had before it a case involving a prevailing public interest litigant, Anchorage v. McCabe et al., 568 P. 2d 986 (1977). In that case the court held that, notwithstanding the "partial compensation" rule established in Malvo, "the trial court may, in its discretion, award full attorney's fees to public interest plaintiffs." In 1990, it finally arrived at the determination that public interest litigants must be awarded full attorney fees. Anchorage Daily News v. Anchorage School District, 803 P. 2d 402.

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 1118

Amending Civil Rule 82 and Civil Rule 79 concerning award of attorney's fees and costs.

IT IS ORDERED:

1. Civil Rule 82 is repealed and reenacted to provide:

(a) Allowance to Prevailing Party.

Except as otherwise provided by law or agreed to by the parties, the prevailing party in a civil case shall be awarded attorney's fees calculated under this rule.

(b) Amount of Award.

(1) The court shall adhere to the following schedule in fixing the award of attorney's fees to a party recovering a money judgment in a case:

Judgment and, if Awarded, Prejudgment Interest	Contested With Trial	Contested Without Trial	Non- Contested
First \$ 25,000	20%	18%	10%
Next \$ 75,000	10%	8%	3%
Next \$400,000	10%	6%	2%
Over \$500,000	10%	2%	1%

(2) In cases in which the prevailing party recovers no money judgment, the court shall award the prevailing party in a case which goes to trial 30 percent of the prevailing party's actual attorney's fees which

ORDER NO. 1118

Supreme Court Order No. 1118
Effective Date: July 15, 1993
Page 2

were necessarily incurred, and shall award the prevailing party in a case resolved without trial 20 percent of its actual attorney's fees which were necessarily incurred. The actual fees shall include fees for legal work customarily performed by an attorney but which was delegated to and performed by an investigator, paralegal or law clerk.

(3) The court may vary an attorney's fee award calculated under subparagraph (b)(1) or (2) of this rule if, upon consideration of the factors listed below, the court determines a variation is warranted:

- (A) the complexity of the litigation;
- (B) the length of trial;
- (C) the reasonableness of the attorneys' hourly rates and the number of hours expended;
- (D) the reasonableness of the number of attorneys used;
- (E) the attorneys' efforts to minimize fees;
- (F) the reasonableness of the claims and defenses pursued by each side;
- (G) vexatious or bad faith conduct;

Supreme Court Order No. 1118
Effective Date: July 15, 1993
Page 3

(H) the relationship between the amount of work performed and the significance of the matters at stake;

(I) the extent to which a given fee award may be so onerous to the non-prevailing party that it would deter similarly situated litigants from the voluntary use of the courts;

(J) the extent to which the fees incurred by the prevailing party suggest that they had been influenced by considerations apart from the case at bar, such as a desire to discourage claims by others against the prevailing party or its insurer; and

(K) other equitable factors deemed relevant.

If the court varies an award, the court shall explain the reasons for the variation.

(c) Motions for Attorney's Fees. A motion is required for an award of attorney's fees under this rule. The motion must be filed within 10 days after the date shown in the clerk's certificate of distribution on the judgment as defined by Civil Rule 58.1. Failure to move for attorney's fees within 10 days or such additional time as the court may allow, shall be construed as a waiver of the party's right to recover attorney's fees. A motion for attorney's fees in a default case exceeding \$50,000 must specify actual fees.

Supreme Court Order No. 1118
Effective Date: July 15, 1993
Page 4

(d) **Determination of Award.** Attorney's fees upon entry of judgment by default may be determined by the clerk. In all other matters the court shall determine attorney's fees.

(e) **Effect of Rule.** The allowance of attorney's fees by the court in conformance with this rule shall not be construed as fixing the fees between attorney and client.

2. By adopting these amendments to Civil Rule 82, the court intends no change in existing Alaska law regarding the award of attorney's fees for or against a public interest litigant, see, e.g., Anchorage Daily News v. Anchorage School Dist., 803 P.2d 402, 404 (Alaska 1990); City of Anchorage v. McCabe, 568 P.2d 986, 993-94 (Alaska 1977); Gilbert v. State, 526 P.2d 1131, 1136 (Alaska 1974), or in the law that an award of full attorney's fees is manifestly unreasonable in the absence of bad faith or vexatious conduct by the non-prevailing party. See, e.g., Malvo v. J.C. Penney Co., 512 P.2d 575, 588 (Alaska 1973); Demoski v. New, 737 P.2d 780, 788 (Alaska 1987).

3. Civil Rule 79(b) is amended to provide:

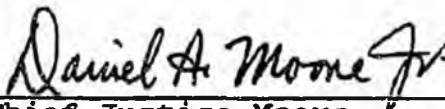
(b) **Items Allowed as Costs.** A party entitled to costs may be allowed premiums paid on the expenses of posting, undertakings, bonds or security stipulations, where the same have been furnished by reason of express requirement of law or on order of the court; the necessary expense of taking depositions for use at trial and producing exhibits; the expense of service and publication of summons or notices, and postage when the same are served by mail;

Supreme Court Order No. 1118
Effective Date: July 15, 1993
Page 5

filing fees and other charges made by the clerk of the court and fees for transcripts required in the trial of a case in the superior court; and costs paid by the prevailing party's attorney for computerized legal research. In addition to the items allowed as costs by law and in these rules, a party shall be allowed any other expenses necessarily incurred in order to enable a party to secure some right accorded the party in the action or proceeding. Fees for investigators, paralegals or law clerks shall not be allowed as costs.

DATED: January 7, 1993

EFFECTIVE DATE: July 15, 1993



Chief Justice Moore

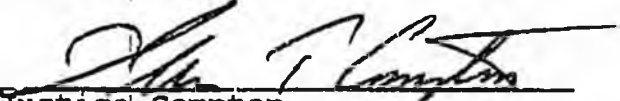
Justice Rabinowitz



Justice Burke



Justice Matthews



Justice Compton

RABINOWITZ, Justice dissenting.

I dissent from the court's adoption of the amendments to Civil Rule 82 called for in this order. In my view no compelling

case has been made demonstrating the need for these changes.¹ Further, my judicial hunch is that these amendments to Civil Rule 82, in particular the new provisions reflected in (b) (3) (A) through (K), will unnecessarily and dramatically increase litigation over attorney's fees awards both in our trial courts as well as in this court.²

¹In this regard I note that the Alaska Judicial Council is scheduled to conduct an in depth empirical study of the workings of Civil Rule 82. My preference is to await the results of the Council's study before deciding whether any of the current provisions of Rule 82 should be amended. Such a study should position this court to make a more informed assessment as to whether the current rule operates in a fashion which unjustly denies access to our courts. I further note that our Civil Rules Committee recently surveyed the Alaska Bar membership on discrete aspects of Civil Rule 82. A clear majority of those responding to the committee's questionnaire indicated: that Civil Rule 82 does not deter people of moderate means from filing valid claims; that the rule does not put excessive pressure on moderate income people to settle valid claims; and that the rule is needed to discourage frivolous litigation.

²Any attorney worth his or her salt will, pursuant to the expansive provisions of (b) (3) (A) through (K), request variations from the attorney's fees awards called for under either the monetary recovery schedule provisions of (b) (1), or the provisions of (b) (2) which apply where no money judgment is recovered by the prevailing party.

SUPERIOR COURT OF WASHINGTON FOR GRANT COUNTY

MOSES LAKE CITIZENS CONCERNED)
ABOUT THE ENVIRONMENT, a)
not-for-profit partnership,)
and HARRY DAVIS and LUCILLE)
DAVIS, husband and wife,)
JOYCE RAE MASLEN, f/k/a)
JOYCE RAE JONES,)

Plaintiffs,)

vs.)

GRANT COUNTY, HELEN FANCHER,)
DON GOODWIN, SID WINZLER,)
members of the Board of)
Commissioners of Grant County)
and MICHAEL MOORE, d/b/a)
M. H. MOORE PROPERTIES,)
JAMES O. TALLMAN and DIANE M.)
TALLMAN, husband and wife,)

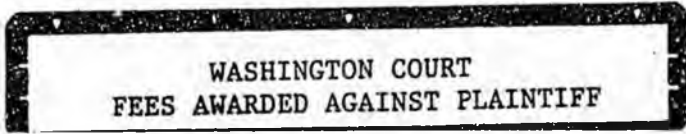
Defendants.)

No. 92 2 00442 6

MEMORANDUM DECISION
REGARDING REQUEST FOR
ATTORNEY'S FEES PURSUANT
RCW 4.84.185

I. INTRODUCTION

The defendants Moore and Tallman move the court for an award of reasonable costs and attorney's fees for defending a frivolous claim pursuant to RCW 4.84.185 and RCW 43.21C.075(9). The defendant Grant County moves for payment of its costs in producing the record for the writ of review in the amount of \$862.80. This court heard oral argument on January 19, 1993 and took these motions under advisement. The court herbelow analyzes the requests and issues its decision.



II. APPLICATION OF RCW 4.84.185

RCW 4.84.185 allows the court to award reasonable attorney's fees and costs if the court finds the action to be frivolous and advanced without reasonable cause. The defendants in this case allege that they are entitled to reasonable attorney's fees because each issue advanced by the plaintiffs is frivolous. Plaintiffs argue that the statute only provides for reasonable attorney's fees in the event the entire action is deemed frivolous, relying on Biggs v. Vail, 119 Wn.2d 121 (1992), and that at least one claim advanced has merit, so the action is not frivolous.

Biggs involved four distinct claims, three of which were deemed frivolous and one of which was unsuccessful after a trial on the merits. The defendant was awarded reasonable attorney's fees for the three frivolous claims. The Supreme Court of the State of Washington reversed, based on language in the 1983 statute that mandated the action be considered as a whole. The defendants here contend that Biggs is not dispositive as the court relied on the statute prior to its amendment in 1991, which eliminated the explicit language requiring the court to consider the action as a whole. The court in Biggs, however, did examine the legislative history behind the 1991 amendment¹. The court in Biggs also recognized the rationale underlying the frivolous claim statute as allowing attorney's fees as a method of discouraging suits brought solely for harassment, delay or nuisance. Biggs, supra at 135.

The language discussed by the Biggs court indicates the legislature intended for an allowance of attorney's fees only when the sole purpose of the action was harassment, delay or nuisance.

¹The 1991 final legislative report, 52d Legislature, at 173 (Senate Bill 5023), states: "The frivolous claim statute requires the judge to consider the entire action as a whole prior to awarding attorney's fees for a frivolous action. In 1987, the Legislature amended the frivolous claim statute to allow attorney's fees to be awarded in cases which were dismissed in summary judgment proceedings. It has been suggested that the statute should be further clarified and amended to allow attorney's fees in frivolous actions which are either voluntarily or involuntarily dismissed."

An action that contained meritorious claims is not to be discouraged. The statute, even following the 1991 amendments, still contains the language "action", implying the action is to be considered as a single item rather than one of divisible claims within an action for purposes of awarding reasonable attorney's fees for frivolous claims. It is clear that the court in Biggs did consider the effect of the 1991 statutory amendments and legislative history of the statute on the request for attorney's fees for frivolous claims. Biggs requires the action be frivolous in its entirety and this court will apply RCW 4.84.185 in that fashion as it analyzes the defendant's request.

III. DISCUSSION

The plaintiffs in this lawsuit asserted three claims:

- (1) That Grant County Commissioners violated SEPA by issuing a mitigated determination of nonsignificance without previously ordering an environmental impact statement;
- (2) That the rezone constituted an illegal spot zone; and
- (3) That the Commissioners' actions violated the doctrine of appearance of fairness.

As indicated above, the defendants as prevailing parties seek reasonable attorney's fees and costs on the basis that the plaintiff's action was frivolous and advanced without reasonable cause.² Also, as outlined above, the court needs to consider the action in its entirety in determining the frivolity of the action, which means that in order to determine the action frivolous, each claim within the action must be determined to be frivolous.

A. SEPA Violation Claim. In its contention that the Grant County Commissioners violated SEPA by issuing a mitigated determination of nonsignificance rather than requiring an

²An action is frivolous if it cannot be sustained by rational argument on the facts or the law. Rhinhart v. Seattle Times, 59 Wn.App. 132, 340 (1990).

environmental impact statement, the plaintiffs rely heavily on Norway Hill Pres. and Pro. Association v. King County Council, 37 Wn.2d 267 (1976) for the proposal that despite a mitigated determination of nonsignificance, SEPA requires an environmental impact statement before government action is taken. The Norway Hill case, decided almost a decade prior to the 1984 amendments to the State Environmental Policy Act and the regulations promulgated pursuant thereto, is simply not relevant to the SEPA process insofar as an environmental impact statement under the present SEPA law and guidelines is required only if potential significant adverse environmental impacts associated with the project contemplated cannot be mitigated. Here, the Commissioners were required to issue a declaration of nonsignificance when they determined that the environmental concerns originally raised could be mitigated and thereby chose the route of mitigation to eliminate the environmental impact concerns, resulting in the issuance of the MDNS.

Moreover, the plaintiffs argued that the Commissioners failed to consider the environmental factors in a manner sufficient to amount of a prima facie compliance with SEPA. The record, however, indicates that the Commissioners fully complied with the requirements for a checklist, alerted the necessary agencies about the proposal and acquired public input before making their decision. An appeal to the emotions is not a legal basis that overcomes the Commissioners' compliance with the laws.

Finally, the plaintiffs asserted that an environmental impact statement was necessary to evaluate whether the conditions imposed by the Commissioners in mitigation could have been implemented, would have been implemented, and would have ameliorated the environmental risk. The plaintiffs fail to cite any case law or statute that requires an environmental impact statement for these purposes. The developers are aware of the mitigating conditions imposed upon their permit and, presumably, would not have agreed to

them had they proved to be too onerous. Moreover, the conditions were imposed in response to various agencies' suggestions as to what was necessary to ameliorate the project's impact.

One is not unsympathetic to landowners' concerns about the changing character of the environment in the name of progress. It is in light of these very concerns that SEPA was created. It provides a forum in which these concerns are addressed and accounted for. However, it was not enacted to be circumscribed in effort to delay or deny development proposed within the legal parameters. Moreover, case law nearly 20 years old should alert a practitioner that, at a minimum, a cursory review of the present law is necessary to determine whether the case is compatible with today's statutes and codes. Failure to do so, even when furthering what one may consider to be a noble cause, i.e., preserving one's way of land and life, forces others to defend against frivolous lawsuits that congest the courts.

For these reasons, the plaintiffs' assertion that the Grant County Commissioners violated SEPA by issuing a mitigated determination of nonsignificance without first ordering an environmental impact statement is without a rational basis in law or fact and, therefore, is frivolous.

B. Spot Zone Claim The plaintiffs asserted that the rezoning of the project property from agriculture to planned unit development is not consistent with the Grant County Zoning Ordinance or Comprehensive Plan and that it does not bear a substantial relationship to the public health, safety and morals or welfare of the community, and therefore constitutes a spot zone. The plaintiffs relied on the argument that the 1978 amendment to the comprehensive plan was of no effect to the overall comprehensive plan of 1977 and that the property should be preserved to agriculture. The court determined that it could not ignore the 1978 amendment to the comprehensive plan, placing the property in question in a transition/buffer zone. Moreover, the

court determined that it could not ignore the record relating to the positive impact and relationship the development would have to the general community. Arguing that the court should ignore the 1978 amendment or the record with respect to the relationship that the project has to the community is not a rational argument with the basis in either fact or law. Because it is not, the argument advanced was and is frivolous.

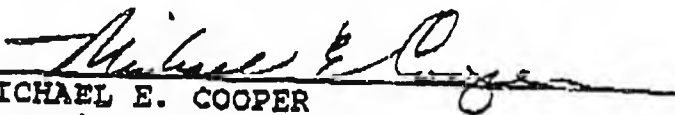
C. Appearance of Fairness Claim. This court in its memorandum decision rejected each argument advanced by the plaintiffs in support of their contention that the appearance of fairness doctrine had been violated. (See Memorandum Decision December 4, 1992, pp. 7-9). None of the concerns raised by the plaintiffs was raised until after the writ of review was sought. No challenge was made to disqualify any member of the Grant County Commissioners from participating in the decision with respect to the Moses Pointe Development until after the conclusion of the quasi-judicial proceedings, even though the information on which the challenge is made was known to the plaintiffs prior to the quasi-judicial proceedings concluding. The challenge to do so after the fact in this proceeding comes too late. Bellevue v. Boundary Review Board, 90 Wn.2d 856, 863 (1978). Because the challenge came too late here, any attempt to assert the challenge on the basis of appearance of fairness violations is without rational basis in fact or law and is therefore frivolous.

IV. CONCLUSION

The court, having determined that each claim asserted by the plaintiffs was frivolous and that, therefore, the action as a whole against the defendants was frivolous, the court concludes that the defendants now are entitled to reasonable attorney's fees and costs for defending the frivolous claim pursuant to RCW 4.84.185 and RCW

43.21C.075(9).

DATED this 26th day of January, 1993.


MICHAEL E. COOPER
Superior Court Judge

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SUPERIOR COURT OF WASHINGTON FOR GRANT COUNTY

MOSES LAKE CITIZENS CONCERNED)
ABOUT THE ENVIRONMENT, a non-for-)
profit partnership, and HARRY)
DAVIS and LUCILLE DAVIS, husband)
and wife, JOYCE RAE MASLEN, f/k/a)
JOYCE RAE JONES,)

Plaintiffs,

v.

GRANT COUNTY, HELEN FANCHER, DON)
GOODWIN, SID WINZLER, members of)
the Board of Commissioners of)
Grant County, and MICHAEL MOORE)
dba M.H. MOORE PROPERTIES, JAMES)
O. TALLMAN and DIAN [sic] M.)
TALLMAN, husband and wife,)

Defendants.

NO. 92-2-00442-5

ORDER GRANTING MOTION FOR AWARD OF ATTORNEYS' FEES AND COSTS

THIS MATTER having come on for hearing on the motion of defendants Michael Moore, James O. Tallman and Diane M. Tallman, for an award of reasonable costs and attorneys' fees for defending a frivolous claim pursuant to RCW 4.84.185 and RCW 43.21C.075(9), and ^{and b-} ~~and b-~~ Grant County for its costs of \$962.80, and ^{and b-} ~~and b-~~ the court having considered the pleadings submitted in support of and in opposition to the motion, and the records and files herein, and having heard argument of counsel, and having ^{determined the Plaintiffs' action} ~~made its findings of fact and~~ to be frivolous ^{for the reasons set forth in its Memo Decision} ~~and being~~ otherwise fully advised in the premises, now, therefore, it is hereby

ORDER GRANTING MOTION FOR AWARD OF ATTORNEYS' FEES - 1

Williams, Kestner & Gibbs
Two Union Square, Suite 4100
Mail Address: P.O. Box 21324

SENT BY:WK_&G

: 1-29-93 :11:25AM :

2088288811-

120635270000

1 ORDERED that defendants' motion for award of costs and fees
 2 pursuant to RCW 4.84.185 shall be and hereby is granted, and an award
 3 of costs and fees in the respective amounts of \$2925.63 and
 4 \$ 37,662⁰⁰, including fees of one thousand (\$1,000.00) dollars pursuant
 5 to RCW 43.21C.075(9), shall be included in the judgment to be ~~presented~~
 6 in this case in favor of defendants Michael Moore, James O. Tallman
 7 and Dian M. Tallman. *IT IS FURTHER ORDERED that*

Mell 8 *motion for costs of \$862.80 be and is hereby granted.*
 9 *DONE IN OPEN COURT* JANUARY 26, 1993 *awarded as requested*

Michael E. Long
 JUDGE

12 PRESENTED BY:
 13 WILLIAMS, KASTNER & GIBBS

14
 15 By *F. Arley Harrel*
 16 F. Arley Harrel
 17 WSBA #05170
 Dennis D. Reynolds
 WSBA #04762

18 Attorneys for Defendants
 19 Moore and Tallmans

20 COPY RECEIVED; APPROVED AS TO
 21 FORM; NOTICE OF PRESENTATION
 22 WAIVED;

23 By _____
 24 Jerry Moberg
 WSBA # _____

25 Attorneys for Plaintiffs

1993-1994
HOUSE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 1)

MICROFICHE #

CONFIRMATIONS, 1993

ORGANIZATIONAL MEETING, 1/19/93

HB 12

HB 14

HB 19

HB 33

HB 39

HB 41

HB 50

HB 51

HB 54

HB 62

HB 65

HB 92

HB 96

HB 101

HB 102

HB 112

HB 113

HB 114

HB 115

HB 118

HB 123

HLC18

1993-1994
HOUSE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 2)

MICROFICHE #

HB 126

HB 139

HB 145

HB 147

HB 158

HB 160

HB 164

HB 168

HB 170

HB 179

HB 180

HB 185

HB 187

HB 190

HB 203

HB 204

HB 220

HB 221

HB 222

HB 236

HB 237 FILE 1

HB 237 FILE 2

HB 241

HB 247

HLC18

1993-1994
HOUSE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 3)

MICROFICHE #

HB 249

HB 252

HB 255

HB 266

HB 272

HB 279

HB 281

HB 290

HB 292 FILE 1

HB 292 FILE 2

HB 295

HB 300

HB 301

HB 302

HB 308

HB 309

HB 325

HB 326

HB 342

HB 353

HB 381

HB 388

HB 394

HLC18

1993-1994
HOUSE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 4)

MICROFICHE #

HB 403

HB 410

HB 413

HB 419

HB 420

HB 439

HB 453

HB 458

HB 459

HB 476

HB 487

HB 497

HB 506

HB 507

HB 509

HB 514

HB 534

HB 538

HB 539

HB 545

HB 548

HCR 17

HCR 25

HCR 34

HLC18

1993-1994
HOUSE LABOR AND COMMERCE COMMITTEE
LIST OF FILES (PAGE 5)

MICROFICHE #

HSCR 3

HJR 33

HJR 64

SB 53

SB 64
SB 83
SB 86

SB 112

SB 149

SB 186

SB 212

SJR 27

SJR 51

Confirmations

1993

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 22, 1993

The Honorable Ramona Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

In accordance with AS 39.05.080 and Article III Sections 25 and 26 of the Alaska Constitution, I submit the following names for legislative confirmation of appointment to the positions noted:

COMMISSIONER, DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

Paul Fuhs - ITT, LC, Fin

COMMISSIONER, DEPARTMENT OF CORRECTIONS

Lloyd G. Rupp - des, jrn, fin

COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES

Glenn A. Olds - cidgas, des, fin

The résumés for these appointments have been submitted to the offices of the Senate Secretary and the House Clerk.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel".

Walter J. Hickel
Governor

COMMISSIONER PAUL FUHS

Paul Fuhs was appointed as Acting Commissioner of the Department of Commerce and Economic Development (DCED) by Governor Walter J. Hickel in July of 1992. Commissioner Fuhs began state service as the Director of Economic Development in DCED during March of 1991, after holding the office of Mayor of Unalaska/Dutch Harbor from 1985. Prior to his appointment as Commissioner, Fuhs held the position of Legislative Liaison to the Governor during the Seventeenth Legislature.

He brings a unique perspective towards state government as a result of his diverse background. His previous occupations include being a commercial fisherman, a Military Intelligence Agent for the Army, a lobbyist, a laborer in various areas of construction, a union organizer and he owned his own business specializing in underwater demolition/construction/explosive consulting.

Commissioner Fuhs' roles in various civic and service organizations illustrate his community involvement. His founding roles alone include Co-Chairman of Ports Alaska, President of Southwest Alaska Municipal Conference, Board Member of the Foundation for Social Innovation, Board Member of Unalaskans Against Sexual Assault and Family Violence, Vice President for the Coalition for Economic Justice, Board Member of the Bering Sea Marine Institute and Co-Chairman for the University of Alaska, Anchorage, Tanaina Child Development Center.

As Commissioner, his position encompasses the following boards and commissions:

- Aerospace Development Corporation
- Alaska Energy Authority
- Alaska Industrial Development and Export Authority
- Alaska Seafood Marketing Institute
- Coastal Policy Council
- Governor's Tourism Coordinating Committee
- Health Resource & Access Task Force
- Marine Pilots
- Prince William Sound Oil Spill Recovery Institute Board
- Royalty Oil and Gas Development Advisory Board
- State Bond Committee
- Student Loan Corporation

Recognition for his outstanding contributions include the 1990 Elected Official of the Year from the Alaska Municipal League, and most recently the 1992 Maritime Person of the Year from the Alaska Propeller Club.

RESUME

Paul Fuhs _
10652 Porter Lane
Juneau, AK 99801
(907) 790-2015 (home)
(907) 465-2500 (office)
(907) 465-5442 (fax)

Date of birth: March 27, 1949
Marital Status: Married, 2 children
Health: Excellent

EMPLOYMENT HISTORY

Acting Commissioner, Department of Commerce and Economic Development, July 1992 to present, directing Alaska's business regulatory, economic development, and international trade programs.

Senior Legislative Liaison, Office of the Governor, January 1992 to July 1992, Chief Lobbyist for Governor Hickel during the 17th Alaska Legislative Session.

State of Alaska, Director of Economic Development, March 1991 to January 1992, coordinating Alaska's economic diversification program.

OTORS, Inc. 1992 to present, Secretary/Treasurer of corporation developing and marketing an on-board tanker oil spill response system.

Aleutian Explosives, 1983-1991, Owner, commercial diving, underwater demolitions and construction, rock blasting, disposal of hazardous materials, explosives consulting.

International Longshoremen's and Warehousemen's Union, 1982-Feb 1991, container crane operator, gang boss, tractor/trailer driver.

Single Side Band, 1985-1991, synthesizer programmer and player, guitarist, vocals, electronic effects, recording for 5 piece dance band.

ILWU, 1980-1983, Union organizer, successfully organized longshoremen, represented workers before NLRB, OSHA, negotiated contracts, etc.

Laborer's Local 341, 1971-1980, Crane operator, logger, powderman, and other duties associated with large building and pipeline construction.

Youth Alternative Services Network, 1976-1977, Information systems specialist, newspaper editor.

Commercial Fisherman, 1973-1974, gillnet fishing in Bristol Bay.

United States Army, 1969-1971, Military Intelligence Agent, North Vietnamese linguist, honorable discharge.

Standard Oil of California, 1967 to 1969, tanker off-loading, tank farm gauging, watchman, etc in Anchorage.

Dr. Lee F. McKinley, 1965 to 1967, dental assistant.

ELECTED POSITIONS, COMMISSIONS AND ORGANIZATIONS:

The Northern Forum, 1992 to present, Founding Secretary Treasurer of international organization to promote economic development, technology exchange, promotion of tourism, etc.

Juneau Economic Development Council, 1993 to present, board member of local council to formulate economic development strategy for Juneau.

City of Unalaska/Dutch Harbor, Mayor, 1985-Feb. 1991.

Ports Alaska, founding Co-Chairman, 1988-1990, coalition of Alaskan ports organized for marketing, port personnel training and port development.

Southwest Alaska Municipal Conference, founding President, 1986-1988, coalition of Southwest Alaska communities focused on fisheries development issues.

Alaska Mariculture Association, founding President, 1986-1990, association organized to promote favorable legislation and provide technical assistance to the Alaska mariculture industry.

Foundation for Social Innovation, Alaska, Director of Business Relations, 1988 to 1992, founding Board Member, initiating and coordinating business relations between the USSR and Alaska, including cultural and educational programs.

Unalaskans Against Sexual Assault and Family Violence, Vice President, founding board member, 1984-1988, organization provides support for victims of abuse and educates for prevention of abuse; I was instructor for self-defense for women.

Alaska Municipal League, Board of Directors, 1987-1990.

University of Alaska, Anchorage, Tanaina Child Development Center, founding Co-Chairman, established child care and student practicum center, wrote grants, hired director, etc.

Coalition for Economic Justice, founding Vice President, organization composed of 19 minority and community action organizations focused on low income residents, community economic development, in Anchorage.

COMMISSIONER PAUL FUHS

Paul Fuhs was appointed as Acting Commissioner of the Department of Commerce and Economic Development (DCED) by Governor Walter J. Hickel in July of 1992. Commissioner Fuhs began state service as the Director of Economic Development in DCED during March of 1991, after holding the office of Mayor of Unalaska/Dutch Harbor from 1985. Prior to his appointment as Commissioner, Fuhs held the position of Legislative Liaison to the Governor during the Seventeenth Legislature.

He brings a unique perspective towards state government as a result of his diverse background. His previous occupations include being a commercial fisherman, a Military Intelligence Agent for the Army, a lobbyist, a laborer in various areas of construction, a union organizer and he owned his own business specializing in underwater demolition/construction/explosive consulting.

Commissioner Fuhs' roles in various civic and service organizations illustrate his community involvement. His founding roles alone include Co-Chairman of Ports Alaska, President of Southwest Alaska Municipal Conference, Board Member of the Foundation for Social Innovation, Board Member of Unalaskans Against Sexual Assault and Family Violence, Vice President for the Coalition for Economic Justice, Board Member of the Bering Sea Marine Institute and Co-Chairman for the University of Alaska, Anchorage, Tanaina Child Development Center.

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Alaska Energy Authority

Alaska Industrial Development and Export Authority

Alaska Seafood Marketing Institute

Coastal Policy Council

Governor's Tourism Coordinating Committee

Health Resource & Access Task Force

Marine Pilots

Prince William Sound Oil Spill Recovery Institute Board

Royalty Oil and Gas Development Advisory Board

State Bond Committee

Student Loan Corporation

Recognition for his outstanding contributions include the 1990 Elected Official of the Year from the Alaska Municipal League, and most recently the 1992 Maritime Person of the Year from the Alaska Propellor Club.

Regarding Confirmation of Commissioner Paul Fuhs:

Heidi Bohi, 562-7380, telephoned on behalf of the Southwest Alaska
Municipal Conference in support of Commissioner Fuhs' confirmation.

Regarding confirmation of Commissioner Paul Fuhs:

Richard Wilson, City Manager, City of St. George called in support of Mr. Fuhs confirmation.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 8, 1993

The Honorable Ramona Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

In accordance with AS 39.05.080 and Article III, Sections 25 and 26, of the Alaska Constitution, I submit the following names for legislative confirmation of appointment to the positions noted:

Alaska State Board of Public Accountancy

Elaine Damm - Kodiak

Appointed 11/14/91 Reappointed 05/12/92 Expires 04/25/96

Bruce J. Ogie - Anchorage

Appointed 08/14/91 Reappointed 07/20/92 Expires 04/25/96

State Board of Registration for Architects, Engineers, and Land Surveyors

Richard S. Armstrong, PE - Anchorage

Appointed 07/01/92 Expires 07/01/96

Paul E. Hartig - Palmer

Appointed 10/15/92 Expires 07/01/94

William W. Mendenhall - Fairbanks

Appointed 07/01/92 Expires 07/01/96

Michael H. Schwartz - Palmer

Appointed 09/02/92 Expires 07/01/96

Athletic Commission

Carolyn J. Michels - Nome

Appointed 10/28/92 Expires 05/14/95

Sylvia J. Reynolds - Juneau

Appointed 09/02/92 Expires 05/14/96

Gary R. Wilken - Fairbanks

Appointed 06/11/92 Expires 05/14/96

The Honorable Ramona Barnes

February 8, 1993

Page 2

Board of Governors of the Alaska Bar

William E. Dam, Sr. - Anchorage

Appointed 08/05/92 Expires 06/30/95

JLD

Board of Barbers and Hairdressers

Michelle A. Loptien - Juneau

Appointed 09/02/92 Expires 07/01/96

Jerry R. Mayfield - Anchorage

Appointed 06/15/91 Reappointed 08/17/92 Expires 07/01/96

LEC

Big Game Commercial Services Board

Glenn W. Fredericks - Anchorage

Appointed 10/28/92 Expires 06/30/96

Paul E. Johnson - Elfin Cove

Appointed 08/29/89 Reappointed 07/13/92 Expires 06/30/96

RCS

Board of Chiropractic Examiners

Patricia G. Conners-Allen, DC - Juneau

Appointed 09/02/92 Expires 07/15/94

LeRoy D. Nordstrom, DC - Anchorage

Appointed 07/15/92 Expires 07/15/96

Glenn M. Ralls - Anchorage

Appointed 07/15/92 Expires 07/15/94

HCCS

Alaska Commercial Fisheries Entry Commission

Bruce C. Twomley - Juneau

Appointed 10/06/82 Reappointed 08/18/88, 07/21/92

Expires 07/01/96

RCS

Board of Dental Examiners

Kevin L. Gottlieb, DDS - Anchorage

Appointed 02/01/93 Expires 02/01/97

Carolyn J. Michels - Nome

Appointed 02/01/93 Expires 02/01/97

Burton A. Miller, DDS - Anchorage

Appointed 05/27/92 Expires 02/01/95

Robert W. Robinson II, DMD - Wasilla

Appointed 05/08/92 Expires 02/01/94

HCCS

Board of Dispensing Opticians

Pamela L. Doerr - Cordova
Appointed 05/27/92 Expires 06/14/94
Beverly J. Gilfillan - Anchorage
Appointed 03/28/90 Reappointed 08/17/92 Expires 06/14/96
Patricia Hedges-Gajdos - Fairbanks
Appointed 08/17/92 Expires 06/14/94

HCS

Board of Education

Donald L. Fancher - Bethel
Appointed 01/08/93 Expires 01/31/98
Judy L. Norton - Eagle River
Appointed 09/03/92 Expires 01/31/95

HCS

Board of Fisheries

Larry Edfelt - Juneau
Appointed 07/23/91 Reappointed 01/31/93 Expires 01/31/96
John Hanson - Alakanuk
Appointed 02/08/89 Reappointed 07/13/92 Expires 01/31/95
Dick Jacobsen - Sand Point
Appointed 01/31/93 Expires 01/31/96
Deborah A. Lyons - Petersburg
Appointed 01/31/90 Reappointed 01/31/93 Expires 01/31/96

RCS

Board of Game

Susan Entsminger - Tok
Appointed 01/31/93 Expires 01/31/96
Roger Huntington - Galena
Appointed 04/14/92 Reappointed 01/31/93 Expires 01/31/96
Ernest E. Polley - Juneau
Appointment effective 04/05/93 Expires 01/31/94
Anne K. Ruggles - Fairbanks
Appointed 01/31/93 Expires 01/31/96

RCS

State Commission for Human Rights

Augusta Sayoko D. Mimoto Greenheart - Anchorage
Appointed 01/31/93 Expires 01/31/98
Robyn F. States - Fairbanks
Appointed 01/31/93 Expires 01/31/98

SA

Commission on Judicial Conduct

Sara Pearson - Soldotna
Appointed 12/31/92 Expires 12/31/96

JUD

Alaska Labor Relations Agency

Darrell F. Smith - Anchorage
Appointed 02/06/91 Reappointed 06/30/92 Expires 06/30/95

L & C

Board of Marine Pilots

Donna C. Bumgardner - Valdez
Appointed 07/21/92 Expires 06/01/96
John C. Klepper - Valdez
Appointed 07/21/92 Expires 06/01/95
Mark E. Springer - Hooper Bay
Appointed 06/11/92 Expires 06/01/96

TRSP.

Board of Marital and Family Therapy

Mercy Dennis - Anchorage
Appointed 12/14/92 Expires 12/14/95
Randall G. Jones - Anchorage
Appointed 12/15/92 Expires 12/14/93
Dennis Schlotfeldt, PhD - Fairbanks
Appointed 12/14/92 Expires 12/14/97
R. Brock Shamberg, Esq. - Anchorage
Appointed 12/14/92 Expires 12/14/96
Elaine Stoneburner - Anchorage
Appointed 12/14/92 Expires 12/14/94

KLCS

State Medical Board

Eileen L. Becker - Homer
Appointed 01/09/93 Expires 01/09/97
Noel W. DeVries - Palmer
Appointed 12/09/91 Reappointed 07/23/92 Expires 08/13/96
Joan Jelinek, MD - Fairbanks
Appointed 12/14/92 Expires 01/12/96
Gary L. Johnson, MD - Fairbanks
Appointed 11/12/92 Expires 11/06/96
Robert J. Rowen, MD - Anchorage
Appointed 07/23/92 Expires 07/08/96

KLCS

The Honorable Ramona Barnes

February 8, 1993

Page 5

✓ Board of Certified Direct-Entry Midwives

Peggy A. Downing, MD - Palmer
Appointed 07/21/92 Expires 07/21/95
Sydney Flint - Fairbanks
Appointed 08/17/92 Expires 07/21/94
Kaye Kanne - Juneau
Appointed 07/21/92 Expires 07/21/96
Paula Korn, CNM - Anchorage
Appointed 07/21/92 Expires 07/21/93
Pam Weaver - Chugiak
Appointed 07/21/92 Expires 07/21/96

LESS

✓ Board of Nursing

Belle L. Cunningham, LPN - Anchorage
Appointed 05/11/92 Expires 03/31/95
Marion K. Lampman - Anchorage
Appointed 08/17/92 Expires 03/31/95
Betsy B. McCune, RN - Eagle River
Appointed 05/11/92 Expires 03/31/96

LESS

Occupational Safety and Health Review Board

Donald F. Hoff, Jr. - Ketchikan
Appointed 04/01/86 Reappointed 09/02/88, 08/01/92
Expires 08/01/96

LSC

Alaska Oil and Gas Conservation Commission

David W. Johnston - Anchorage
Appointed 01/19/89 Reappointed 12/31/92 Expires 12/31/98

RC

✓ Board of Examiners in Optometry

Lynn J. Coon, OD - Wasilla
Appointed 02/06/89 Reappointed 06/15/92 Expires 06/15/96
Steven S. Dobson, OD - Anchorage
Appointed 02/06/89 Reappointed 02/19/92, 05/08/92
Expires 06/15/95
Marilyn S. Porter - Anchorage
Appointed 12/14/92 Expires 06/15/94

LESS

✓ Personnel Board

Gary P. Bader - Anchorage
Appointed 06/20/92 Expires 06/20/98

LSC

The Honorable Ramona Barnes
February 8, 1993
Page 6

✓ Board of Pharmacy

Charles J. Lastufka - Anchorage
Appointed 09/03/92 Expires 04/01/96

KLCS

✓ State Physical Therapy and Occupational Therapy Board

Pauline L. Bennett-Gannon - Fairbanks
Appointed 04/10/90 Reappointed 05/12/92 Expires 01/01/96
Arlene C. Gerety - Anchorage
Appointed 09/03/92 Expires 09/01/96
Cary S. Keller, MD - Fairbanks
Appointed 10/13/92 Expires 09/01/96
Lawrence W. Seethaler, LPT - Anchorage
Appointed 09/03/92 Expires 09/01/96

KLCS

✓ Professional Teaching Practices Commission

Brian L. Carter - North Pole
Appointed 09/21/92 Expires 07/01/94
Richard E. Clevenger - Ketchikan
Appointed 07/21/92 Expires 07/01/94
Peggy E. Conner Jones - Anchorage
Appointed 09/21/92 Expires 07/01/95
Fred L. Lau - Nenana
Appointed 07/21/92 Expires 07/01/95
William A. McCain - Wasilla
Appointed 09/30/92 Expires 07/01/94
Marsha K. Van Abel - Anchorage
Appointed 09/23/92 Expires 07/01/95

KLCS

✓ Board of Psychologist and Psychological Associate Examiners

Tyler D. Shaw - Eagle River
Appointed 10/28/92 Expires 07/01/96
Robb L. Stokes, PhD - Sitka
Appointed 09/30/92 Expires 07/01/96

KLCS

✓ Public Defender

John Salemi - Anchorage
Appointed 02/27/89 Reappointed 02/27/93 Expires 02/27/97

JUD

✓ Board of Certified Real Estate Appraisers

Ken Kincaid - Anchorage
Appointed 06/13/91 Reappointed 06/30/92 Expires 06/30/96

KLCS

The Honorable Ramona Barnes
February 8, 1993
Page 7

Real Estate Commission

Terral F. Wanzer - Ketchikan

Appointed 12/06/91 Reappointed 01/31/93 Expires 01/31/97

L&C

Board of Clinical Social Work Examiners

Ken P. Fallon, Jr., MSW, ACSW - Palmer

Appointed 01/13/89 Reappointed 12/14/92 Expires 07/01/96

Kris Jenkins - North Pole

Appointed 05/12/92 Expires 07/01/95

de SS

Alaska Public Utilities Commission

James E. Carter, Sr. - Kenai

Appointed 11/07/92 Expires 10/31/98

L&C

Board of Veterinary Examiners

Virginia M. Johnson, DVM - Anchorage

Appointed 03/10/89 Reappointed 05/12/92 Expires 01/31/95

James Leach, III, DVM - Big Lake

Appointed 02/01/88 Reappointed 05/12/92 Expires 01/31/96

Barbara J. Marcisak - Palmer

Appointed 06/11/92 Expires 01/31/96

de SS

Violent Crimes Compensation Board

Carol B. Eastaugh - Auke Bay

Appointed 01/29/81 Reappointed 11/30/89, 12/15/92

Expires 12/15/95

JUD

Alaska Workers' Compensation Board

Ray W. Kimberlin - Fairbanks

Appointed 10/13/92 Expires 07/01/95

Nancy J. Ridgley - Ward Cove

Appointed 10/13/92 Expires 07/01/95

Darrell F. Smith - Anchorage

Appointed 08/19/88 Reappointed 08/20/91, 05/08/92

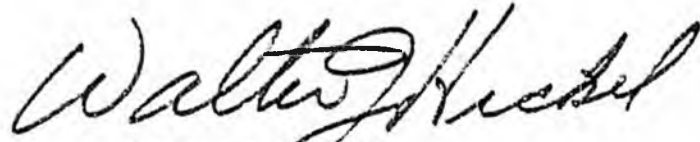
Expires 07/01/94

L&C

The Honorable Ramona Barnes
February 8, 1993
Page 8

*The résumés for these appointments have been submitted to the offices of the
Senate Secretary and the House Clerk.*

Sincerely,

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

Walter J. Hickel
Governor

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

Post-It [®] brand fax transmittal memo 7671		# of pages ▶
To <i>L. J. Carter</i>	From <i>Bob</i>	
Co.	Co. <i>APUC</i>	
Dept.	Phone # <i>276-6272</i>	
Fax #	Fax # <i>276-0160</i>	

January 4, 1993

REPLY TO:

- 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1904
PHONE: (907) 276-3550
FAX: (907) 276-3897
- KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 458-1317
- P.O. BOX K -- STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 466-3800
FAX: (907) 463-5285

James E. Carter, Sr.
Commissioner of APUC
1016 W. 6th Ave., Ste. 400
Anchorage, AK 99501-1963

CONFIDENTIAL

Dear Commissioner Carter:

You have asked the attorney general's office whether a conflict of interest exists as a result of your recent appointment to the Alaska Public Utilities Commission ("APUC") while your spouse serves on the board of and is compensated by the Homer Electric Association, Inc. ("HEA") and Alaska Electric Generation and Transmission Cooperative, Inc. ("AEG&T"). The APUC has jurisdiction over both the HEA and AEG&T. Apparently, many matters that concern HEA and AEG&T have broader implications for Chugach Electric Association, Inc. and Matanuska Electric Association, Inc. and might affect Anchorage Municipal Light and Power and Golden Valley Electric Association, Inc.

I consulted Assistant Attorney General Elizabeth Hickerson, who handles APUC matters for the state. We have decided that your service on the APUC is not in itself a violation of AS 39.52, the Alaska Executive Branch Ethics Act, but that you should abstain from voting and participating in cases in which HEA or AEG&T are parties. You also should be careful not to disclose information gained in the course of your term on the APUC to your spouse unless the information has also been disseminated to the public. AS 39.52.140(a).

You may have to abstain from participating in other matters that might affect HEA or AEG&T, unless the potential effects are too insignificant or conjectural to create a conflict. See AS 39.52.110. The chair of your commission decides whether a conflict may exist. You are required to disclose all potential violations on the public record and in writing to the chair. If you object to a ruling by the chair, you may request the members to vote on whether your participation in a matter will constitute a violation. (You are not allowed to participate in that vote.) AS 39.52.220(a).

James E. Carter, Sr.
Commissioner of APUC

January 4, 1993
Page 2

I hope this letter answers your questions. If you have further questions, please let me know.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By: *Tina Kobayashi*
Tina Kobayashi
Assistant Attorney General

TK:tg

cc: Elizabeth Hickerson

The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on April 19, 1994, on the qualifications of James J. Ginnaty to be confirmed as a member of the Occupational Safety and Health Review Board.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Mr. Ginnaty's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

W.F. Williams
Bill Hudson

Joe Sittory
Edson Hudson
[Signature]

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

April 19, 1994
DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Karen J. Mahurin to be confirmed as a member of the Alaska Labor Relations Agency.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Ms. Mahurin's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

Brian Porter

Adon V. Field

W. R. Dillie

Joseph P. ...

Bill Hudson

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

3-1-94
DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Sally A. DeWitt to be confirmed as a member of the Alaska Labor Relations Agency.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Ms. DeWitt's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

Brian Hopter

Edo Hild

W. J. Williams

Joseph [unclear]

Bill Hudson

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

3-1-94
DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Kristan Tanner to be confirmed as a member of the Real Estate Commission.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Ms. Tanner's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

Bill Porter

Ed Gred

W. J. Williams

Joseph [unclear]

Bill Hudson

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

3-1-94
DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Chris Anderson to be confirmed as a member of the Board of Certified Real Estate Appraisers.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Mr. Anderson's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

<u>David Porter</u>	_____	_____
<u>Bob Wood</u>	_____	_____
<u>Mr. Wilson</u>	_____	_____
<u>Chuck [unclear]</u>	_____	_____
<u>Bill Hudson</u>	_____	_____
_____	_____	_____
_____	_____	_____

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN
3-1-94
DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Twyla Barnes to be confirmed as a member of the Alaska Workers' Compensation Board.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Ms. Barnes' confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

<u>Brian Porter</u>	_____	_____
<u>Glenn White</u>	_____	_____
<u>W. F. Williams</u>	_____	_____
<u>Charles [unclear]</u>	_____	_____
<u>Bill Hudson</u>	_____	_____
_____	_____	_____
_____	_____	_____

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN
3-1-94
DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Steve Hagedorn to be confirmed as a member of the Alaska Workers' Compensation Board.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Mr. Hagedorn's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

Richard Porter

Ed Wild

W. F. Sullivan

George [unclear]

Bill Hudson

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

3-1-94
DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Patricia Wollendorf to be confirmed as a member of the Alaska Workers' Compensation Board.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Ms. Wollendorf's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

Brian Porter

Del White

W. J. Williams

Joe [unclear]

Bill Hudson

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

DATE

3-1-94

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Alyce Hanley to be confirmed as a member of the Alaska Public Utilities Commission.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Ms. Hanley's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

<i>Brian Porter</i>	_____	_____
<i>Ed Guld</i>	_____	_____
<i>W. J. Williams</i>	_____	_____
<i>Chris [unclear]</i>	_____	_____
<i>Bill Hudson</i>	_____	_____
_____	_____	_____
_____	_____	_____

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN
3-1-94
DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Alfred L. Tamagni Sr. to be confirmed as a member of the Alaska Labor Relations Agency.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Mr. Tamagni's confirmation:

DO RECOMMEND	DO NOT RECOMMEND	NO RECOMMENDATION
<u>Brian A. Hartner</u>	_____	_____
<u>Ed W. Hall</u>	_____	_____
<u>W. J. Williams</u>	_____	_____
<u>Carl [unclear]</u>	_____	_____
<u>Bill Hudson</u>	_____	_____
_____	_____	_____
_____	_____	_____

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN
3-1-94
DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Michael J. O'Hara to be confirmed as a member of the Board of Marine Pilots.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Mr. O'Hara confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

Brian A. Porter

John R. ...

W. R. ...

[Signature]

Bill Hudson

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

3-1-94

DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Audrey J. Foldoe to be confirmed as a member of the Real Estate Commission.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Mr. Foldoe's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

Brian Porter

John Paul

W. J. Williams

Gregory

Bill Hudson

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

DATE

3-1-94

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Dwight D. Ormquist to be confirmed as a member of the Alaska Public Utilities Commission.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Mr. Ormquist's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

Brian Horner

Ed Ward

W. J. Williams

Bill Hudson

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

3-1-94
DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Florence S. Rooney to be confirmed as a member of the Alaska Workers' Compensation Board.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Ms. Rooney's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

Bill Porter

Glenn Hood

W. J. Williams

Bob [unclear]

Bill Hudson

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

DATE

3-1-94

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of John Giuchici to be confirmed as a member of the Alaska Workers' Compensation Board.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Mr. Giuchici's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

Brian Herten

John Mulh

Bill Hudson

Joseph [unclear]

Bill Hudson

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

3-1-94
DATE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



The Honorable Ramona Barnes
Speaker of the House
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Madam Speaker:

The House Labor and Commerce Committee held a hearing on March 1, 1994, on the qualifications of Stuart H. Bowdoin Jr. to be confirmed as a member of the Alaska Labor Relations Agency.

Members of the Labor and Commerce Committee have signed below indicating their individual recommendations to the House concerning Mr. Bowdoin's confirmation:

DO RECOMMEND

DO NOT RECOMMEND

NO RECOMMENDATION

Bruce Hartner

Ed Breen

W. J. Wilton

Conrad H. ...

Bill Hudson

Bill Hudson
REPRESENTATIVE BILL HUDSON, CHAIRMAN

3-1-94
DATE

02/21/94
15:55:51

PUBLIC OPINION MESSAGE SYSTEM
POMS PROOF BASKET
LIO OFFICE: MAT MAT-SU LIO
Stack

POMM200
LIOCCCC

Mr. Kay
Addr1: P O Box 2587
Tel: 746 3060 AFL:

Addr2:

Zipcode: 645
City: Palmer

House Members and/or House Committees and/or Caucuses

CAR LAR MND

Senate Members and/or Senate Committees and/or Caucuses

KER hal

Dill#: Title:
Support: N S=Support O=Oppose A=Amend N=Not related
Subject: PUBLIC UTILITIES

Message: IT IS MY UNDERSTANDING THAT DWIGHT ORNQUIST IS TO BE CONFIRMED TO
FILL THE ENGINEER SLOT AT THE A.P.U. C. I URGE YOU NOT TO CONFIRM MR.
ORNQUIST BASED ON THE FACT THAT HE IS NOT QUALIFIED TO SIT IN AN ENGINEERING
POSITION—HE IS NOT AN ENGINEER.

PLEASE DO NOT CONFIRM MR. ORNQUIST FOR THIS POSITION ON THE A.P.U.C.

ENTERED BY: LIOCCCC on 02/21/94
KER LAR LIO SELECT

POMID: 05706

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



MEMORANDUM

February 19, 1993

TO: House Labor and Commerce Committee

FROM: Representative Bill Hudson, Chair *Bill Hudson*
House Labor and Commerce Committee

SUBJECT: Legislative Confirmation Hearings

The following names have been referred to our committee for confirmation. I have attached a resume for each and would appreciate your reviewing them and notifying me if you would like testimony scheduled for any of these appointments. Also attached is a letter I received pertaining to the appointment of James Carter to the APUC, which we will need to address.

Please let my aide, Lynda Giguere, know of any concerns you may have regarding these appointments, so that we may schedule them before the committee.

State Board of Registration for Architects, Engineers, and Land Surveyors

Richard S. Armstrong, PE - Anchorage

Appointed 7/01/92 Expires 7/01/96

Paul E. Hartig - Palmer

Appointed 10/15/92 Expires 7/01/94

William W. Mendenhall - Fairbanks

Appointed 7/01/92 Expires 7/01/96

Michael H. Schwartz - Palmer

Appointed 9/02/92 Expires 7/01/96

Board of Barbers and Hairdressers

Michelle A. Loptien - Juneau

Appointed 9/02/92 Expires 7/01/96

Jerry R. Mayfield - Anchorage

Appointed 6/15/91 Reappointed 8/17/92 Expires 6/30/96

Alaska Labor Relations Agency

Darrell F. Smith - Anchorage

Appointed 2/06/91 Reappointed 6/30/92 Expires 6/30/95

Occupational Safety and Health Review Board

Donald F. Hoff, Jr. - Ketchikan

Appointed 4/01/86 Reappointed 9/02/88 8/01/92 Expires 8/01/96

Personnel Board

Gary P. Bader - Anchorage

Appointed 6/20/92 Expires 6/20/98

Board of Certified Real Estate Appraisers

Ken Kincaid - Anchorage

Appointed 6/13/91 Reappointed 6/30/92 Expires 6/30/96

Real Estate Commission

Terral F. Wanzer - Ketchikan

Appointed 12/06/91 Reappointed 1/31/93 Expires 1/31/97

Alaska Public Utilities Commission

James E. Carter, Sr. - Kenai

Appointed 11/07/92 Expires 10/31/98

Alaska Workers' Compensation Board

Ray W. Kimberlin - Fairbanks

Appointed 10/13/92 Expires 7/01/95

Nancy J. Ridgley - Ward Cove

Appointed 10/13/92 Expires 7/01/95

Darrell F. Smith - Anchorage

Appointed 8/19/88 Reappointed 8/20/91, 5/08/92 Expires 7/01/94

Attachments

BH:lsg



STATE OF ALASKA
 OFFICE OF THE GOVERNOR
 P.O. Box A
 Juneau, Alaska 99811

Wakili Camp

BOARDS AND COMMISSIONS RESUMÉ

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resumé. The initial determination of whether you qualify for the position specified will be based on this application.

Please type or print legibly in ink. Forward to the above address. Be sure your answers are true. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Position for which I am applying:

Alaska Worker's Compensation Board

Please list any other board or commission on which you serve:

NONE

Name Darrell F. Smith		Previous Name(s) used under
Mailing Address 610 West 34th. Street		Residence Address 8147 Lloyd dr.
City, State and Zip Code Anchorage, Alaska. 99513		Anchorage, Alaska. 99502
Home Telephone (907) 248-9548		Business or Message Telephone (907) 562-2810

REPORT ADDRESS AND TELEPHONE CHANGES PROMPTLY

AS 39.05.100 requires that a person appointed to a board or commission be a registered voter before the last general election:

Are you a registered voter? YES NO

Voter Registration Number (Optional) 177859

Social Security Number (Optional) 549-48-2798

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years? YES NO

If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recency and relationship to the board position applied for will be evaluated and a determination will be made after a review of all relevant facts.

A policy in the Governor's Office pertaining to boards and commissions is that a member attend at least 75% of the meetings. Are there any circumstances in either your professional or personal life which would prevent you from participating at the required authorized meetings? YES NO

If "YES", explain on a separate sheet of paper and attach to this application. None, except for work scheduling.

This position may require that the member travel to either urban or rural (or both) areas. Are there any circumstances which would prevent you from participating? Same as above.

CONFLICTS OF INTEREST. Certain Boards and Commissions require full disclosure of personal financial data under AS 39.50.010. If required for the Board or Commission for which you are applying, are you willing to do so? YES NO

Could you or any member of your family be affected financially by decisions to be made by the Board or Commission for which you have applied? YES NO If "YES", explain.

The Office of the Governor will not discriminate against an applicant for a Board or Commission based on Sex, Age, National Origin, Marital Status, Pregnancy, Handicap, Religion or Parenthood.

A. List any professional licenses, certifications, or registrations and dates obtained that may be used as qualifying criteria:

State of Alaska Journeyman Plumbers Lic. # 000006
 Municipality of Anchorage Journeyman Plumber Lic. #JP-0427
 International Foundation of Employee Benefits Plan # 066998 (labor trustee)

B. List both formal and informal education and training experiences: (Use additional paper if necessary)

1956 Graduate Anchorage High School
 1962 Graduate Plumber Apprentice Training Program

C. List any community service positions, municipal government positions, state positions held, and list any awards received. These include both compensated and uncompensated positions (for example, president of a service organization or a mayor). Also include length of time served in the positions.

Executive Board Member Resource Development Council. 1987.
 Department of Labor Seminar's. Federal 1985. State of Alaska 1986.

D. Employment work history: paid, unpaid or voluntary: (Use additional paper if necessary)

31 year member of Plumbers & Pipefitters Union Local 367. Of which, 19 year's as an officer, including 9 years as a Business Representative and 4 year's as the elected Business Manager.
 Lobbied in Juneau and Washington D.C. on issues concerning labor including the recent changes to the Workmans Compensation Law this past session.

The Office of the Governor and the State of Alaska have an Affirmative Action Equal Employment Opportunity Program. To assist in the program, you are asked to voluntarily answer the following questions to provide the information necessary for reporting purposes. Under State and Federal law, the information you provide will not be used to illegally discriminate against you.

SEX Male Female
 ETHNIC BACKGROUND White Black Hispanic Alaska Native Asian or Pacific Islander American Indian (partial)

Date of Birth July 25, 1937 Military Service (If applicable, give dates) California Nat. Guard 1953/55. Alaska Army Reserve 1956/62

CERTIFICATION: I swear that the information I have entered on this form is true to the best of my knowledge. I understand that if I deliberately conceal or enter false information on the form my application may be rejected, I may be removed from the list of eligible candidates or I may be removed from the position; I agree that the Office of the Governor may contact present or former employers or other persons who know me to obtain additional information about my skills and abilities. I understand that the information on this application is public information and may be released through a legal request for such information.

Signature in Ink

Date

August 2, 1988

Nancy Jo Ridgley
P. O. Box 783
Ward Cove, AK 99928
(907) 247-5496

EDUCATION:

Valley Business College, 1976-1977; Lewis-Clark State College, 1969-1974.

EXPERIENCE:

January 13, 1986-current

CITY OF KETCHIKAN-KETCHIKAN PUBLIC UTILITIES

Customer Service Representative. Process telephone orders for customers. Includes inputting orders, checking information on the accounts for new customers, transferring customers from one location to another, inputting directory changes and/or mailing address changes for customers. Collecting and counting payments from customers both over the counter and thru the mail. Answering the PBX phone for incoming phone calls and transferring the calls to the correct departments. Receiving orders both over the counter and over the phone. Verifying and correcting all the listings for the phone book. Working as Plant Clerk when plant person is on vacation or on sick leave. Also daily contact with Plant to make sure orders are processed to the customers satisfaction.

Processing calling cards for customers on the DRAC machine for ALASCOM. Counting coins for the payphones in town and bagging the coins for delivery to the bank.

Also processing meter sheets for electric accounts and check to make sure they are okay before billing. Inputting orders for customers transferring or placing a new account. Answering questions concerning electric or phone rates. Any additional work the supervisor may request.

April 1, 1977-November 1, 1985

City of Lewiston, Idaho

Processed billings for water, sewer and sanitation which included entering meter reading information into IBM Systems 34 on th CRT, correcting any errors, calculating any special billings, and printing the billings for the mail. All billings were hand counted and banded for the post office.

Also answered direct line from public on all calls concerning City utility questions or routed any calls to the correct party. Keyed cash receipts daily. Answered correspondence relating to utilities, filed and typed all letters. General office work on calculator.

Also helped in reception work at front counter, answered the switchboard, received payments for all types of billings and sorted mail. Upon request, would also help with budget copying and binding, helped correct payroll, and answered various questions concerning ambulance billings.

Page 2
Nancy Jo Ridgley

work experience con'd

April thru June 1976

First Security Bank of Idaho

Worked nights in the data processing department of the bank for editing and finalization of all cancelled checks.

May 1975-March 1976

Lewis-Clark State College

Worked in the School Library on a temporary position as a clerk-typist. Also helped students find books and filed books and magazines. Helped bind magazines in groups of a full year for future reference.

PERSONAL INFORMATION:

Married, 4 children. Previously from the Lewiston, Idaho farm area.

HOBBIES AND ORGANIZATIONS:

Member IBEW Local 1547, Shop Steward for customer service, Member of Eagles Aria #162. I enjoy cooking, sewing, fishing, hunting, softball, trapshooting, reading, and a good football game. No particular political affiliation.

REFERENCES:

References upon Request.



STATE OF ALASKA
 OFFICE OF THE GOVERNOR
 Pouch A
 Juneau, Alaska 99811

Unk... ..

BOARDS AND COMMISSIONS RESUMÉ

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resumé. The initial determination of whether you qualify for the position specified will be based on this application.

Please type or print legibly in ink. Forward to the above address. Be sure your answers are true. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Position for which I am applying:

Worker's Compensation Board

Please list any other Board or Commission on which you serve:

Name

Previous Name applied under

Rav W. Kimberlin

Mailing Address

Residence Address

P.O. Box 80564

1317 Helderiver

City, State and Zip Code

Fairbanks, AK 99708

Fairbanks, AK 99709

Home Telephone

Business or Message Telephone

(907) 479-6324

(907) 456-4201

REPORT ADDRESS AND TELEPHONE CHANGES PROMPTLY

AS 39.05.100 requires that a person appointed to a board or commission be a registered voter before the last general election:

Are you a registered voter? YES NO

Voter Registration Number (Optional)

Social Security Number (Optional) 515-32-8703

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years? YES NO

If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recency and relationship to the board position applied for will be evaluated and a determination will be made after a review of all relevant facts.

A policy in the Governor's Office pertaining to boards and commissions is that a member attend at least 75% of the meetings. Are there any circumstances in either your professional or personal life which would prevent you from participating at the required authorized meetings? YES NO

If "YES", explain on a separate sheet of paper and attach to this application.

This position may require that the member travel to either urban or rural (or both) areas. Are there any circumstances which would prevent you from participating? No

CONFLICTS OF INTEREST: Certain Boards and Commissions require full disclosure of personal financial data under AS 39.50.010. If required for the Board or Commission for which you are applying, are you willing to do so? YES NO

Could you or any member of your family be affected financially by decisions to be made by the Board or Commission for which you have applied? YES NO If "YES", explain.

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RAY KIMBERLIN
P.O. BOX 80564
FAIRBANKS. AK 99708-0564
(907) 456-4201

September 24. 1992

Office of the Governor
Boards & Commissions Resume
Pouch A
Juneau, AK 99811

On the application, the 2nd question pertains to convictions of misdemeanors and felonies. I have no felonies but have had a couple of vehicle tickets for speeding.


Ray Kimberlin

RK:sh

How to state Commission
to file

RESUME: Terral F. Wanzer
P.O. Box 8460
Ketchikan, AK 99901

BORN: March 6, 1947, Port Angeles, WA

EDUCATION: High School, graduated 1965
Peninsula College, majored in History
goal of becoming a teacher

MILITARY: U.S. Naval Reserve, honorable discharge 1969

Single, in good health, interested in sports and hobbies. They include: figure ice skating, boxing (5 years amateur), swimming, hunting, fishing, hiking, reading, traveling, antique car collection and most of all, working.

Came to Alaska the first time in 1963, when I was 16 years old and worked as a boat puller on the troller, Rocket. Came back again in 1967, and worked on seine boats for the season. Moved to Alaska in 1970, worked as a logger at Port Alice as a choker setter and heavy duty tire man.

1972 I purchased my first property and still own today. I was involved in several businesses in Ketchikan over the years and then worked the pipeline from 1974 to 1976. In 1977 I studied for my real estate license, and went to work for John Benson at Capital Investment Realty.

Kay Sims, my partner, and I purchased the real estate business from John & Dorothy Benson in 1982. I have been the broker for 10 years and have 6 licensed sales people that work for me. I am proud to say my office has never been a defendant in a lawsuit nor have we had a violation issued against us by the commission.

I have invested, over the years, in the hotel business. First: Knickbocker Hotel, then the Gilmore Hotel, The Best Western/Landing Hotel and now the Prospector Hotel in Juneau. We have built some very unique restaurants, within these hotels and have put most of our money back into them because we are extremely customer oriented.

COMMUNITY INVOLVEMENTS:

- a. Member of the Chamber of Commerce
- b. Past president of Ketchikan Visitors Bureau, 1986 and Board Member
- c. Open water swim to Pemmock Island for Seafest, to raise money for senior citizens 1985-1987
- d. Chairman of Visitor Advisory Board, University of Alaska Southeast- 1990
- e. Historic Ketchikan Board member, present Secretary-Treasurer since 1988
- f. Past Ketchikan Theater Ballet Board member
- g. Past Southeast Center Board member, an organization to promote a convention center for Ketchikan
- h. Past Rotarian
- i. Elks member for 21 years
- j. Moose member for 13 years
- k. Eagles member for 10 years
- l. Alaska Loggers affiliate member

I feel I could be an asset to the commission as a board member. With my varied background and being able to work with people on a one-on-one basis or in a committee.