

**ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672**

**8717 HOUSE RESOURCES**

# MEMORANDUM

STATE OF ALASKA

## DEPARTMENT OF ENVIRONMENTAL CONSERVATION

South Central Regional Office

3601 C Street, Suite 1334

Anchorage, Alaska 99503

TO: Commissioner Sandor

DATE: March 10, 1993

THRU: Janice Adair  
Assistant Commissioner

FILE #:

PHONE #: (907) 563-6529

FROM: Svend Brandt-Erichsen 

SUBJECT: Subdivisions and DNR

This memo is a follow up to our meeting with Commissioner Olds and Patrick Kalen, land surveyor. I have outlined the issues discussed for your review, and identified recommended actions which should respond to DNR's concerns.

A substantial portion of the meeting was spent on the definition of subdivision. Also discussed was a bill backed by DNR to establish platting authority for the unorganized borough. The two issues are related because DNR's bill died last year in part due to differences between surveyors, represented by Kalen, and DEC over the definition of subdivision, and DEC's authority to review subdivisions.

### SUMMARY OF ISSUE:

DNR and DEC have two different definitions of subdivision because they use the term for different purposes.

DNR's definition is contained in the statutory chapter that governs recording of subdivisions. Recording occurs to provide formal notice of title and title restrictions. Under this chapter, a subdivision can not be recorded, and lots from it can not be sold, until the subdivision plat has been approved by the platting authority.

The express exceptions to DNR's definition of subdivision are for specific types of plats involving either large tracts of land or certain State land disposal programs. The primary benefit of the exception is to remove the requirement of platting authority approval prior to recording.

DEC's definition appears in regulation, and is intended to cover all divisions of a parcel of land which might result in development - whether those divisions are for purposes of sale, or simply for development. The requirement for DEC approval prior to recording has been upheld by the State Supreme Court in State v. Anderson (1988).

DEC's definition differs from DNR's in two ways:

- a) it does not exempt those plats expressly excluded from DNR's definition; and
- b) it includes unrecorded actions that divide interest in property, such as leases.

*DEC is interested in a broader circle of transactions than DNR because DEC is reviewing potential wastewater generation and treatment and protection of drinking water, whereas DNR is tracking land ownership.*

**DIRECTION FROM COMMISSIONERS:**

DEC and DNR should use the same definition of subdivision, if at all possible.

Reason: reduce potential confusion.

**RECOMMENDATION:**

1. For plats expressly exempted from DNR's statutory definition:

a) cadastral plats and cadastral control plats -- DEC concurs that these plats, due to the size of the parcels, do not trigger wastewater disposal concerns. As a result, DEC will take whatever action is necessary [i.e. field directive, or, if necessary, regulation change] to exempt them from review.

b) open to entry and remote parcel plats -- The agreement between DNR and DEC appears to be working well, and absent specific problems that need to be addressed, it should be left in place for these parcels. [Since DNR program has ended, this is a diminishing set of transactions.]

2. For transactions covered by DEC definition, but which do not have to be recorded:

EITHER --

a) Leave DEC definition as is, since there is no overlap with DNR authority, and there have been no objections from those directly affected [surveyors are not involved in these transactions]

OR --

b) Amend DEC's definition to restrict 'subdivision' to plats or other recorded instruments [corresponding to DNR's definition], and add a new definition for leases or other unrecorded divisions of property. This second category would still be reviewed in the same way as recorded subdivisions.

Based on our meeting and a subsequent discussion I had with DNR's Lands Division Director, our commitment to pursue option (b) would help them get their platting bill through. It would address the potential for confusion over different definitions of subdivision. It also would not change the types of transactions we review, only what we call some of them. As a result, there should not be a negative effect on our ability to protect public health.

ALASKA SOCIETY OF PROFESSIONAL LAND SURVEYORS

March 15, 1993

Senator Loren Leman  
State Capitol  
Juneau, Alaska 99801-1182

Ref: State Survey Authority Bill, subdivisions

Dear Senator Leman:

I am sorry I missed you when I was in Juneau in February. I am writing on behalf of the Alaska Society of Professional Land Surveyors, who have come to regard you as a friend in the Legislature due to your attention to our concerns in the Sixteenth and especially in the Seventeenth Legislature.

I spoke with Senator Steve Frank concerning the subject of the State Survey Authority, proposed in the Seventeenth Legislature as SB 81. It failed to become law when the land surveyors realized that the definition of the word subdivision as written in statute, AS 40.15.290 (2), was not operative. A conflicting state regulation, 18 AAC 90.900 (80) superseded it whenever the two definitions were in conflict. (See the enclosed memo from Jerry Luckhaupt to Senator Shirley Craft dated February 26, 1992.) Senator Frank is aware of key events concerning this proposed legislation. I met with him in February to discuss where we should go from here. Since the definitions are where the problems with SB 81 were encountered, we agreed that getting that problem resolved is a logical beginning. Extending authority over all plats in the unorganized borough is something that we can look at later. Currently, DNR has its authority limited to only replats and vacations. SB 81 would have extended that authority over all types of transactions.

On behalf of the ASPLS I met in Juneau with DNR and DEC and arrived at a tentative understanding that we would like to have a single definition of the word "subdivision". The Commissioners of each agency support the concept of ending this confusion.

I recently received the enclosed internal memo from DEC confirming our understanding. We hope that you can help generate a Committee bill from the Senate Resources Committee that defines the word subdivision. I spoke with this at some length with Senator Steve Frank, who was instrumental in helping the surveyors at the eleventh hour of the Seventeenth Legislature on this subject last year, and he informed me that he would speak with you on the subject.

As you can see from the enclosed memo from DEC, we will not have any problem over a definition that has the effect of exempting control plats and cadastral plats from the definition of the word, but remote parcels may be a problem. All three are

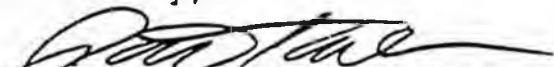
currently not subdivisions according to AS 40.15.290 as it exists on the books today. 18 AAC 72.990 (80) conflicts with the statute definition, expanding it to include many types of transactions. We (ASPLS) agree that in general, DEC should have review authority over the other transactions, but they should call them something else. Concerning the Remote Parcel program, the intent of the legislature in declaring that these plats are not subdivisions should be examined.

The wording that ASPLS hopes to see applies to both the word "street" and the word "subdivision" as they appeared in CSSB 81(RES) as it passed the Senate in 1991 (copy included). However, this time, the words "street" and "subdivision" would apply to all state agencies and municipalities, rather than just to the DNR in the unorganized borough. DEC is expected to change their regulations to address the other types of transactions found in the 18AAC definition.

Concerning Svend Brandt-Erichsen's memo to Commissioner Sandor dated March 10, 1993, we are basically in agreement, except perhaps for interpreting what the legislative intent was when the word "subdivision" was defined in statute, and certain exemptions were listed. As Mr. Brandt-Erichsen notes, the Remote Parcel program has ended, so the number of these transactions will diminish to zero in time.

We do not anticipate having difficulty working with DEC on revised regulations for the other types of transactions. But we do want to look at them before we give expanded platting authority to the DNR in the unorganized borough.

Sincerely,



Patrick Kalen, PLS, ASPLS Legislative Affairs Committee Chairman

copy: Senator Steve Frank  
Senator Loren Leman  
Craig Savage, President, ASPLS  
DEC Commissioner John Sandor  
DNR Commissioner Glenn Olds

enclosures: as noted

ALASKA SOCIETY OF PROFESSIONAL LAND SURVEYORS

March 15, 1993

Senator Steve Frank  
State Capitol  
Juneau, Alaska 99801-1182

Ref: State Survey Authority Bill, subdivisions

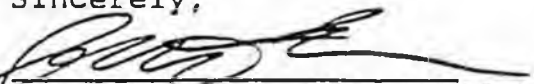
Dear Senator Frank:

I appreciate your finding time to meet with me in February while I was in Juneau, especially considering the time that the budget takes. I worked on the behalf of the Alaska Society of Professional Land Surveyors on the State Surveying and Mapping Board from 1989 to 1991. Part of our work culminated in the State Survey Authority bill, SB 81 of the 17th Legislature. As you are aware, problems over the handling of a special type of survey (remote parcels) by the Alaska Department of Natural Resources greatly eroded support for the concept of a state survey authority from the private sector. We discovered that the word "subdivision" would not have applied to the plats we were going to cover under the new law.

On behalf of ASPLS I met with Commissioners John Sandor and Glenn Olds, and believe that we reached a consensus that the definition itself should be clarified in statute. The surveyors do not object to the DEC regulating land use. We are bothered by the expansion of the definition to encompass things over which we lack influence or control. In 18 AAC, DEC has expanded the word to include a number of transactions in which surveyors may have little or no involvement. We are hoping that confusion could be avoided by reservation of the word "subdivision" for what surveyors do.

Today, I received the enclosed memo from DEC confirming our understanding. We hope that a Committee bill can be generated from the Senate Resources Committee that defines the word subdivision. We do not anticipate having any difficulty working with DEC on the other transactions, except, perhaps, the remote parcel program, which is not working well. I have sent a copy of the material concerning the bill to Senator Loren Leman. As you noted, Senator Leman has been a friend to the design professions.

Sincerely,



Patrick Kalen, PLS, ASPLS Legislative Affairs Committee Chairman

copy: Loren Leman  
Craig Savage, President, ASPLS  
DNR Commissioner Glenn Olds  
DEC Commissioner John Sandor

? /  
 (80) "subdivision," "subdivide," and "subdividing" mean to divide land or combine lots or parcels by recording, sale, contract, lease, or any other means into two or more lots, sites, or other division for the purpose, whether immediate or future, of conveyance or development, including mobile home parks; the terms include resubdivision and, when appropriate to the context, the process of subdividing or the areas subdivided; the date of a subdivision is the date five days after the submission of a proposed subdivision plat to a platting authority or, where no plat is filed, the date 60 days before a subdivision parcel is offered for sale or conveyance;

(81) "temporary camp" means a place used to provide shelter, basic life services, or offices for nonpermanent activities such as logging, construction, feasibility studies, baseline monitoring, and surveys; the camp's intended use must occur only during the life of the activity it supports or accommodates;

(82) "trench system" means a soil absorption system using excavations one to three feet in width, and one to five feet or more in depth, and containing perforated distribution piping and appropriately graded rock; the sidewall area beneath the distribution piping is the infiltrative area;

(83) "vacuum sewer" means a collection system using a vacuum and high scour velocities to convey wastewater;

(84) "vault privy" means a holding tank with a seat or seats, or other appurtenances attached, to provide for excretion of human wastes directly into the tank;

(85) "wastewater" means domestic or nondomestic wastewater;

and

(86) "water table" means the upper surface of a zone of saturated soil, including normal seasonal fluctuations, but excluding fluctuations caused by heavy rainfall or rapid snowmelt; the water table may be determined by the level at which water stands in a well open along its length and penetrating the surficial deposits just deeply enough to encounter standing water in the bottom. (Eff. 6/30/90, Register 114)

Authority: AS 16.10.010  
 AS 44.46.020  
 AS 46.03.010  
 AS 46.03.020  
 AS 46.03.050  
 AS 46.03.070  
 AS 46.03.080  
 AS 46.03.090  
 AS 46.03.100  
 AS 46.03.110  
 AS 46.03.111  
 AS 46.03.120  
 AS 46.03.900(33)

Editor's Note: Statutory definitions that apply to this chapter are found at AS 46.03.900.

# ALASKA STATE LEGISLATURE

119 North Cushman, #201  
Fairbanks, Alaska 99701  
(907) 452-4882  
Fax: 452-3254



Room 125, State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-3834  
Fax: 586-6246

**Shirley Craft**  
*Alaska State Senator*

## MEMORANDUM

To: The Honorable Charles E. Cole,  
Attorney General

From: Barbara Bitney, <sup>BB</sup>  
Legislative Aide to Senator Shirley Craft

Date: February 17, 1992

Re: The definition of the word "subdivision".

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The Senator would like a legal opinion on the definition of the word "subdivision" under AS 40.15.290, and a comparison to the definition is written under AAC 18.72.990 (80), applying to the Department of Environmental Conservation.

The information she's been given states that, "the Department of Environmental Conservation has rewritten the definition of the word "subdivision" to include remote parcels in 18 AAC 72.990 (80), directly in conflict with AS 40.15.190 (2) (B). Land surveyors within the Department of Natural Resources objected. The response of the director was to order compliance with the DEC regulation."

Have the Department's of Natural Resources (DNR) and Environmental Conservation (DEC) overstepped their statutory boundaries by adopting a policy (see attached memorandum) that requires remote parcels to be subject to DEC subdivision plan review, instead of going through the normal legislative process?

Has the definition of "subdivision" under 18 AAC 72.990 (80), been expanded to the point of giving DEC jurisdiction over every land transaction, saying that it must be approved by DEC before the DNR (or any other platting jurisdiction) will grant final plat approval?

I have attached copies of AS 40.15.290 and 18 AAC 72.990 for your convenience. If you have any questions, please call me at 465-3834.

**DIVISION OF LEGAL SERVICES ..**  
**LEGISLATIVE AFFAIRS AGENCY**  
**STATE OF ALASKA**

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

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

**MEMORANDUM**

February 26, 1992

**SUBJECT:** DEC regulation of sewage waste disposal on public or private subdivisions or developments (Work Order No. 17-LS2117)

**TO:** Senator Shirley Craft

**FROM:** Jerry Luckhaupt *JEL*  
Legislative Counsel

**Question Presented:** How is the term "subdivision" in AS 46.03.090 to be defined? Must DEC use the definition of subdivision provided in AS 40.15.290 or may DEC develop their own definition of subdivision by regulation?

**Answer:** Since the legislature has not defined "subdivision" in AS 46.03, DEC may define the term by regulation. In defining the term by regulation, DEC is not required to accept or utilize the definition of subdivision supplied by the legislature in 40.15.290(2), as that definition only applies to AS 40.15. The definition developed by DEC should reasonably be encompassed within the ordinary meaning of the term "subdivision". The definition developed by DEC at 18 AAC 72.990(80) appears to reasonably engender the dictionary meanings of the terms "subdivision" and "subdivide". The fact that this definition may be broader than that provided by the legislature at AS 40.15.290 is of no consequence as the legislature did not limit "subdivisions" in AS 46.03 to those as defined in AS 40.15.

If you have further questions, please contact me at your convenience.

GPL:pl  
92-135.plm

**HB**

**91**

HOUSE RESOURCES COMMITTEE  
Roll Call and Members' Bill Votes

\* (indicates first public hearing)

Room 124, Capitol Bldg.

(Mon.), Wed., Fri.

Date: 5-1-95

Tape# 95-61 Joint \_\_\_\_\_

Time: 9:03 am/pm Time Adjourned: \_\_\_\_\_ am/pm

ROLL CALL:	PRES	ABS	TIME AR	_____	_____	_____
Rep. Joe Green	✓	_____	_____	_____	_____	_____
Rep. Bill Williams	✓	_____	_____	_____	_____	_____
Rep. Scott Ogan	✓	_____	_____	_____	_____	_____
Rep. Alan Austerman	✓	_____	_____	_____	_____	_____
Rep. Ramona Barnes	_____	_____	_____	_____	_____	_____
Rep. John Davies	_____	_____	<u>9:55</u>	_____	_____	_____
Rep. Pete Kott	✓	_____	_____	_____	_____	_____
Rep. Eileen MacLean	_____	_____	_____	_____	_____	_____
Rep. Irene Nicholia	_____	_____	<u>9:10</u>	_____	_____	_____

Other Legislators Present \_\_\_\_\_

AGENDA:	Short Title	Action Taken
<u>5B116</u>	<u>Increase Land Grant to Univ. of Ak</u>	<u>Heard + Held</u>
<u>4B91</u>	<u>Marine Parks Addition/Changes</u>	<u>CSHB 91 (RES) OUT</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

OTHER \_\_\_\_\_

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STATE OF ALASKA

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FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 400  
Juneau, Alaska 99801-2105

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

House Resources  
5-1-95 9:03 am  
Tape #95-61, Side A, #000  
HB91

05/01/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150

08:39:59 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC

TCN:50687 SCHEDULED FOR:05/01/95 08:00 TO 11:00 FOR:ANC

PUBLIC HEARING HOUSE RESOURCES

LOCATION:ANCHORAGE

SB 16 MARTIN EPSTEIN UNIV OF AK TESTIFY

*3890 University Lane 99508 786-7766*

05/01/95 08:44:36 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1120

MESSAGE FROM: LIOCJEN IN ANCHORAGE JNU

RE TCN: 50687 SCHEDULED FOR:05/01/95 08:00 TO 11:00  
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: RON SWANSON IS ON LINE FOR CONFERENCE

HOUSE RESOURCES COMMITTEE



Alaska State Legislature  
House of Representatives

SUBJECT OF MEETING:  
SB 16 - Inverness and Grant tolls  
of AK  
HB 91 - Marine Park Additions/Changes

DATE:

PLACE: ROOM 124

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Ted Merrell	self	3240 Fritz Cove Rd - Juneau	99801	789-7876	-	(Y) N	Marine Parks
✓ Bill Garry	PNR - Parks	480 Willoughby Juneau	99801		465-4563	(Y) N	HB 91
Gail Bills	self	536 Park St. Apt. A, Juneau AK	99801	586-9566	-	(Y) N	HB 91
Cristi Heron	JNU state Parks Adv. Bd	477 W 11th St Juneau	99801	586-9857		(Y) N	HB 91
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

# HOUSE COMMITTEE REPORT

(9)

Date Referred: April 13, 1995

FURTHER REFERRALS:

Finance

Date of Committee Action: 5-1-95

The RESOURCES Committee considered:

HB 91

HOUSE BILL NO. 91

MARINE PARKS ADDITIONS/CHANGES

"An Act amending the area within designated marine park units of the Alaska state park system, and adding marine park units to the Alaska state park system."

recommends it be replaced  
with the following committee substitute CS HB 91 (RES)

the same title  
 a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

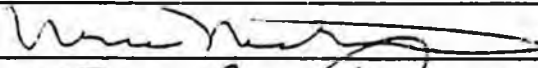
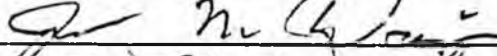
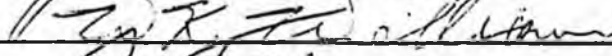
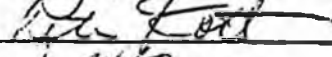
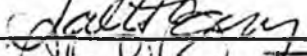
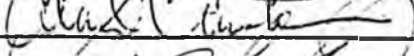

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)


fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DNR 3-30-95

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
	✓			
	✓			
	✓			
			✓	
				✓
			✓	
			✓	

CHAIR'S SIGNATURE 

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES



### REPRESENTATIVE CAREN ROBINSON

#### SPONSOR STATEMENT HB 91

House Bill 91 designates 13 islands in the Juneau area as a State Marine Park. The islands included in this parcel are located in Lynn Canal; they are unique because they can all be reached within a few minutes by skiff or a few hours by kayak. The primary use of selected lands has been, historically, for recreation purposes.

In 1977 the islands were nominated by the City and Borough of Juneau for state selection from the Tongass National Forest for recreation purposes. In 1989 the State selected the Channel Islands from the federal government under the Alaska Statehood Act.

Establishing the lands as a state park would preserve the quality of existing and future recreational usage while allowing an agency to enforce proper usage of the land. All existing lawful usage, including fishing, trapping and hunting are preserved under statute. Only State Park management can consolidate water, intertidal and upland uses into a single entity with adequate enforcement authority to protect as well as provide for safe use of these resources.

To designate these lands a State Park requires legislative action. Both the City and the State have identified the plan as a priority in the Juneau Coastal Management Plan and the Juneau State Land Plan. A previous bill, introduced during the 1991-92 legislative session, passed the House only to die in the Senate Rules Committee.

The bill has a zero fiscal note. It is important to recognize that Juneau has a long and consistent history of using volunteers to manage parklands. Park maintenance would be overseen by the Division of Parks using Juneau's many volunteer organizations as a labor base.

The creation of the Juneau Channel Islands State Marine Park is urgently needed and would be an outstanding addition to Alaska State Parks by providing an island complex unique to the State Park System. Thank you for your consideration. I urge your support of House Bill 91.



# FISCAL NOTE

STATE OF ALASKA

BILL NO. HB91

1995 LEGISLATIVE SESSION

Revision Date: Original Dept Affected: Natural Resources  
 Title: An Act amending the area within designated BRU: Parks & Recreation Management  
marine park units of the Alaska state park system, and adding marine... Component: Parks Management  
 Sponsor: Representative Robinson and Elton  
 Requestor: \_\_\_\_\_ Component Serial No. 452

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	-----	-----	-----	-----	-----	-----

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ None

**POSITIONS**

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

**ANALYSIS:**

(Attach a separate page if necessary)

Existing recreation use leaves trash and starts duff fires from poor fire site choice. Parks staff can assist in minor signing of boat launches and heavy use areas to encourage park visitors to take out trash and use good fire pits. Signage and occasional patrols can be done with no additional funding. Fire fighting is done by the U.S. Forest Service under statewide agreement. Volunteer groups have indicated their willingness to assist in trash clean-up.

Prepared by: Neil Johannsen, Director Phone: 762-2600  
 Division: Parks & Outdoor Recreation Date: 6-Feb-95  
 Approved by Commissioner: Neil Johannsen for M. Ruttenford, Act. Comm. Date: 2/6/95  
 Agency: Natural Resources

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JUNEAU CHANNEL ISLANDS  
A STATE MARINE PARK PROPOSAL



Presented by  
The Juneau Area State Parks Advisory Board  
1994

## Introduction

Alaska has the opportunity to establish one of the most wonderful and exciting parks anywhere in the world right here in our capital city. Thirteen islands in Favorite Channel and Auke Bay near Juneau are proposed as the Juneau Channel Islands State Marine Park. This proposal also includes an addition to the existing Shelter Island State Marine Park (SMP). The marine park boundaries would be at the 20 fathom depth around each island, easily determined by most pleasure and all commercial boats.

Four of these islands are within the sheltered waters of Auke Bay and can be reached by canoe, kayak or rowboat in nearly any weather. Each has a long history of use by local youths and families for camping and picnicking. The other nine islands are further off shore and more exposed to storms. Recreation has always been their predominant use, and because of this use they were selected from and approved by the federal government for state ownership.

All but two islands have one or more sand or gravel beaches suitable for landing small boats. There is evidence of camping and picnicking at all of these beaches. All the islands have scenic headlands affording breathtaking views of neighboring islands against a spectacular backdrop of mountains and glaciers. A broad expanse of the Chilkat Mountains flank the area to the west, and the world famous Mendenhall Glacier, and the glaciers and peaks of the Juneau Icefield are visible to the east. Five of the islands are large enough to provide some hiking, and the rest are small enough to scramble all over in an hour or less. There are hills to 1,000 feet on the larger islands.

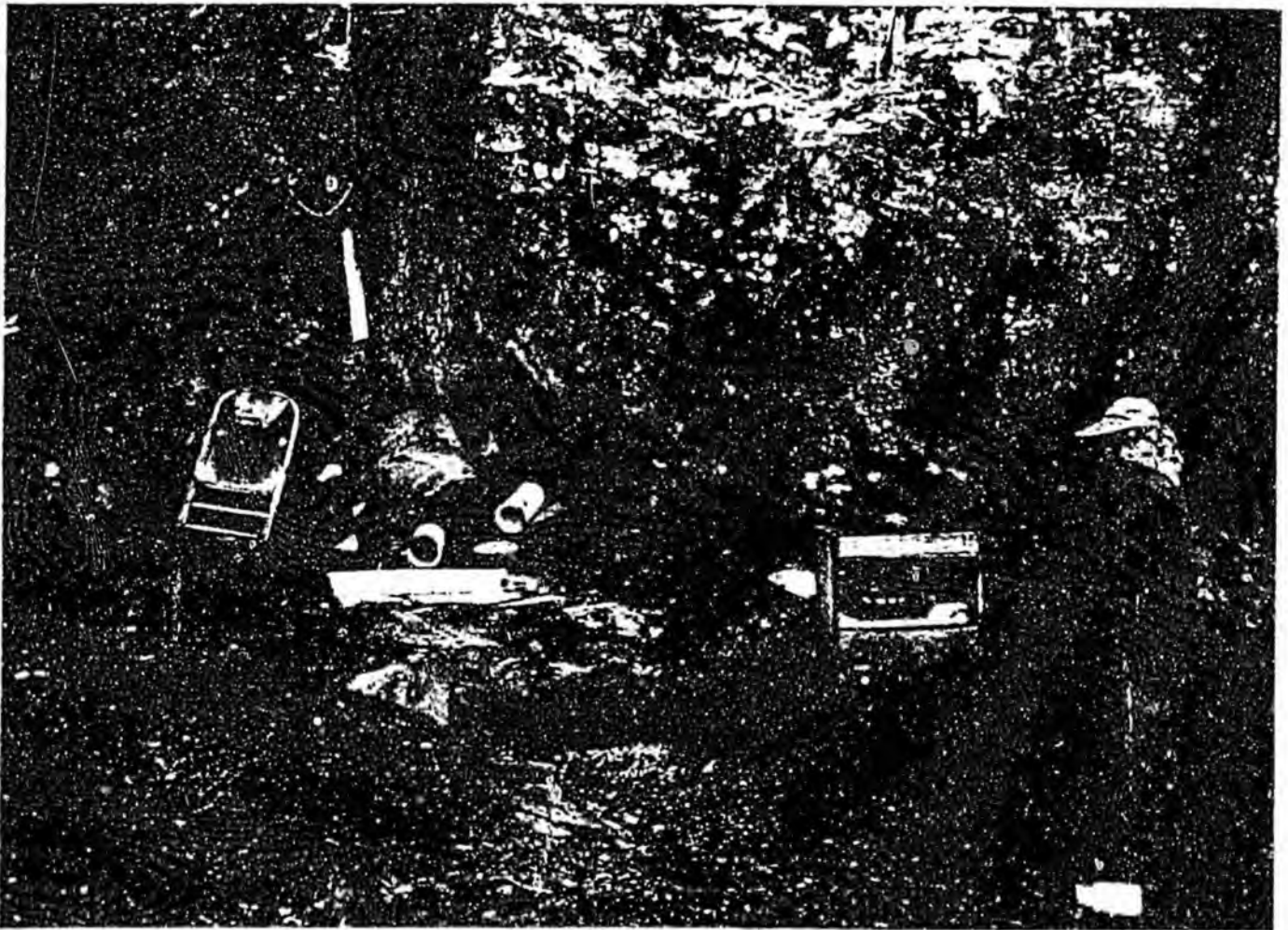
The islands, except one, are covered by typical rain forest vegetation including Sitka Spruce and Western Hemlock with a profusion of berry bushes and other undergrowth. Some of the islands show evidence of selective tree cutting. There are trails near the accessible beaches, and a few human artifacts, but the islands are essentially pristine and undeveloped.

Sea mammals are much in evidence in these waters. Seals to a hundred or more haul out on several of the beaches and there is a regularly used sea lion haulout at Benjamin Island. Humpback whales are often visible, especially in summer. The entire area is within Juneau's most popular sport salmon fishing waters, and boats are always nearby in summer. There is a resident deer population on three islands that provide some hunting.

Many species of birds nest on these islands including pigeon guillemots and black oyster catchers which do not nest on the nearby mainland. There are more than 80 bald eagle nests, and eagles are common year-round residents.

### Need for Legislation:

Only the legislature can withdraw over 640 acres from the public domain and designate them as Special Purpose Sites (a state park) under the state's constitution. The island beaches of the proposed park are already heavily used for camping and picnicking and have nearly reached their capacity for self-regulated recreation. Litter is not yet a major problem but human waste is evident in the woods near popular campsites. Fires are often built on forest duff, killing some large spruce and causing peat fires which smolder for weeks. Juneau is rapidly becoming a major ecotourism destination, and commercial guides are likely to soon be competing with local residents for the limited beaches and campsites. It is essential to institute a management system of the type provided by the State Division of Parks and Outdoor Recreation to preserve the quality of existing recreational use and accommodate future needs. Only state park management can meet the need of combining water, intertidal and upland uses into one entity with adequate enforcement authority to protect the resources while providing for safe use. The need to protect these islands for recreational use is recognized by both the city and state plans: The Juneau Coastal Management Plan and the Juneau State Land Plan.



### Objectives:

Creation of Juneau Channel Islands State Marine Park would be an outstanding addition to Alaska State Parks, providing an island complex not represented by other units of the Park system. The new park would fully satisfy statutory requirements for state marine parks including:

- 1) Maintaining natural, cultural, and scenic values;
- 2) Maintaining fish and wildlife resources and lawful existing uses of these resources;
- 3) Promoting and supporting recreation and tourism in the state.

### Long Term Management:

A long term management plan for the islands as a park unit should be developed. As competition for use of these resources increases, it may become necessary to determine how the public would like these islands to be managed. Designations for day use vs. overnight camping, single campsites vs. group campsites, public vs. commercial use and capacity of the various islands to sustain different use levels may eventually need to be addressed. As use continues to increase improvements will be needed. Fire places, toilets, tables and gravel tent sites can enhance public use and can be sited to spread users thus accommodating more parties. A system of trails on the larger islands would enhance use and could also serve to spread people out. There is a potential for recreation cabins, especially on the larger islands where deer hunters as well as summer users would enjoy them. There may be a potential for some mooring floats at some of the islands. A small inter-island ferry, serving day users and campers, operated by a concessionaire, may some day be feasible.

The Division of Parks and Outdoor Recreation should develop a long term management plan. As improvements are added, normal state park user fees can be collected.

### Land Ownership:

As part of the Statehood Act, the Federal Government allowed the State of Alaska to select 400,000 acres from National Forest lands as a land base. The acreages were to be selected from unencumbered federal lands and used for community expansion and/or community recreation purposes. All lands within this Marine Park proposal were selected by the State of Alaska as part of that land selection process.

As early as 1977 many of these islands were nominated for selection by the City and Borough of Juneau for recreation purposes. By June of 1989 this board, the Taku Conservation Society, the City and Borough of Juneau, and Alaska State Parks all nominated these islands for inclusion in a state marine park.

All surrounding marine water, tidelands and submerged lands are already owned by the State of Alaska. If not designated as a marine park, these recreational lands would be managed by the Division of Land. Division of Land selection documents indicate that the intent of the selection of many of these parcels was based on recognition of their current use and suitability for public recreation. Tentative Approval and Patents have been issued to the state on some already, and the Bureau of Land Management is expected to finish Tentative Approval (full management) within the next few months.

There are only two small parcels of private lands within the existing Shelter Island State Marine Park. This proposal does not include any private lands.

Juneau International Airport, through the Federal Aviation Administration, has existing rights and facilities on Coghlan Island. Any future need for facilities to provide safer landing would be of great benefit for the health and safety of all travellers, including tourists to the park.

## Island Characteristics - Individual Island Descriptions

### Aaron Island (0.4 mi. long)

Orth reports that the island was named in 1880 by Capt. L.A. Beardslee, USN, for "a relative of C. J. Vanderbilt, a local miner." DeArmond, however, indicates that there is no record of a local miner by the name of Aaron. Beardslee was friends with J.M. Vanderbilt for whom he named Vanderbilt Reef, but that family disclaims knowledge of any Aaron. DeArmond, instead suggests that the island was named for Aaron Cohen, a resident of Sitka and then Juneau, who owned and operated a brewery in both towns. DeArmond also believes that Cohen Island and reef were also named after Aaron Cohen.

The island consists mainly of cliffs and headlands. There is a small landing beach on the south end. There is also a small rocky islet at the NE end with a small beach. Dominant vegetation on Aaron Island is rain forest and the small rocky islet is covered with herbaceous vegetation (plants and flowers). Two Bald eagle nests are located on the island. There is a navigation light and a navigation reflector found on the island. Two picnic sites and one camp site are also located on the island.

### Battleship Island (0.1 mi. across)

Apparently a local descriptive name first reported by DeArmond in 1957. The island is mostly a vegetated rock with steep sides and a fairly flat top. There is one poor landing beach where rocks have been cleared to aid in landing. Large trees are found on the top. Several camp sites and numerous trails and a lot of litter are present. Island appears to be used a lot by kids as well as adults. Island is readily accessible via sheltered waters. FAA plans to install aircraft navigation lights and electronics in 1995. Large numbers of crows roost on island at night.

### Benjamin Island (1.5 mi. long)

Named by Capt. L.A. Beardslee, USN in 1880 when he visited the area. There are three excellent gravel beaches on the south end of the island. Each has one or more heavily used camp sites. There also is a good access beach with a campsite on the northeast side of the island. Primary vegetation is typical rain forest. An important sea lion haulout is located on the west side of the island.

Bird Island  
(0.1 mi. across)

Named in 1880 by Capt. L.A. Beardslee and later published on USC&GS chart 728 in 1883. In February 1914, the schooner *W.H. Dimond* went aground on the island and was a total loss.

The island is mainly a rock about 60 feet high with stunted trees on the top. Steep cliffs on the south and west sides. East side of island is less steep and access is difficult but possible. Two Bald eagle nests are on the island. Ten to fifteen pigeon guillemot nests were observed on the cliffs in June and July. No evidence of human use on the island.



Cohen Island  
(0.3 mile across)

Named by the USC&GS and published on chart 8300 in 1893. (See discussion under Aaron Island). Cliffs and headlands all around the island. No good landing sites. Rain forest vegetation and two Bald eagle nests present.

Coghlan Island  
(1 mi. long)

Named by the USC&GS in 1885 in honor of Joseph Bullock Coghlan, USN, who commanded the *U.S.S. Adams* in a survey of the area in 1883-1884. In later years Coghlan commanded the *U.S.S. Raleigh* during the Philippines campaign of the Spanish American War, and served as commandant of the Puget Sound and New York Naval Shipyards. He rose to the rank of rear admiral and retired in 1906. He died in 1908.

An FAA navigation beacon is located on the northern point of the island. A small building with a tramway is also present on the island and is currently being used by the FAA. There are cliffs on the SW side and beaches on the NW and E sides. Beaches provide good access. The island is forested with a berry understory. There is evidence of fire damage. Pigeon guillemots nest on the NW side. Evidence of camping and picnicking. The island is accessible by sheltered waters and is reachable by small boats and kayaks in all seasons. Has significant deer population most years. Good littleneck and butter clam digging on north end.

Gull Island  
(0.4 mi. across)

Named in 1880 by Capt. L.A. Beardslee, USN, because "it was covered by sea gulls." Name published by USC&GS in the 1883 Coast Pilot. There is an excellent sandy beach on the south end with a heavily used campsite.

Lincoln Island  
(4.7 miles long)

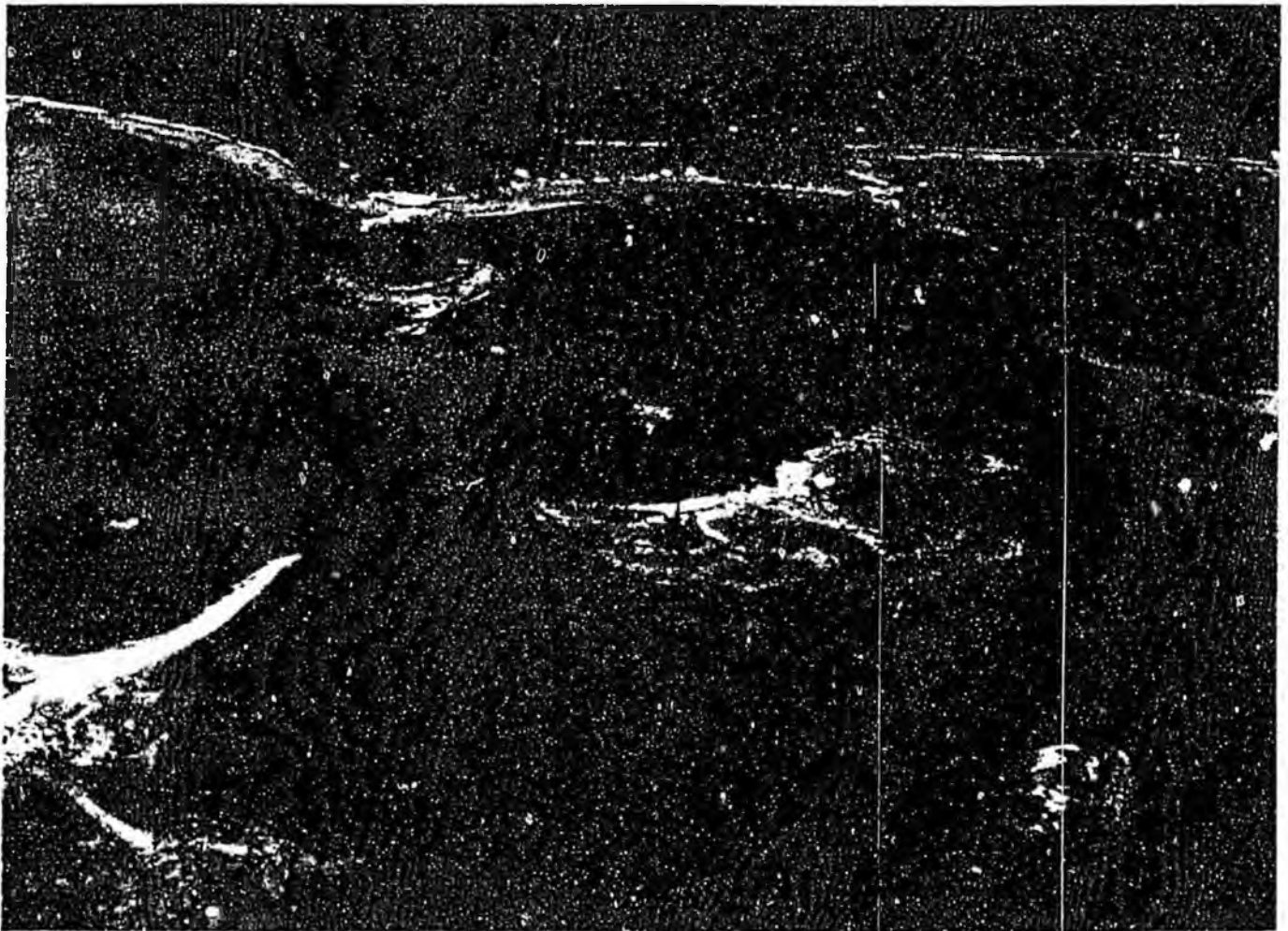
Named in 1868 by Cmdr. R.W. Meade, USN, of the *U.S.S. Saginaw*, presumably for Abraham Lincoln, 16th. President of the U.S. Name published by the USC&GS in the 1883 Coast Pilot.

There are gravel and cobble beaches on the east side with low (30 ft.) headlands. A sandy beach with camp site is located on the southern end. The west side has cobly rocky beaches. It is exposed to winds and waves of Lynn Canal. The island consists of low, well forested hills, with open headlands on the east side and low herbaceous growth. According to USFWS records there are 17 Bald eagle nests on the island. Deer are also present. There are 5 or 6 good landing sites on the east side and south end, and all have evidence of camping and picnicking use.

Indian Island  
(0.1 mi. across)

Local name published in 1962 by the USGS. There are two good landing beaches. The island is within 200 yards of the mainland and is accessible in all weather conditions. There are two shipwrecks, one is a wood fish scow abandoned in 1970 on the east shore.

In late 1950's and early 1960's it was a summer campsite of older natives. During that time they gathered herring roe on hemlock branches. At the same time there was a large herring pound between Indian Point and Indian Island for three months during the spring to harvest halibut bait and live sport fish bait. There are remnants of a Tlingit canoe way on the east beach. Large trees are on the island, one containing a Bald eagle nest. There is one much used campsite with quite a bit of litter.



North Island  
(0.4 mi. long)

Named in 1880 by either Capt. L.A. Beardslee, USN, or by Cmdr. R.W. Meade, USN, in 1869. Name was published in the 1863 Coast Pilot by the USC&GS. A popular anchorage for commercial gillnetters fishing Mab Island and Berners Bay. Exposed to northerly winds and seas. There is an excellent beach on the South end that is a whale viewing area.

Portland Island  
(1.1 mile long)

Named in 1880 by Capt. L.A. Beardslee, USN. Published in the 1883 Coast Pilot. An extensive reef with some vegetated hummocks is located on the northern end of the island. There is a campground with picnic tables located on the western side of the island. There is a very nice sand beach on the southwest corner, a beach on the east side, and a gravel beach near the northern reef. There are five bald eagle nests on the island and black oystercatchers nest on the reef. Other birds use the north reef for nesting and roosting.

Old stumps indicate some selective logging years ago. There is a poor trail across the southern end of the island. The FS picnic site consists of three tables with cement fireplaces, and an outhouse. All need maintenance.

Ralston Island  
( 1 mi. long)

Named for W.C. Ralston by Cmdr. R.W. Meade, USN, in 1868. Published in the 1883 Coast Pilot. A World War II CAA (now FAA) radio range station used to be located on the northern shore of the island. Remnants of the facility are still visible. Antenna and nouse on the north end, and dock pilings on south end with heavily overgrown road connecting them.

Landing beaches on south and east sides. Headlands on east side. Also extensive reefs on east side. Island is connected to Lincoln Island at low tides. Ralston Island is forested with some open meadows. There are two Bald eagle nests on the island. Camping and picnic sites located on the south end.

Shelter Island  
(9 mi. long)

The island was named in 1869 by Cmdr. R.W. Meade, USN, and published in the 1883 Coast Pilot. There is already a designated marine park on Shelter Island adjacent to Shelter Cove. This addition would include the center portion with Shelter Lake. There is an old Forest Service cabin (not maintained) in the center parcel. Large sandy beach at Hand Trollers Cove. Also reported remnants of cabins at cove. The island is heavily timbered with spruce and hemlock and scattered groves of Alaska yellow cedar. Deer are common on the island and heavily hunted. Southern end of the island was homesteaded and the homestead was later subdivided and sold. Numerous private cabins are now located on the southern end of island, several miles from the proposed marine park addition.

Suedla Island  
(0.3 mi. across)

Local name apparently formed by combining the initial letters of several names or words. Its origin is unknown. Also known as "Merlin's Island" by local residents. The main island has three small gravel beaches on the east side, but other sides are cliffs. There is a very good sand beach on the connected islet on the east side. The island is close to shore and has very protected waters. Main vegetation is large trees with typical undergrowth. Two Bald eagle nests are located on the island. Heavy picnicking and camping use are noted on the east islet. There are ruins of cabin and fox pens in the center of the island.

NOTE: Much of the general site and wildlife information was obtained from Advisory Board member visits to the various islands.

References

DeArmond, R.N. 1989. Names on the Chart and how they got there. Commercial Art, Juneau, AK. 72 pp.

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Gibbs, Jim. 1971. Disaster Log of Ships. Bonanza Books, New York, NY. 176 pp.

Orth, Donald J. 1967, reprinted 1971. Dictionary of Alaska Place Names. Geological Survey Professional Paper 567. U.S. Govt. Print. Office, Wash. DC. 1084 pp.

United States Coast Guard, 1990 rev. Lighthouses and other aids to navigation in Alaska history. Seventeenth Coast Guard District, Juneau, AK. 87 pp.

Abbreviations Used

CAA -- Civil Aeronautics Administration

Capt. -- Captain

Cmdr. -- Commander

FAA -- Federal Aviation Administration

FS-- Forest Service

Lt. -- Lieutenant

USC&GS -- United States Coast and Geodetic Survey

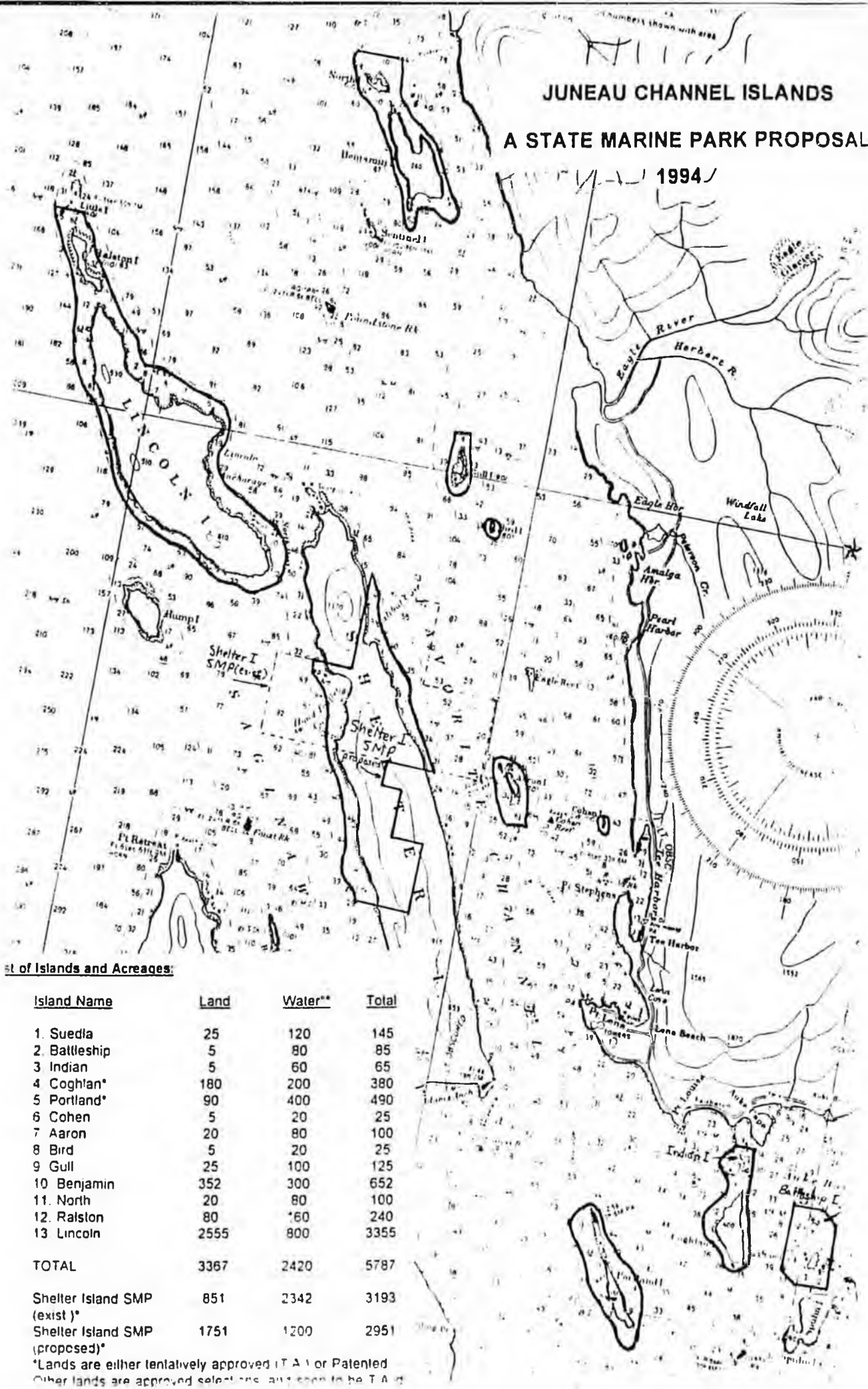
USFWS -- United State Fish and Wildlife Service

USGS-- United States Geological Survey

USN -- United States Navy

# JUNEAU CHANNEL ISLANDS A STATE MARINE PARK PROPOSAL

1994



**Table of Islands and Acreages:**

Island Name	Land	Water**	Total
1. Suedia	25	120	145
2. Battleship	5	80	85
3. Indian	5	60	65
4. Coghlan*	180	200	380
5. Portland*	90	400	490
6. Cohen	5	20	25
7. Aaron	20	80	100
8. Bird	5	20	25
9. Gull	25	100	125
10. Benjamin	352	300	652
11. North	20	80	100
12. Ralston	80	160	240
13. Lincoln	2555	800	3355
<b>TOTAL</b>	<b>3367</b>	<b>2420</b>	<b>5787</b>
Shelter Island SMP (exist)*	851	2342	3193
Shelter Island SMP (proposed)*	1751	1200	2951

\*Lands are either tentatively approved (T.A.) or Patented  
Other lands are approved selections, but open to be T.A.

Presented by: Mayor & Assembly  
Introduced: 03/06/95  
Drafted by: J.R.C.

## RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 1752

### A RESOLUTION SUPPORTING CREATION OF THE JUNEAU CHANNEL ISLANDS STATE MARINE PARK.

WHEREAS, it has been proposed that the State of Alaska establish the Juneau Channel Islands Marine Park composed of thirteen islands located in a 640-acre area in Favorite Channel and Auke Bay, and

WHEREAS, the thirteen islands in the proposed park include: Aaron, Battleship, Benjamin, Bird, Cohen, Coghlan, Gull, Lincoln, Indian, North, Portland, Ralston, and Suedla, and

WHEREAS, the park would be an outstanding recreational asset, offering breathtaking views of the Chilkat Mountains and the Juneau ice field, supporting many species of birds, sea mammals, fish, and deer, and providing safe and ready access for established groups of canoers, kayakers, boaters and other users, and

WHEREAS, designation of the area as a Special Purpose Site and withdrawal of the land to the management system of the State Division of Parks and Outdoor Recreation would be the most effective process for preserving existing recreational uses and accommodating future needs, and

WHEREAS, action by the Alaska Legislature is necessary to accomplish the withdrawal, and there is currently pending in the Legislature, HB 91 and SB 34 which propose to accomplish creation of the Juneau Channel Islands Marine Park and an addition to the existing Shelter Island State Marine Park, and


WHEREAS, the CBJ Parks and Recreation Advisory Board at its meeting of January 17, 1995, and the Assembly Lands Committee at its meeting of February 22, 1995, recommended that this resolution be adopted supporting establishment of the Juneau Channel Islands Marine Park;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

1. That the Assembly of the City and Borough of Juneau supports legislation that will create the Juneau Channel Islands State Marine Park.
2. The Clerk shall distribute copies of this resolution to the Alaska Legislative Delegation.

3. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 6th day of March, 1995.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
Clerk

**Sec. 41.21.300. Declaration of purpose.** (a) The purpose of AS 41.21.300 — 41.21.306 is to establish, subject to valid existing rights, the state-owned or acquired land and water described in AS 41.21.304 as marine park units of the Alaska state park system. The primary purposes in establishing the land and water areas described in AS 41.21.304 as marine park units of the Alaska state park system are to

- (1) maintain natural, cultural, and scenic values;
- (2) maintain fish and wildlife resources and lawful existing uses of these resources;
- (3) promote and support recreation and tourism in the state.

(b) The land and water described in AS 41.21.304 is dedicated as special purpose sites under art. VIII, § 7 of the state constitution. (§ 1 ch 64 SLA 1983)

**Revisor's notes.** — Enacted as AS 41.20.530. Renumbered in 1983.

**Sec. 41.21.302. Management of marine parks.** (a) The state land and water described in AS 41.21.304 is assigned to the department for control, maintenance, and development consistent with the purposes and provisions of AS 41.21.300 — 41.21.306.

(b) The Department of Fish and Game is responsible for the management of fish and game resources on the state land and water described in AS 41.21.304 consistent with the purposes of AS 41.21.300 — 41.21.306. The Department of Fish and Game shall give written notice to and consult with the department before adoption of regulations governing fish and game management in a marine park unit of the Alaska state park system.

(c) The department shall develop a management plan for each marine park unit of the Alaska state park system to determine the specific purposes and uses for the unit. The commissioner shall give written notice and consult with the Department of Fish and Game, proximately located municipalities of the state, proximately located private landowners, the United States Forest Service, organizations concerned with conservation, recreation, and tourism, and other interested parties during the preparation of a management plan for a marine park unit of the Alaska state park system. A management plan required under this subsection shall be completed by June 14, 1995, for each marine park unit established before June 14, 1990, and within five years of the establishment of the unit for units established after June 13, 1990.

(d) The commissioner may not restrict the exercise of fishing, hunting, or trapping rights permitted under law or under a regulation of the Board of Fisheries or the Board of Game within a marine park unit of the Alaska state park system.

\* allows fishing, hunting and trapping.

(e) The commissioner shall allow the development of aquaculture facilities within a marine park unit of the Alaska state park system under terms and conditions that ensure that the development is compatible with AS 41.21.300 — 41.21.306.

(f) The commissioner may enter into a cooperative agreement for

- (1) the management of a marine park unit of the Alaska state park system with a federal agency, a municipality of the state, or a proximately located private landowner for a purpose stated under AS 41.21.020(7); or

- (2) the management of proximately located federal, municipal, or private land as part of a marine park unit of the Alaska state park system.

(g) In the management of a marine park unit of the Alaska state park system the commissioner shall consult and cooperate with a Native corporation that owns an historical or cultural site granted under 43 U.S.C. 1613(h)(1) (sec. 14(h)(1) of the Alaska Native Claims Settlement Act) and that is proximately located to a marine park unit of the Alaska state park system. In the management of a marine park unit of the Alaska state park system the commissioner shall address the potential conflicts with the cultural and historical values of land granted to a Native corporation under 43 U.S.C. 1613(h)(1) (sec. 14(h)(1) of the Alaska Native Claims Settlement Act) and shall provide for appropriate protection to these values.

(h) Nothing in AS 41.21.300 — 41.21.306 precludes the use of or access to land proximately located to a marine park unit of the Alaska state park system or to mineral claims and leases. The commissioner shall permit adequate and feasible access across state land within a marine park unit of the Alaska state park system to and from private and public land within or outside a unit. In the granting of such access the commissioner may adopt reasonable regulations to protect the natural and other values of the marine park unit land and water.

(i) The commissioner may enter into a concession contract under AS 41.21.027 and AS 36 to provide services or construct facilities in a marine park unit of the Alaska state park system. (§ 1 ch 64 SLA 1983; am § 1 ch 67 SLA 1986; am §§ 1, 2 ch 14 SLA 1990; am § 13 ch 168 SLA 1990)

**Revisor's notes.** — Enacted as AS 41.20.532. Renumbered in 1983.

**Effect of amendments.** — The first 1990 amendment added "within five years" at the end of the first sentence of subsection (c) and added subsection (i).

The second 1990 amendment, effective June 14, 1990, in subsection (c), deleted "within five years" at the end of the first sentence and added the third sentence.



# ALASKA OUTDOOR COUNCIL, INC.

P. O. BOX 22394  
JUNEAU, AK. 99802  
(907) 463-3830

Mar. 29, 1995

Representative Gary Davis, Chair  
House Transportation Committee  
State Capitol  
Juneau, Ak. 99801

Dear Representative Davis:

The Alaska Outdoor Council took a position several years ago in support of HB 91, which would amend the State Marine Parks system by adding the Channel Islands. We are still in basic support of this concept as long as the original statute's provisions for maintaining hunting, trapping and fishing opportunities remain intact.

The Alaska Outdoor Council traditionally supported many classifications of state lands when a demonstrated public objective would ensue. We have always supported broad use of public lands and will continue to do so.

We encourage the House Transportation Committee and the Legislature to pass HB 91. Thank you for this opportunity to present our views on this subject.

Sincerely,

Eddie Grasser  
Legislative Affairs

cc: Rep. Caren Robinson  
Rep. Beverly Masek  
Rep. Bill Williams  
Rep. Jeannette James  
Rep. Jerry Sanders  
Rep. Tom Brice  
Rep. Eileen MacLean

PHIL R. HOLDSWORTH, P.E.

CONSULTING ENGINEER & LEGISLATIVE COUNSEL  
MINING — GEOLOGY — LANDS

PHONE 907-586-1383

326 FOURTH STREET, No. 1009  
JUNEAU, ALASKA 99801

April 10, 1991

Representative Fran Ulmer  
Room 421, Capitol  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Fran Ulmer:

As you may recall, the undersigned testified in support of SB 114 before the Senate Resources Committee and explained in some detail the historical creation of the extensive State marine parks system which has been created. The State of Alaska had been authorized to select limited tracts of land within the National Forest for "community expansion" and "community recreation areas".

I was present when HB 131 was heard by the House Resources Committee but had not planned to testify, as DNR covered the issue and presented the map describing the islands involved. I was asked to confirm some positions which were questioned by the committee.

The marine park units covered by this bill are clearly "community" recreation areas, and are ideal for recreational use by the community of Juneau. The area described in the bill covers several small channel islands and a portion of Shelter Island. The land is still in Forest Service ownership but has been selected by the State, and will be approved for conveyance as the land certainly meets the qualification as "community recreation". [There are no known mineral potentials on the involved islands and the Alaska Miners Association has expressed no opposition to the bill.]\*

Sincerely,



Phil R. Holdsworth



## ALASKA DISCOVERY

*Dedicated to the enjoyment & conservation of Alaska's wilderness • Since 1972*

Representative Caren Robinson  
Alaska House of Representatives  
State Capital, Room 114  
Juneau, AK 99801-1182

March 28, 1995

Dear Representative Robinson:

Thank you very much for your sponsorship of House Bill 91, which would establish the Juneau Channel Islands State Park. Alaska Discovery has been offering visitors to Alaska guided day kayak tours to Benjamin and North Islands for a number of years, and we are fully supportive of H.B. 91. We disagree strongly with those who call this bill a lock-up. As a business that relies on continued access to the Channel Islands we view the bill as a way of safeguarding the integrity of the islands while still allowing the kind of low-impact eco-tourism in which Alaska Discovery specializes. Some might want to develop the islands for large scale, industrial scale tourism and would therefore oppose any protection for the area. However, Alaska Discovery has established that it is possible to operate a successful tourism business utilizing the islands without heavy impacts to the uplands or disturbance of the wildlife. In addition, we believe that the boating and recreational public would prefer to see the islands remain as they are, with one or two businesses like Alaska Discovery in the area, rather than see large scale development and crowding. State Marine Park designation would allow Juneau to have the best of both worlds: protect the islands while allowing for sustainable eco-tourism.

Thank you, again, for your sponsorship of H.B. 91.

Sincerely,

John Sisk  
Interim General Manager

cc: Representative Kim Elton  
Senator Jim Duncan



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES



REPRESENTATIVE CAREN ROBINSON

### MEMORANDUM

**TO:** Representative Bill Williams  
Representative Joe Green  
Co-Chairs, House Resources Committee

**FROM:** Representative Caren Robinson *Caren R.*

**Date:** April 18, 1995

**RE:** Request for a hearing on HB 91

=====  
I respectfully request a committee hearing for House Bill 91 at your earliest convenience. Please find attached a sponsor statement, copy of the bill, zero fiscal note and other supporting documents.

If members of the committee are interested, I would be happy to arrange an afternoon boat trip to the islands in order to familiarize members with the islands and their proximity to Juneau.



**HEB**

**102**

LAW OFFICES  
GROSS & BURKE  
A PROFESSIONAL CORPORATION  
424 NORTH FRANKLIN STREET  
JUNEAU, ALASKA 99801

AVRUM M. GROSS  
SUSAN A. BURKE

19071 586-2777

May 6, 1995

Mr. Joe Klutsch, President  
Alaska Professional Hunters Association  
P. O. Box 91932  
Anchorage, Alaska 99509

Re: Consequences of Termination of the Big  
Game Commercial Services Board

Dear Mr. Klutsch:

You have asked us to advise you as to the consequences for future regulation of guides and guide outfitters if the Legislature fails to take action to amend the occupational licensing "sunset" statute (AS 08.03.010) to extend the termination date for the Big Game Commercial Services Board ("BGCSB").

AS 08.03.010(5) currently provides that the BGCSB terminates June 30, 1994. Thus, the Board was "terminated" effective June 30, 1994. Under AS 08.03.020(a), the BGCSB was allowed to continue in existence for a period of only one year following termination, "for the purpose of concluding its affairs," and as of June 30, 1995, the BGCSB will "cease all activities."

For purposes of this opinion I have reviewed a one sheet, undated document from the Division of Occupational Licensing that sets out what the Division believes will be the consequences of final termination of the BGCSB. I have also reviewed an opinion from the Attorney General's office dated June 10, 1992, dealing with the effects of termination of the Board of Electrical Examiners. 1/ In my view, based on my review of the applicable statutes, the Attorney General's opinion is a correct statement of the law.

The advice provided by the Division is, in a number of instances, inconsistent with the prior advice given by the Department of Law. The two most significant instances where

1/ I have attached a copy of that opinion as well as the one page advice document from the Division.

Mr. Joe Klutsch  
May 6, 1995  
Page -2-

I believe the Division's advice is simply incorrect are the following:

"The result will be that state law will continue to require individuals to have licenses in order to guide, but there will be no way for new applicants to obtain those licenses. After December 31, 1995, no one will be able to legally guide."

\* \* \* \* \*

"The guide use area system which was created by regulation will not go out of existence, but no new area permits will be issued and no regulation changes may be made."

Since the 1992 Department of Law opinion deals more directly with the second statement, I will address it first. In my opinion (and apparently that of the Department of Law), once a Board's existence has been finally terminated, regulations adopted by the Board are impliedly repealed. The reason for that is that the legal force and effect of regulations derives solely from the statutory authorization to a board to adopt regulations.

As the Department of Law advised the Division in 1992, "Your staff should provide to me a list of all regulations adopted by the board, so that, as regulations attorney, I can instruct the publisher of the Alaska Administrative Code to delete them." The only authority for the establishment of use areas contained in AS 08.54 is contained in AS 08.54.310(b)(1). That authority is granted only to the BGCSB. Thus, under the advice given by the Attorney General's office, the regulations that establish the guide use area system will be of no force or effect as of June 30, 1995, and presumably she will advise the publisher of the Alaska Administrative Code to delete not only those regulations but all others that have been adopted by the BGCSB to implement its exclusive authority over guide licensing, discipline, and guiding activities.

The Division's advice assumes that following termination of the BGCSB, persons will continue to be required to have guide licenses before they can engage in guiding activities, but that since the Division will have no authority to issue licenses, "no one will be able to legally guide" after December 31, 1995 when all current guide licenses will expire. The 1992 Attorney General's opinion does not address directly the issue of the practical effect of a board's termination on the State's ability to continue to require that a person be licensed before being able to engage in the occupation previously regulated by the

terminated board. Nonetheless I think the only possible interpretation of that opinion leads to the conclusion that where the statutes place discretionary authority for licensing and discipline of an occupation in a board (as opposed to the Division), the effect of terminating the board is that there is simply no longer any State regulation of that occupation. 2/ Guiding and guide-outfitting would simply be like any other occupation that is currently not licensed or regulated as an occupation -- like operating a grocery store or being a janitor. 3/ In other words, if the BGCSB terminates on June 30, 1995, there will be no requirement that a person must have a license before engaging in commercial guiding activity. Any person will be able to conduct guided hunts, regardless of qualifications.

In summary, in my view, the primary and most drastic consequences of the failure of the legislature to adopt legislation this session extending the termination date of the BGCSB will be as follows, effective June 30, 1995:

- In the absence of legislation amending AS 08.54 to expressly transfer BGCSB functions to the Division there will be no authority for any State agency to issue guide licenses or to discipline licensed guides.
- Most, if not all, regulations currently on the books that were adopted by the BGCSB to implement its licensing and disciplinary authority will cease to have the force and effect of law and will be effectively repealed.

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2/ This is particularly true under the licensing statutes governing guiding activities. Many of the most significant qualifications for obtaining a guide license are, under the statute, to be judged by the Board in the exercise of its discretion. These include such matters as demonstrating "sufficient standards of competence and ethical conduct" and the ability to perform "the essential duties associated with guide-outfitting."

3/ Persons who conduct guided hunts would, of course, continue to be subject to all applicable statutes and regulations of the Board of Game or the Board of Fish governing hunting and fishing. But unlike the current law, which allows the BGCSB to revoke the guiding license of a person violating certain fish or game regulations, following termination of the BGCSB, a person convicted of even the most serious fish and game laws and regulations could continue to conduct guided hunts.

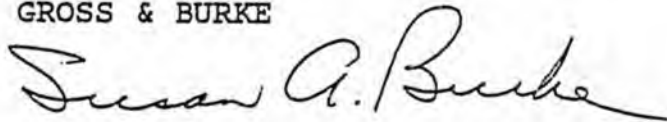
Mr. Joe Klutsch  
May 6, 1995  
Page -4-

- There will be no restrictions on any person in the State conducting guided hunts. Anyone may do so. Guides with licenses that do not expire until December 31, 1995 will technically still have them, but they will be meaningless pieces of paper.
- The guide use area system, created by regulations under statutory authority given exclusively to the BGCSB, will cease to exist. Any person, licensed or not, will be able to conduct guided hunts in any area of the State, without regard to existing limitations on the number of areas in which a guide may operate.

I hope this answers your questions. Please let me know if you require additional information. 4/

Very truly yours,

GROSS & BURKE



Susan A. Burke

SAB:ps

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4/ It is my understanding that the Legal Services Division of the Legislative Affairs Agency would, if asked, agree with both the conclusions reached by the Department of Law in its June 10, 1992 opinion and with the conclusions I have reached.

# MEMORANDUM

State of Alaska  
Department of Law

TO: Ann Boudreaux  
Director  
Div. of Occupational Licensing  
Dep't of Commerce and  
Economic Development

DATE: June 10, 1992  
FILE NO.: 663-92-0591  
TEL NO.: 465-3600  
SUBJECT: Assumption of licensing  
functions of the Board of  
Electrical Examiners

FROM: Deborah Behr /S/  
Legislation/Regulations Attorney

You have asked whether the Department of Commerce and Economic Development (department) may lawfully assume the licensing functions assigned to the sunset Board of Electrical Examiners (board), under your department's existing statutory authority. If not, may the department continue to collect fees from existing licenses under this program, and does the department itself have the authority to revoke or suspend licenses issued before July 1, 1992 for violations of licensing requirements occurring after that date?

## SHORT ANSWER

The department does not have the statutory authority to adopt regulations to assume the licensing functions assigned to the sunset Board of Electrical Examiners. If the department wishes to assume these functions, the department will need to obtain additional statutory authority from the legislature. If the department does not wish to assume these functions, we recommend that the department pursue legislation to remove obsolete references to the licensing program for electrical administrators. Also, the department should review occupational licensing regulations to make or recommend necessary changes in accordance with this advice.<sup>1</sup>

As to the collection of fees, the department should not accept new license applications after July 1, 1992, and therefore, no new application fees should be accepted after that date. Persons who submitted pending applications should be informed of the status of the board and be given an opportunity to receive a refund of fees paid. Because the electrical administrator license cannot be renewed without board involvement, renewal fees

<sup>1</sup> For example, we note that the Board of Mechanical Examiners has recently adopted regulations regarding controls and control wiring that appear to need revision due to the expiration of the Board of Electrical Examiners. 12 AAC 39.940.

Ann Boudreaux, Director  
Div. of Occupational Licensing  
Dep't of Commerce & Economic Development

June 10, 1992

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Our file: 663-92-0591

should not be accepted after July 1, 1992. The valid licenses issued before July 1, 1992 continue in effect until their renewal date.

As to enforcement, the department can only enforce statutes and regulations not assigned to the board to enforce. Since most of the key licensing requirements involve board enforcement, the department may have to look to other statutes and other departments, discussed below, to enforce safety concerns.

#### OVERVIEW

In 1977, the Alaska State Legislature created the Board of Electrical Examiners. Ch. 53, SLA 1977. The purpose of the board was "to protect the safety of people and property in the state from the danger of improperly installed electrical wiring and equipment . . . ." AS 08.40.005. The board sets qualifications for licensure of electrical administrators. AS 08.40.045; 08.40.050.

The board is subject to routine "sunset" review by the legislature under AS 44.66.050. In the "sunset" review, the board carries "the burden of demonstrating a public need for its continued existence . . . ." AS 44.66.050(b). A board that is not continued in existence by the legislature is allowed one year after the date of termination to wind up licensing activities before ceasing all activities. AS 08.03.020(a).

The Board of Electrical Examiners has undergone "sunset" review by the legislature twice since 1985. On June 30, 1986, the legislature allowed the board to terminate. During the board's wind-up year of operations in 1987, the legislature transferred the board's functions to the department. Secs. 22-31, ch. 94, SLA 1987.

In 1988, the legislature recreated the Board of Electrical Examiners. Ch. 98, SLA 1988. In recreating the board, the legislature expressly removed the department's authority to adopt regulations "establishing categories of electrical administrators, establishing qualifications for those categories and the content of examinations for applicants for each category." Sec. 5, ch. 98, SLA 1988. Additionally, the legislature expressly removed and transferred to the board the department's authority to adopt regulations "relating to the examination and licensing of electrical administrators, the establishing of the continued competency of an applicant for license renewal and reinstatement, and the suspension and

revocation of licenses." Id. at sec. 6. The department retained certain ministerial functions related to this licensing activity, such as issuing licenses to applicants approved by the board or prescribing forms for applicants to apply for licensure. AS 08.40.090. Also, the department retained the authority to inspect or investigate the work of licensees. AS 08.40.070. Additionally, the department performed certain centralized licensing functions related to this board's activities under AS 08.01. Finally, the recreated Board of Electrical Examiners was again scheduled for sunset review to avoid termination on June 30, 1991. Sec. 3, ch. 98, SLA 1988.

In 1991, the governor requested that HB 159 be introduced to extend the board for four years, until June 30, 1995. Hearings were held on HB 159 before the House Labor and Commerce Committee. A committee substitute, CSIB 159(L&C), was adopted to extend the board only until June 30, 1992. That bill passed the House of Representatives on May 3, 1991. 1991 House Journal 1122. The bill was forwarded to the Senate and referred to the Senate Labor and Commerce Committee. 1991 Senate Journal 1112. The bill did not pass out of committee or the Senate during the 1991 and 1992 sessions.

As a result, the statutes were not amended to continue the board in existence. By operation of law, the board "shall cease all activities" effective July 1, 1992. AS 08.03.010(a)(11) and AS 08.03.020.

#### DISCUSSION

The Department of Commerce and Economic Development was created by statute and assigned certain duties by the legislature. AS 44.33. The department must look to its general and specific statutory authority to see if it has the authority to assume the duties of the sunset board. The department may not act beyond the scope of its statutorily assigned duties without, in essence, legislating new functions and running afoul of separation-of-powers principles. Also, the Alaska court has recognized that administrative agencies are creatures of statute deriving from the legislature the authority for the exercise of any power they claim. *Rutter v. State*, 668 P.2d 1343, 1349 (Alaska 1983).

AS 44.33.020 sets out the general power and duties of the department. Nowhere does that statute authorize the department to set qualifications for licensure of electrical administrators. Likewise, in centralized licensing statutes in

June 10, 1992

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Our file: 663-92-0591

AS 08.01.050, the department is not assigned these duties.<sup>2</sup> Since the setting of qualifications was not transferred to the department at the end of the existence of the board, the legislature did not provide authority for the department to assume these duties.<sup>3</sup>

While AS 08.40.090 states that a "person may not act as an electrical administrator in the state without a license issued by the department," this language by itself does not give the department the authority to adopt regulations to set qualifications, offer examinations, and take other actions previously assigned to the board.<sup>4</sup> AS 08.40.045; 08.40.060.

Finally, you have asked about the department's authority to collect fees for this licensing program. Since the department is without statutory authorization to conduct licensing examinations or evaluate qualifications of applicants, new applicant fees should not be accepted on or after July 1, 1992. Already pending applicants who are scheduled for examinations in June 1992 should be informed of the status of the board and given an opportunity to request a refund of application fees submitted.

As to renewal fees, the department can only renew licenses on dates set by the department "with the approval of the respective board." AS 08.01.100(a). Also, AS 08.40.135(a) provides that licenses may be renewed by the department "upon proof of continued competence," the standards which are established by the board, by regulation, under AS 08.40.050. Since

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<sup>2</sup> AS 08.01.050 does assign to the department the authority to authorize license "for acupuncturists, audiologists, contractors, naturopaths, or hearing aid dealers." AS 08.01.050(a)(9).

<sup>3</sup> Since the legislature knows how to transfer functions of the board to the department, as it did in 1987, the legislature's failure to act supports this conclusion.

<sup>4</sup> We interpret "license issued by the department" to merely reflect the ministerial role assigned to the department to issue licenses based on board approval.

Also, since no new or renewal license may be issued by the department after July 1, 1992, we believe that the court would interpret the requirement of AS 08.40.090 as a nullity; a court would likely not require a person to complete the impossible act of obtaining a license that must be authorized by a nonexistent board.

Ann Boudreaux, Director  
Div. of Occupational Licensing  
Dep't of Commerce & Economic Development

June 10, 1992

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the Board of Electrical Administrators will not exist after July 1, 1992, to approve license renewal dates or to address continued competency requirements, electrical administrator licenses cannot be renewed after that date. Therefore, no renewal fees should be collected after July 1, 1992. Fees received after that date to renew licenses after July 1, 1992, should be returned. A valid license issued before July 1, 1992, continues in existence until its expiration date.<sup>5</sup>

Finally, you have asked what authority the department may have to suspend or revoke a license issued before July 1, 1992, for a license violation occurring after July 1, 1992. Again, the function of disciplining licensees was assigned to the board under AS 08.40.170. The legislature did not transfer this function to the department. Therefore, the department may not discipline licensees<sup>6</sup> under AS 08.40.170. The department may conduct limited investigations under AS 08.01.087(a). Since no board is available to act on the violations or for the commissioner to notify, the department would have to seek an action in the superior court to obtain compliance. We would alert the department that it may only attempt to obtain compliance with the statutes or regulations remaining that do not involve the board.<sup>7</sup> Since most safety statutes in AS 08.40.000 -- 08.40.200, and regulations adopted under them, will no longer be effective after July 1, 1992, the remedy for safety violations would likely be based on other statutes.<sup>8</sup>

<sup>5</sup> We understand that the valid licenses issued before July 1, 1992 are due to expire in 1993.

<sup>6</sup> We assume that disciplinary actions would have relevance only for licensees who possess valid licenses on July 1, 1992, but have expiration dates after July 1, 1992. Since the licenses cannot be renewed, the problem should not exist after 1993.

<sup>7</sup> For example, AS 08.40.140 requires a licensee to prominently display a certificate of license, while in effect, in the holder's principal place of business. If the department investigated and determined that a person validly licensed before July 1, 1992, is not displaying that certificate, the department apparently could attempt to seek compliance through court action.

<sup>8</sup> For example, the commissioner of the Department of Labor issues a certificate of fitness for a person involved in the electrical wiring trade. AS 18.62.070. Also, the Department of Commerce and Economic Development generally issues certificates of registration for construction contractors. AS 08.18. These  
(continued...)

Ann Boudreaux, Director  
Div. of Occupational Licensing  
Dep't of Commerce & Economic Development

June 10, 1992

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Our file: 663-92-0591

#### CONCLUSION

For the reasons stated above, the department cannot adopt regulations to assume the licensing functions assigned to the Board of Electrical Examiners before its termination under "sunset" review.<sup>9</sup> If the department wishes to assume these functions, it will need to obtain statutory authority from the legislature. If it does not wish to do so, the department should pursue legislation to clean up the statutes relating to licensing of electrical administrators. Additionally, the department should review occupational licensing regulations for appropriate amendment or repeal in accordance with this advice. Your staff should provide to me a list of all regulations adopted by the board, so that, as regulations attorney, I can instruct the publisher of the Alaska Administrative Code to delete them.

As to fees, the department should not be collecting fees from new applicants after July 1, 1992, because there is no legal means for these applicants to become licensed as electrical administrators. As to renewal fees, we believe that the department has no authority to renew licenses without board concurrence and therefore no renewal fees should be collected after July 1, 1992.

As to enforcement, the department can only pursue enforcement of very limited responsibilities not assigned to the board to enforce. As a practical matter, this will likely mean that complaints against persons holding licenses on July 1, 1992, until those licenses expire in 1993, will likely have to be pursued under other statutory authorities (and then perhaps by the Department of Labor).

If we may be of further assistance, please contact us.

DB:tg

cc: Hon. Glenn Olds, Commissioner  
Department of Commerce & Economic Development

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<sup>8</sup>(...continued)

statutes, and regulations adopted under them, might provide some additional authority to enforce safety concerns.

<sup>9</sup> We reached a similar conclusion regarding the Board of Welder Examiners, after it was sunset. See 1982 Inf. Op. Att'y Gen. at 1 (July 16; 366-756-82).

Ann Boudreaux, Director  
Div. of Occupational Licensing  
Dep't of Commerce & Economic Development

June 10, 1992  
Page 7  
Our file: 663-92-0591

Hon. Charles W. Mahlen, Commissioner  
Department of Labor

Donald Parks, Chairperson  
Board of Electrical Examiners

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

### DIVISION OF OCCUPATIONAL LICENSING

TONT KNOWLES, GOVERNOR

*William P. Knowles, Governor*

P.O. BOX 110806  
JUNEAU, ALASKA 99811-0806  
PHONE: (907) 465-2534

#### Consequences of BGCS BD Sunset

AS 08.54.310 gives the board the authority to prepare, grade and administer examinations for all categories of guide licenses, the authority to issue licenses, the authority to revoke or suspend licenses, and the authority to establish a resource based management system.

If the BGCS Bd is sunsetted, there will be no authority for any entity to administer examinations, issue new guide licenses or new guide use area permits. All current guide-outfitter licenses will expire on 12/31/95 and there will be no authority to renew those licenses.

The Division will not be able to take over board functions without legislative action formally transferring board powers.

The result will be that state law will continue to require individuals to have licenses in order to guide, but there will be no way for new applicants to obtain those licenses. After December 31, 1995, no one will be able to legally guide.

The guide use area system which was created by regulation will not go out of existence, but no new area permits will be issued and no regulation changes may be made.



# SINDER RIVER LODGE



Gary "Butch" King, Jr. • Registered Guide/Outfitter  
2024 Stonegate Circle • Anchorage, Alaska 99515 • (907) 522-1164

The Honorable Rick Halford  
Alaska State Senate  
Mail Stop 3100, State Capitol  
Juneau, Alaska 99801-1182

Dear Senator Halford:

May 4, 1995

I greatly appreciate the opportunity to meet with you yesterday concerning the fate of HB-102 and the Big Game Commercial Services Board. However, there are a couple very critical points that I failed to make during our short meeting.

I would like to emphasize that I, and the APHA Board of Directors, were not aware of any agreement to make changes in statutory authority of the BGCSB until just yesterday. Our part in introducing HB-102 was in no fashion designed to disrupt your plan to streamline the duties of the board. I agree with many of your points. The current system has become very cumbersome and time consuming. Had the APHA Board been aware of your willingness to work on these issues, we surely would have been available to work out these problems much earlier in the current legislative session.

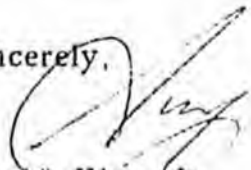
Unfortunately, we are again in the last hours of the session. To sunset the BGCSB, on a matter of principle, would once again throw the guiding industry into yet another tail spin. Please consider your decision's effect on the perceived stability that the industry has attempted to project, since the Owsichek decision. The Alaska guiding industry is just now regaining the confidence of the international hunting community, Federal land managers and general public. To sunset the BGCSB now is to destroy what confidence that we have worked so hard to regain during the past several years.

As you know, Alaska guides have always operated under FAA Part 91. Use of aircraft by guides has been considered incidental to the primary service provided. FAA has created a task force as a result of recent aviation accidents throughout the country and in Alaska.

During recent FAA Task Force meetings in Alaska, Neal Webster who you met yesterday and is considered an expert in this field, represented the guide industry. Neal was quite successful in comparing the guide industry's low accident rate with that of the Part 135 air taxis. However, the primary factor in Neal's convincing argument, and one which impressed the FAA and NTSB, was the fact that the BGCSB had in regulation minimum requirements for guide-outfitters utilizing aircraft to support their guided hunting operations. It appears that the FAA is satisfied with the aviation requirements set forth by the board and may not pursue the matter further. If the BGCSB sunsets, these regulations go out the door and the guiding industry can look forward to more red tape under FAA Part 135 air taxi than the BGCSB could cook up in a lifetime.

Rick, there are too many related issues to just can the board. What I am asking you to do is reconsider your ultimatum, for the sake of stability in a viable big game commercial services industry, so important to the State economy and the livelihood of so many through out Alaska. Give us another year with this board to diligently work and reconsider each layer of red tape which we have created for ourselves, look at both sides of each issue and come up with some positive changes which we will introduce, with the help of Rep. Scott Ogen, next legislative session. We are struggling to improve. Please give us the time we need to build workable regulations, without having to go back to square one and start all over again.

Most sincerely,



Gary "Butch" King, Jr.  
Vice President, APHA  
Guide-Outfitter #433

# FISCAL NOTE

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

**BILL NO. HB 102**

Revision Date: January 27, 1995 Department: Commerce and Economic Development  
 Title: An Act extending the termination date of the BRU: Occupational Licensing  
Big Game Commercial Services Board. Component: Operations  
 Sponsor: House Resources Committee  
 Requestor: House Resources Committee COMPONENT SERIAL N 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	174.0	174.0	174.0	174.0	174.0	174.0
TRAVEL	17.3	27.5	27.5	27.5	27.5	27.5
CONTRACTUAL	56.7	56.7	56.7	56.7	56.7	56.7
SUPPLIES	1.2	1.2	1.2	1.2	1.2	1.2
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>249.2</b>	<b>259.4</b>	<b>259.4</b>	<b>259.4</b>	<b>259.4</b>	<b>259.4</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	324.1	188.1	324.1	191.1	324.1	194.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts	249.2	259.4	259.4	259.4	259.4	259.4
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>249.2</b>	<b>259.4</b>	<b>259.4</b>	<b>259.4</b>	<b>259.4</b>	<b>259.4</b>

Estimate of any current year (FY 95) cost: \$ 219.6

**POSITIONS**

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

HB 102 extends the termination date of the Big Game Commercial Services Board to June 30, 1998. The expenditures shown above are included in the FY 96 operating budget request and the revenue identified are reflected in revenue projections. The board is in its final year of existence unless legislation is passed to continue the board.

Prepared by: Jennifer Strickler, Admin. Officer Phone: 465-2144  
 Division: Occupational Licensing Date: 1/27/95  
 Approved by Commissioner: William L. Hensley Date: 1/27/95  
 Agency: Commerce and Economic Development

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HOUSE RESOURCES COMMITTEE  
Roll Call and Members' Bill Votes

\* (indicates first public hearing)

Room 124, Capitol Bldg.

Mon. Wed., Fri.

Date: 2/8/95

Tape# 95-11 Joint \_\_\_\_\_

Time: 8:07 am/pm Time Adjourned: 9:29 am/pm

ROLL CALL:	PRES	ABS	TIME	AR			
Rep. Joe Green	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		
Rep. Bill Williams	<input checked="" type="checkbox"/>		<u>8:12</u>		<input checked="" type="checkbox"/>		
Rep. Scott Ogan	<input checked="" type="checkbox"/>		<u>8:10</u>		<input checked="" type="checkbox"/>		
Rep. Alan Austerman	<input checked="" type="checkbox"/>		<u>8:10</u>		<input checked="" type="checkbox"/>		
Rep. Ramona Barnes	<input checked="" type="checkbox"/>		<u>8:27</u>		<input type="checkbox"/>	<u>N</u>	
Rep. John Davies	<input checked="" type="checkbox"/>		<u>8:13</u>		<input checked="" type="checkbox"/>		
Rep. Pete Kott		<input checked="" type="checkbox"/>					
Rep. Eileen MacLean	<input checked="" type="checkbox"/>		<u>8:20</u>		<input type="checkbox"/>	<u>N</u>	
Rep. Irene Nicholia	<input checked="" type="checkbox"/>		<u>8:15</u>		<input checked="" type="checkbox"/>		

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Other Legislators Present \_\_\_\_\_

AGENDA:

Bill No.	Short Title	Action Taken
<u>HB 102</u>	<u>Extend Big Game Commercial Services Board</u>	<u>HB 102 Oct.</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

OTHER

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\_\_\_\_\_

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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

*House Resources  
2-8-95 8:07am  
Tape #95-11, Side A, #000  
HB102*

Mary Pagenkopf

HOUSE RESOURCES COMMITTEE



Alaska State Legislature  
House of Representatives

SUBJECT OF MEETING:  
HB 102 - Extend Big Game  
Commercial Services Board

DATE: 2/8/95

PLACE: ROOM 124

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Steven Bruce	ADF+G	Bl 25526	99102		66143	<input checked="" type="radio"/> Y	<input type="radio"/> N	Questions (Answer) HB 102
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	

HOUSE COMMITTEE REPORT

2/8/95

(9)

Date Referred: January 20, 1995

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-8-95

The RESOURCES Committee considered:

HB 102

HOUSE BILL NO. 102

EXTEND BIG GAME COMMERCIAL SERVICES BOARD

"An Act extending the termination date of the Big Game Commercial Services Board."

recommends it be replaced  the same title  
 with the following committee substitute \_\_\_\_\_  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)  
 fiscal note(s) C+ED  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Nicholia</i> Nicholia			X	
<i>David</i> David	✓			
<i>W.K. Williams</i> Williams	✓			
<i>Green</i> Green	✓			
<i>Dean</i> Dean	✓			
<i>Barnes</i> Barnes		X		
<i>Austerman</i> Austerman			X	
	(4)	(1)	(2)	

CHAIR'S SIGNATURE *[Signature]*



*Alaska State Legislature*  
**HOUSE OF REPRESENTATIVES**  
*Committee on Resources*

State Capitol  
Juneau, Alaska  
99801

**Sponsor Statement**

**HB 102 - Big Game Commercial Services Board**

HB 102 extends the Big Game Commercial Services Board whose duties are set forth in AS 08.54.300-330.

In 1989 the Legislature passed HB 112 (Ch. 37, SLA 89), which repealed the Big Game Guide Board and replaced it with the Big Game Commercial Services Board. HB 112 was the product of work by the Legislative Task Force on Guiding and Game. The Task Force was created to address conflicts between different groups profiting from the harvest of Alaska's big game.

The primary conflicts were between guides, who were highly regulated, and outfitters, who were unregulated. HB 112 eliminated the distinction between guides and outfitters and created a new "guide-outfitter" class. Under the system created in Ch. 37, the degree to which a commercial big game services provider is regulated depends on the level of interface with consumers and the resource.

Some service providers - hunt brokers, or sporting goods stores that rent hunting gear - are required only to register with the Board. Other service providers are required to meet certain conditions before they may be licensed and receive compensation for their services.

HB 112 included language to sunset the Board in 1993, but the Legislature allowed a one-year extension last year with HB 266. Title 8, which regulates Boards & Commissions, allows the board one year after the sunset date to terminate its operation. Unless the legislature passes HB 102 this session, those who receive compensation from the commercial harvest of Alaska's big game resources will not be regulated.

**DEPARTMENT OF FISH AND GAME**  
**POSITION PAPER**

**Bill No:** HB 102

**Sponsor:** House Resources Committee

**Division:** Wildlife Conservation

**Bill Title:** An Act extending the termination date of the Big Game Commercial Services Board.

**Department Position:** Support

Background/Legislative Intent: This bill would extend the termination date of the Big Game Commercial Services Board until June 30, 1998.

Analysis of Bill/Program Effects: A sunset provision in statute resulted in termination of the board in June 1994. This board provides a valuable service by assuring that those individuals licensed as big game guide-outfitters are qualified and capable of providing the services expected of them by their clients. The board also plays an important role in distributing the guided hunting effort so that discrete big game populations are not subjected to excessive hunting pressure.

  
\_\_\_\_\_  
Commissioner's Signature

2.2.95  
\_\_\_\_\_  
Date

Article 1. Big Game Commercial Services Board.

Section	Section
300. Creation and membership of board	320. Board regulations
310. Duties and powers	330. Board assistance

Cross references. — For transitional provisions, see §§ 13 — 15, and 17, ch. 37, SLA 1989 in the Temporary and Special Acts.

Sec. 08.54.010. Guide Board. [Repealed, § 18 ch 37 SLA 1989.]

Sec. 08.54.020. Appointment and term of office. [Repealed, § 49 ch 94 SLA 1987.]

Secs. 08.54.030 — 08.54.141. Board powers and duties, etc.; licensing. [Repealed, § 18 ch 37 SLA 1989.]

Secs. 08.54.142 — 08.54.146. Transporter licensing. [Repealed, § 27 ch 71 SLA 1986.]

Secs. 08.54.150 — 08.54.180. Miscellaneous licensing provisions. [Repealed, § 18 ch 37 SLA 1989.]

Sec. 08.54.185. Additional fees. [Repealed, § 27 ch 71 SLA 1986.]

Secs. 08.54.186 — 08.54.240. Exams; restricted areas; prohibitions; general provisions. [Repealed, § 18 ch 37 SLA 1989.]

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

(b) The board consists of nine members:

- (1) two members who are licensed guide-outfitters;
- (2) two members who are licensed transporters, one of whom must be engaged in the business of providing air transportation services;
- (3) one member who holds a commercial use permit, but does not hold any class of guide-outfitter license or a transporter license;
- (4) one member of the Board of Game who is chosen by the Board of Game and who does not hold a commercial use permit;
- (5) one member who represents Native landholders; and
- (6) two public members. (§ 3 ch 37 SLA 1989)

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## Chapter 54. Guides and Related Occupations.

### Article

1. Big Game Commercial Services Board (§ 08.54.310)
2. Licensing (§§ 08.54.350 — 08.54.395)

### Article 1. Big Game Commercial Services Board.

#### Section

#### 310. Duties and powers

Sec. 08.54.310. Duties and powers. (a) The board shall

(1) prepare, grade, and administer

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

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

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

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

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

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

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

(7) authorize issuance of transporter licenses;

(8) authorize issuance of commercial use permits;

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

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

(11) require an applicant for issuance or renewal of any class of guide-outfitter license to state in a written and signed document whether the applicant's right to obtain, or exercise the privileges granted by, a sport fishing, hunting, trapping, or guide-outfitting license is revoked or suspended in another state.

(b) The board may

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

(2) establish the level of supervision that a guide-outfitter shall provide for class-A assistant guide-outfitters and assistant guide-outfitters who are employed by the guide-outfitter. (§ 3 ch 37 SLA 1989; am § 1 ch 106 SLA 1992)

*Effect of amendments.* — The 1992 amendment added paragraph (a)(11) and made a related stylistic change. effective January 1, 1993.

**Sec. 08.54.320. Board regulations.** The board shall adopt procedural and substantive regulations required by this chapter or reasonably necessary for its administration. (§ 3 ch 37 SLA 1989)

**Sec. 08.54.330. Board assistance.** The Department of Fish and Game, Department of Natural Resources, and Department of Public Safety shall provide the board with information, data, or technical assistance requested by the board for the purposes of licensing and regulating the activities of providers of commercial services to big game hunters. (§ 3 ch 37 SLA 1989)

**HB**

**107**

FISH USE COMMITTEE REPORT

(9)

Date Referred: February 10, 1995

FURTHER REFERRALS:

Date of Committee Action: 3/1/95

The RESOURCES Committee considered:

HB 107

HOUSE BILL NO. 107

RESTRICTED LIMITED ENTRY PERMITS

"An Act relating to restrictions attached to certain commercial fisheries limited entry permits."

recommends it be replaced with the following committee substitute CSHB 107 (FSH)  the same title  a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) ADF+G

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<u>Gene Nicholiz</u>	Nicholiz			X	
<u>Joe Davies</u>	Davies	X			
<u>Eileen P. Maclean</u>	Maclean	X			
<u>Joseph Green</u>	Green	✓			
<u>W.K. Williams</u>	Williams	✓			
<u>John Ogan</u>	Ogan	✓			
<u>Alvin Austerman</u>	Austerman			X	
		(5)		(2)	

CHAIR'S SIGNATURE W.K. Williams

# Alaska State Legislature

REPRESENTATIVE  
BEN GRUSSENDORF  
1221 HALIBUT POINT ROAD  
SITKA, ALASKA 99836  
(907) 747-0460

WHILE IN JUNEAU  
STATE CAPITOL  
JUNEAU, ALASKA 99801-1102  
(907) 486-0824



FINANCE COMMITTEE

DISTRICT 2  
KUPREANOF  
PETERSBURG  
SITKA  
WRANGELL

House of Representatives

## SPONSOR STATEMENT

### HOUSE BILL 107

"An Act relating to restrictions attached to certain commercial fisheries limited entry permits."

In 1994 the Commercial Fisheries Entry Commission held meetings, at the request of the Southeast Crab Fleet, to come to agreement on a management plan for Dungeness crab. The meetings were held in Juneau, Ketchikan, Sitka, Petersburg, and Wrangell. This bill allows the Commercial Fisheries Entry Commission to implement the consensus reached at those meetings.

This bill does not alter or limit any powers of the Board of Fisheries. Under section 3 of the bill, the Commercial Fisheries Entry Commission is given the authority, if it chooses to exercise it, to implement the tiered pot system that was determined to be the fairest solution to the limited entry problem.

The pot limit must be based on the past participation in the fishery. It has the benefit of limiting the pressure on the resource. The present maximum limit is 300 pots. Since the 1980's catches averaged 2.5 million pounds. Last year dungeness crab was worth \$4.5 million dollars to fishermen in Yakutat, Kodiak and Southeast Alaska. Without establishing the tiered pot limit for entry permits, the effect of limited entry could actually increase the pressure on this valuable economic resource.

HB 107 will allow the Commercial Fisheries Entry Commission to manage a natural resource and to preserve an economically viable industry. I respectfully request your support.

**DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

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

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

**MEMORANDUM**

February 9, 1995

**SUBJECT:** Sectional Summary of CSHB 107 (FSH); An Act relating to restrictions attached to certain commercial fisheries limited entry permits.

**TO:** Representative Ben Grussendorf

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have requested a sectional summary of CSHB 107 (FSH); An Act relating to restrictions attached to certain commercial fisheries limited entry permits.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the findings of the Legislature regarding the need to restrict fishing capacity associated with entry permits in certain fisheries.

Section 2 of the bill amends AS 16.43.150(a) to conform with AS 16.43.270(d), as added by sec. 3 of the bill.

Section 3 of the bill adds a new subsection to AS 16.43.270 in order to authorize the Alaska Commercial Fisheries Entry Commission to restrict the fishing capacity that may be employed under certain kinds of entry permits. The commission determines the manner in which fishing capacity is to be limited. The maximum fishing capacity that may be allowed under an entry permit issued under this provision is based on the past fishing practices of the person who initially receives the permit. The restriction on fishing capacity that is attached to the permit may not be exceeded by the permit holder or the permit holder's transferees. This provision may be applied only to fisheries that are subjected to limited entry after this bill takes effect.

If I may be of further assistance, please advise.

GEM:klb  
95-056.klb

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 107

Revision Date: 1/30/95 Dept. Affected: Fish and Game  
 Title: Relating to limited entry permits BRU: Commercial Fisheries (Limited) Entry Commission  
 Component: Limited Entry Program Administration  
 Sponsor: Rep. Grussendorf  
 Requester: Rep. Grussendorf COMPONENT SERIAL NO. 0471

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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FUND SOURCE (Thousands of Dollars)

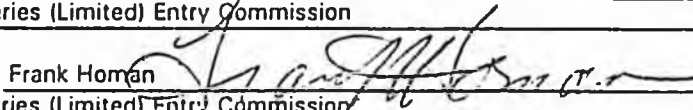
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Roger Kolden Phone: 789-6160  
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 1/30/95  
 Approved by Commissioner: Frank Homan   
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 1/30/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 107

Revision Date: \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Restrictions on Limited Entry Permits BRU: CFMD  
 Component: Fisheries Management  
 Sponsor: Rep. Grussendorf  
 Requester: House Resources COMPONENT SERIAL NO. 1941

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Bob Clasby  
 Division: CFMD  
 Approved by Commissioner: [Signature]  
 Agency: \_\_\_\_\_

Phone: 465-4210  
 Date: 2/24/95  
 Date: 2-25-95

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# DEPARTMENT OF FISH AND GAME

## POSITION PAPER

Bill No. HB 107

Sponsor: Representative Grussendorf

Division: Commercial Fisheries Management and Development

Bill Title: Restrictions to Certain Limited Entry Permits

Department Position: Support

### Background/Legislative Intent:

This legislation would allow CFEC to restrict the fishing capacity of fisheries entering into a limitation program. Limited entry was originally designed for salmon and herring fisheries where a single unit of gear, such as a seine or gillnet, is used. In crab, groundfish, and many developing fisheries, the unit of gear is variable and fishing capacity of the fleet is a function of vessel size - larger vessels carry more pots, shots of longline, or accommodate more divers. In some fisheries the fishing capacity has continued to increase following limitation due to increases in vessel size and corresponding increases in amount of gear fished. As a result, the biological and management advantages of limitation are significantly diluted.

### Analysis of Bill/Program Effects:

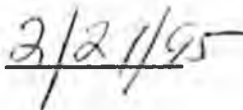
Rational management to ensure conservation and maximize reproductive potential of a fish resource depends on: (1) effort levels that allow fisheries to be opened and managed without risk of overfishing; (2) fishing seasons of sufficient length to allow accumulation of adequate fishery performance data to validate preseason guideline harvest levels and assure that overfishing does not occur; and (3) reasonable control of gear to prevent loss. Excessive fishing capacity can lead to shortened seasons and fewer data upon which to make management decisions. Such derby style fisheries place both fishermen and resource at a higher level of risk.

Under this legislation, limitation should serve to set a ceiling on fishing capacity of a fishing fleet. It would enable CFEC to implement a program where limited entry permits would be tied to, for example, a vessel size, pot limit, or Board of Fisheries specified fixed or proportional quantity of gear.

Commissioner's Signature

  
Frank Rue, Commissioner

Date



# HOUSE COMMITTEE REPORT

(7)  
Date Referred: January 20, 1995

FURTHER REFERRALS:

Resources

Date of Committee Action: 2/8/95

The HOUSE SPECIAL COMMITTEE ON FISHERIES Committee considered:

HB 107

HOUSE BILL NO. 107

RESTRICTED LIMITED ENTRY PERMITS

"An Act relating to restrictions attached to certain commercial fisheries limited entry permits."

recommends it be replaced with the following committee substitute CSHB 107 (FSH)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) ADFG (CFEC)

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	

CHAIR'S SIGNATURE *[Signature]*

**PETERSBURG FISHERIES**

division of  
ICICLE SEAFOODS, INC.  
P.O. BOX 1147  
PETERSBURG, ALASKA 99833  
907-772-4294  
FAX 907-772-4472



February 11, 1995

House Fisheries Committee  
Alan Austerman, Chairman  
Carl Moses  
Kim Elton  
Scott Ogan  
Gary Davis

Dear House Fisheries Committee:

After having the opportunity to further review and assess new information presented to me regarding HB107, I would like to lend my support to the Bill at this time.

However, I would like to emphasize my belief that the C.F.E.C. should allow for a competitive fishery equitable to the investments of both large and small operators, with regard to their "grandfathered" participation.

It is important that the act allow for further restrictions on fishing capacity (ie. quantity of gear) should the stocks become stressed. In attempting to relieve this stress on the stocks I would hope that the C.F.E.C. would seriously consider the limitations put on the smaller capacities when establishing criteria in an effort to maintain economic viability for all harvesting participants.

Sincerely,

A handwritten signature in cursive script that reads "John G. Baird".

John G. Baird  
S.E. Fleet Manager

cc: CFEC  
Senate Resource Committee

SOUTHEAST DUNGENESS CRAB ASSOCIATION  
P.O. BOX 262  
PETERSBURG, ALASKA 99833  
907-772-9248  
December 22, 1994

Dear Representative Grussendorf:

It's been almost four years since we passed the moratorium legislation which placed our S.E. Dungeness fishery in it's current moratorium status. This will expire Jan. 2, 1996.

At the request of the S.E. crab fleet the Commercial Fisheries Entry Commission held hearings this fall to try and work out a solution for a more permanent limited access scheme. Four main ideas were discussed: traditional limited entry, IFQ, tiered pot system, and fractional licensing. CFEC is reluctant to impose a traditional limited entry because of a possible increase in effort. (We currently fish a 300 pot limit but average 150 pots, hence the possibility to double the gear in the water.)

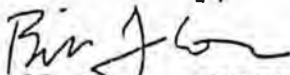
The other three ideas discussed required some type of legislative work. Both IFQ and fractional licensing were seen as too contentious and complicated with little possibility of success.

The tiered pot system was embraced by CFEC and the fleet both for it's fairness and possibility of achievement. Simply stated it places a crabber within a gear strata (i.e. 300/200/100) depending upon past effort. The fairness of this idea lies in that no one is excluded. There are many variations but our hope is that a sufficiently simple bill can be worked out that could achieve passage.

We have contacted CFEC to draft a proposed tiered system bill which we hope you would introduce and support.

Timing is critical. Our moratorium expires after this year and without further protection the S.E. Dungeness fishery will be in serious trouble (Ca., Or., and Wa. limited their dungeness fisheries this year.) We're counting on you to continue your support and looking forward to working with you.

Sincerely,

  
Bill Flor, SEDCA

c.c. Senator Robin Taylor,  
C.F.E.C.

S.E. DUNGENESS CRAB ASSOCIATION  
Box 262, Petersburg, Ak. 99833

January 26, 1995

Representative Alan Austerman  
Room 434, State Capital  
Juneau, Ak. 99801-1182

Dear Rep. Austerman:

I would like to provide a few comments on HB 107 and hopefully win your support on this important legislation.

When the Limited Entry Act was passed in 1974 it was designed for salmon and herring fisheries. These fisheries use one unit of gear (i.e. a seine or a gillnet) and when a particular fishery was limited all the participants were using the same type and amount of gear; neat, simple, and predictable.

Other fisheries often use multiple units of gear (i.e. longline/skates, shrimp/pots, crab/pots) and in these fisheries the Limited Entry Act has posed problems.

In the S.E. dungeness crab fishery growth in the late 1980's created enough concern for the crab resource to prompt the Commercial Fisheries Entry Commission to study limited entry possibilities. The CFEC found that the fleet consisted of a large proportion of part-time fishermen (because of the passive nature of the fishery) who fished considerably less than the 300 pot limit and while qualifying for a limited entry permit would potentially increase the actual gear fishing over pre-limited entry levels. While seeing a real need for participant limitation CFEC could not grant limited entry because of this problem. The Board of Fish also cannot adequately address this situation. The fleet of 325 averages less than 150 pots with approximately 30-40,000 actual pots in the water. Even with a severe cut in pot limits of 50% to 150 pots there is potential to increase effort significantly as well as penalizing those

who do use this fishery as their main source of income. Instead, industry, ADF&G, and the CFEC worked with the 1991 Legislature to pass/create a moratorium for the S.E. dungeness crab fishery in order to study the possibilities of managing this resource.

In the fall of 1994 meetings were held in Juneau, Ketchikan, Sitka, Petersburg, and Wrangell and the overwhelming consensus was to try a tiered approach where fishermen would be given permits tied to gear levels consistent with their past participation. All agreed that this idea was fair because of its inclusive nature and yet provided a solid control for a multi-gear fishery.

This approach can be applied to many fishery resources and gear types as yet uncontrolled but in real need of conservation. The CFEC will be able to design specific limited entry programs that will solve many of the problems of fishery resource conservation as well as provide fair levels of participation.

We urge you to support this amendment and thank you for your time.

Sincerely,

William Flor, SEDCA

To: Representative Joe Green  
From: Dan Kowalski, Box 477, Petersburg, AK 99833  
Date: February 10, 1995  
RE: HB 107: Support for tiered pot system for Dungeness

Representative Green,

I want to express my strong support for HB 107— a tiered pot system for the S.E. Dungeness crab fishery. I believe it is a crucial tool enabling the State to manage the fishery for continued sustainability. Without the bill I fear that the existing limited entry process would require pot reductions that would put the large boats that are able to fish distant waters out of business.

I believe HB 107 would be 1) Fair, 2) Enforceable, & 3) Effective.

I hope that it makes its way successfully through the committee process and becomes law. I fear the consequences if it doesn't.

Thank you for your help & leadership in this matter.

Sincerely,

Dan Kowalski

THANK YOU CHAIRMAN AUSTERMAN:

Box 262  
P.S.

WE URGE YOU TO SUPPORT THIS LEGISLATION. SINCE 1984 WE'VE BEEN TRYING TO ACHIEVE SOME PROTECTION FOR THE CRAB RESOURCE THROUGH LIMITED ACCESS TO THE COMMERCIAL USERS. BECAUSE OF THE NATURE OF THIS TYPE OF FISHERY WHICH USES MULTIPLE UNITS OF GEAR A PERSON CAN PARTICIPATE VERY MINIMALLY. THIS PRESENTS SERIOUS PROBLEMS WHEN A TRADITIONAL LIMITED ENTRY IS CONSIDERED BECAUSE THE POTENTIAL FOR INCREASING THE ACTUAL NUMBER OF POTS IN THE WATER CAN GROW SIGNIFICANTLY, THE RESOURCE CAN SUFFER AND THE MANAGERS HAVE NO REAL WAY OF KNOWING THE ACTUAL FISHING EFFORT.

IN 1991 THE LEGISLATURE PASSED A BILL IMPOSING A MORATORIUM ON NEW ENTRANT INTO THE DUNGENESS FISHERY SO THAT WE COULD STUDY VARIOUS POSSIBILITIES FOR CONSERVING THE RESOURCE. HB 107 IS A DIRECT CONTINUATION OF THIS PROCESS.

CFEC HELD HEARINGS THROUGHOUT S.E. IN SEPT OF 94 AND THE CRAB INDUSTRY WAS UNITED IN TRYING TO DEVELOPE AN INCLUSIVE-TIERED ACCESS SYSTEM WHERE FISHERMEN WOULD BE GIVEN PERMITS TIED TO GEAR LEVELS CONSISTENT WITH THEIR PAST PARTICIPATION. THIS IS FAIR BECAUSE ALL PARTICIPANTS ARE INCLUDED BUT IT GIVES THE MANAGERS SOLID CONTROL OVER THE TOTAL NUMBER OF POTS ACTUALLY FISHING & EFFICIENTLY CONTROLS GROWTH.

THANK YOU, BILL FLOR, PRESIDENT

C/E DUNGENESS ASSOC.

February 8, 1995

Regarding House Bill No. 107

I am against limiting entry into the Southeast Alaska Dungeness crab fishery. I feel it is unnecessary and the people (namely the SEDCA) pushing for limited entry are in effect attempting to deny other people the same opportunities they received.

I believe personal gain is the singular motivating factor behind the push for limited entry into this fishery. I do not believe conservation and preservation of the species is a valid argument for limited entry. I have come to these conclusions after a conversation with our area shellfish biologist Tim Koeneman. He explained two theories to me, one being the Size, Sex, Season method, which is mostly self explanatory. The legal Size is larger than that reached at maturity, so there are always mature crab for mating that are not necessarily large enough for harvest. Only males may be harvested, leaving females for breeding, this is the Sex factor. Ideally the Season would occur after the molting/mating period, which the summer season currently does not.

The other method involves trying to eliminate the large up and down cycles of the crab stocks. This involves recruitment and other things best left to the biologists to explain.

All of the solutions discussed, including harvest limits, changing the seasons, or limiting the amount of gear in the water remain viable under an open access fishery. I would urge you to consult openly with biologists instead of asking singular, one sided, carefully worded yes or no questions as was reportedly the case at the moratorium hearings.

Who would benefit from limiting entry into this fishery? NOT the crab stocks. There is a set number of legal crab, most of which get caught, no matter if its by 200 people with 300 pots each, or 400 people

with 150 pots each. These numbers are random but not unrealistic, and they do show twice as many Alaskans benefiting from the fishery.

So once again, who would benefit from limited entry? Only those who are pushing so hard for limiting entry. Just by mentioning limited entry a few years ago their numbers grew considerably. Throw out limited entry and many will be content with Bristol Bay, or seining, or longlining or whatever is more lucrative that they do anyway. Maybe no one will get rich crabbing but many others will be able to add a few thousand dollars to their annual income.

Limiting entry does not make sense for the crab or for the economy, only for those wanting to deny others the opportunity they were able to take advantage of themselves.

There are very few fisheries left a person can participate in without having to invest in a permit. As a result, it has become virtually impossible for a person to buy a boat and make a living fishing without major financial backing. I would like to see Dungle fishing remain an option for myself and for my children. What a great way to for our kids to learn to work for themselves and to earn money for school.

Please consult with the biologists and let them manage the fishery for the benefit of the crab as well all Alaskans.

Thank You,

Chris Cenis

PO Box 145

Petersburg, Ak. 99833

(907) 772 4602

SUSAN AND JEFF ERICKSON  
F/V PRIEST POINT  
POST OFFICE BOX 53  
PETERSBURG, ALASKA 99833

February 7, 1995

Re: Dungeness crab permits  
SB42 & HB107

Dear Senator:

I attended the teleconference held February 6, 1995 regarding the above bill and I strongly urge you not to pass SB42. I have been involved in the dungeness crab fishery for the last eleven years and have been following the discussions and proposals concerning the Southeast Dungeness crab fishery during that time.

I was a member of the Southeast Alaska Dungeness Crab Association (SEDCA) in the years prior to the moratorium. SEDCA was actively involved in getting the moratorium passed. Although I supported SEDCA with the moratorium, I am no longer a member in SEDCA anymore because I feel that they do not support how I, and most of the other crabbers want the 'pie' split up. The membership of SEDCA group has dropped significantly over the years to just the few who stand to gain the most by the proposal presented in SB42. Theirs is the voice being heard in SB42 but that is not the only voice. We all want something done about the current situation in the dungie fishery but it shouldn't favor a limited number if people and their fishing style. This bill supports their calculations on how the permitting process will benefit their fishing style the most.

In the Bering Sea they passed a pot limit! The same maximum number for everyone, not picking a few to have more than someone else for whatever reason. Past participation is influenced by many factors including conflicting fisheries, illness, low harvest record etc... In the Bering Sea fishery they distributed the number of permissible pots equally.

I listened to the gentleman from the CFEC and I disagree on the system used to determine the number of pots fished in the past. At times I have I fished 300 pots but maybe for a couple of weeks out of a four month season. Other years it may have been different depending on harvest and other factors. Others do the same because they have conflicting fisheries. Very few fish 300 pots for the full four month season. This is still the longest opening of any fishery currently on line in Alaska.

I think you should limit everyone to 150 to 200 pots. This corresponds to the current standard for the limited entry of this

fishery. Equal number of pots per participant. This spreads the resources out for people to participate on a level playing field. It would be cut and dry.

Another problem with SB42 is the enforcement of dungeness crabbing in Southeast Alaska in the past. I feel that there has never been scientific data collected and studied on this fishery. They have only speculated on the number of pots fished but have no idea of the true length of time pots were fished or where they were fished. The CFEC can only speculate based on the information provided. There is not accurate documentation to any claims of pots fished in years past. There are a lot of crab grounds that are not even fished and there is not hard data that the existing fishery is in bad shape.

There are not vessels for enforcement or for any type of a tagging system. There are just too many unanswered questions about regulation enforcement. It would be worse than it is now and it is impossible to enforce the rules now. It would be more practical for enforcement to have everyone play by the same rules with a smaller number of pots. Three Hundred is too many for anyone! I feel that the most people possible should be included equally in this fishery.

Thank you for this opportunity to voice my opinion. Let's keep it simple. We don't need to pass this bill because CFEC already has the proper tools to manage this fishery fairly. SB42 favors a few and leaves the majority with less.

I would be happy to discuss this in greater detail with you. I can be reached at (907) 772-9237.

Sincerely,

Jeff Erickson

REPRESENTATIVE GRUSSENDORF  
SENATE RESOURCE COMMITTEE  
HOUSE FISHERIES COMMITTEE

RE: SENATE BILL 42  
HOUSE BILL 107

RECEIVED

FEB 08 1995

Am'd.....

1-8-95

DEAR LEGISLATORS,

I OPPOSE THE TIER SYSTEM FOR DUNGENES CRAB. I FEEL THAT ENFORCEMENT WOULD BE NEXT TO IMPOSSIBLE DUE TO VARIOUS AMOUNTS OF POTS. THE ADFG POT REGISTRATION IS A LOCAL JOKE. I WAS LAUGHED AT BY OTHER CRABBERS WHEN I TOLD THEM I ONLY HAD REGISTERED 60 POTS IN 1988 WHEN I FIRST STARTED. THEY SAID I SHOULD HAVE CLAIMED 300 POTS LIKE EVERYONE ELSE.

I SUPPORT TRADITIONAL LIMITED ENTRY. IF THERE ARE TOO MANY POTS LET THE CFEC / ADFG REDUCE THE LIMIT TO 200 OR EVEN 150 POTS PER BOAT.

THE TIER SYSTEM IS NOT DESIGNED TO SAVE THE FISHERY. IT IS DESIGNED TO SAVE THE INCOME OF THE ELETE "300" POT CLUB. LET EVERYONE CONTRIBUTE IN REDUCING POT EFFORT. PLEASE DON'T LET THE GREED OF A FEW RUIN THIS FISHERY FOR THE SMALL INDEPENDENT FISHERMAN,

THOMAS O. DRENNAN  
BOX 823 PETERSBURG, AK 99877

THANK YOU  
*Thomas O. Drennan*

February 7, 1995

House Fisheries Committee  
Alan Austerman, Chairman  
Carl Moses  
Kim Elton  
Scott Ogan  
Gary Davis

RECEIVED  
FEB 07 1995  
Ans'd.....

Dear Sirs;

I would like to say a few things about the Southeast Dungeness Crab Fishery and the proposed tiered system.

The "Crab Coalition" was formed several years ago by a few local fishermen who had originally entered the dungeness fishery because there were no other unlimited fisheries for them to get into. They learned very quickly that the dungeness fishery was wide open with very few people knowing how lucrative it was. They have made a lot of money over the last 10 or so years with dungeness and thus have all been able to buy into other fisheries that are limited entry fisheries. They formed the "Coalition" because they simply do not want to share their wealth with their neighbors and friends who got into the fishery a few years after them.

If there is a dungeness crab stock problem then shouldn't ADFG shorten the dungeness season?

If there really are too many pots in the water shouldn't we lower the pot limit for everybody?

I believe the "Crab Coalition" got their heads together and agreed on the tiered system which would "look" as if it is being fair to the other fishermen but which in fact would eliminate many of those others as competition for dungeness crab.

I view dungeness pots and corresponding incomes as follows:

300 pots = A very good income  
200 pots = A reasonable living  
100 pots = Unable to make expenses

The "Coalition" would like you to believe that fishermen who qualify for 100 pots or less would be able to buy into being able to fish more. I do not believe that anybody fishing a 100 or less pots will be able to make expenses let alone be able to buy into being able to fish more. 100 pots or less would probably

eliminate those fishermen from the fishery. The "Coalition" is not interested in the "stocks", they are simply interested in eliminating their competition. If they are successful at this tiered system it will adversely affect many Southeast commercial fishermen and their families.

Please be very careful when deciding the fate of the Southeast Dungeness Fishery. The "Coalition" has made very, very good money with this fishery and are speaking very loudly to control this fishery for themselves alone. There is no reason that this fishery shouldn't be able to support equal effort from everybody who has been involved. If this means lowering pot limit slightly or shortening the season so be it. If we need limited entry then please consider equal treatment for all those fishermen who invested time and money in the fishery from the moratorium year back.

Thank you for your time and consideration.

Sincerely,



Vicki Curtiss

# MEMORANDUM

## STATE OF ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION

TO: Representative Bill Williams  
Representative Joe Green  
Co-Chairs  
House Resources Committee

DATE: February 27, 1995

FAX NO: 789-6170

TELEPHONE NO: 789-6160

SUBJECT: Position Statement for  
CSHB107(FSH)

*Frank Homan*  
FROM: COMMERCIAL FISHERIES  
ENTRY COMMISSION  
Bruce Twomley, Chairman  
Frank Homan, Commissioner  
Dale G. Anderson, Commissioner

### CFEC POSITION STATEMENT

CFEC supports CSHB107(FSH). Under Alaska's current limited entry program, CFEC can limit the number of persons (permit holders) in a fishery but does not have the explicit authority to limit the fishing capacity of similarly situated classes of entry permit holders within a fishery. The legislation is forward oriented and only applies to fisheries limited in the future after completion of the public hearing process. It will have no impact on established limited fisheries. This legislation does not alter or limit the powers of the Board of Fisheries to impose additional restrictions of fishing capacity. CSHB 107 would provide CFEC with improved resource conservation tools.

The impetus for this legislation was generated by the Southeast Alaska Dungeness crab fishers after public hearings and research during the current moratorium. The need for immediate action is in the impending expiration of the CFEC moratorium on new entrants into the fishery. By law (AS 16.43.227), this moratorium will expire on January 2, 1996. A majority of participants at the public hearings favored a limited entry program for this fishery. If CFEC does not move to limit the fishery before January 2, 1996 it will return to open access.

The current limited entry program has proven effective in limiting the growth in fishing capacity and effort when administered in salmon and herring fisheries when utilization is already maximized. However, the existing program thwarts the Commission's efforts to achieve effective resource conservation goals in Alaska's fisheries that employ a broad spectrum of vessel size and quantity of gear. Simply limiting the number of participants will fail to contain growth in fishing capacity and effort.

In such fisheries, smaller more part-time operations would tend to sell out to larger more full-time operations after limited entry. For example, this is true of the Southeast Alaska Dungeness crab fishery where many small boat participants currently fish a small number of pots on a part-time basis. This is also true in many of the state's other crab fisheries and state managed groundfish fisheries. By setting the fishing capacity of entry permits roughly at pre-limitation levels, entry limitation would do a better job of resource conservation by controlling the growth of excessive fishing capacity and effort.

This legislation would also help preserve the diverse nature of the fleet in such fisheries and help ensure that some of the entry permits in limited fisheries will be available and more affordable to smaller part-time and entry level operations.

Many of Alaska's valuable fisheries that coastal communities depend on may soon be facing an influx of new fishermen because of recent limitation programs and closures in other jurisdictions. In some of these fisheries, access restrictions may be needed in the near future to help conserve stocks and preserve the benefits of development for Alaska. This legislation would allow limitation programs better designed to fit the diverse nature of Alaska's fisheries.