



THE STATE  
of ALASKA  
GOVERNOR MIKE DUNLEAVY

## Department of Fish and Game

Division of Wildlife Conservation  
1255 West 8<sup>th</sup> St.  
PO Box 115526  
Juneau, Alaska 99811-5526  
Main: 907.465.4190  
Fax: 907.465.6142

June 26, 2023

Mr. Rick Steiner  
Oasis Earth  
Anchorage, Alaska  
[richard.g.steiner@gmail.com](mailto:richard.g.steiner@gmail.com)

Re: Public Records Request Received June 12, 2023

Dear Mr. Steiner:

I am writing in response to your public records request of June 12, 2023, to the Alaska Department of Fish and Game (ADF&G) for the following:

- 1) Any/all photographic records collected associated with the recent predator control effort in SW Alaska.
- 2) Any records that discuss the amount of bear/wolf meat and/or hides or other body parts derived from this predator control effort that were actually salvaged or transferred to villages or other individuals in the region.

No photographs were or will be collected as ADF&G does not need the photographs for any purpose; any photographs were merely transitory records that are now beyond their retention age as ADF&G has no administrative need for them. *See* State of Alaska General Administrative Records Retention Schedule, Item 76. Accordingly, as any photographs are not preserved or appropriate to be preserved by ADF&G for their informational value or as evidence of ADF&G's organization or operation, they are not "public records," meaning they are not subject to the Alaska Public Records Act. AS 40.25.220(3); *see also, e.g., McLeod v. Parnell*, 286 P.3d 509, 515 (Alaska 2012) (holding that "agency records preserved or appropriate for preservation under the Records Management Act are public records subject to review under the Public Records Act. But not every record a state employee creates . . . is necessarily appropriate for preservation under the Records Management Act.").

Under the regulations of the Alaska Public Records Act, if an agency does not have responsive records, the response constitutes a denial. *See* 2 AAC 96.335(a). You may administratively appeal by complying with 2 AAC 96.340. An administrative appeal requires no appeal bond. You may also pursue immediate judicial review by seeking an injunction from the superior court under AS 40.25.125. Not pursuing an injunction will not adversely affect your rights before ADF&G, including in administratively appealing the denial. I have been delegated the authority to deny Alaska Public Records Act requests. Enclosed are 2 AAC 96.335 – 2 AAC 96.350.

Only emails, if any, would be responsive to your request for "[a]ny records that discuss the amount of bear/wolf meat and/or hides or other body parts derived from this predator control

effort that were actually salvaged or transferred to villages or other individuals in the region.” (Text messages, if any, would not be public records for the same reason that photographs would not be public records: ADF&G did not and will not collect them because it does not need them for any purpose; they are merely transitory records that are now beyond their retention age.)

Accordingly, your request falls under AS 40.25.115 and 2 AAC 96.400 – 2 AAC 96.470. This is because responding will involve using a search engine to identify and collect emails, if any, from the State of Alaska’s email system, and the State Security Office (SSO) can most cost-effectively undertake this work. *See* AS 40.25.220(1)(E) (defining electronic services and products as “alphanumeric query and printing”); AS 40.25.220(1)(D) (defining electronic services and products as “providing information that cannot be retrieved or generated by the existing computer programs of the public agency”). Under AS 40.25.115, ADF&G “may provide electronic services and products involving public records;” doing so “may not take priority over” ADF&G’s “primary responsibilities;” and ADF&G “may not make electronic services and products available to one member of the public and withhold them from other members of the public.” Moreover, you must pay “the actual incremental costs of providing the electronic services and products.” AS 40.25.115(b).

Enclosed is an SSO Email Search Description and Cost Estimate. If you approve the search, please sign the form, and return it with a check or money order in the amount of \$70.06 made out to the State of Alaska to the following address:

Attn: Kari Winkel  
Alaska Department of Fish and Game- Commissioner’s Office  
PO Box 115526  
Juneau, AK 99811-5526

Upon receiving your approval and payment, we will ask SSO to run the search. We will review the collected records to ensure that they are responsive public records, and that protected information is redacted.

If you have any questions, please contact Ryan Scott, Acting Director, Division of Wildlife Conservation, at (907) 465-4191.

Sincerely,



Rick Green  
Special Assistant to the Commissioner

Enclosures: 2 AAC 96.335–2 AAC 96.350; SSO Email Search Description and Cost Estimate;  
Delegation of Authority APRA denial



## Public Records Act Request

### Email Search Description and Cost Estimate

**Date**

- 06/21/2023

**SSO Internal Tracking Number**

- AlaskaNow #: INC0148226

**Task**

- Public Records Act Request

**Requesting Agency / Contact**

- DFG – Kari Winkel

**SOA Employees Searched**

- Ryan Scott ([ryan.scott@alaska.gov](mailto:ryan.scott@alaska.gov))
- Todd Rinaldi ([todd.rinaldi@alaska.gov](mailto:todd.rinaldi@alaska.gov))
- John Landsiedel ([john.landsiedel@alaska.gov](mailto:john.landsiedel@alaska.gov))
- Evelyn Lichwa ([evelyn.lichwa@alaska.gov](mailto:evelyn.lichwa@alaska.gov))

**Dates Involved**

- 05/01/2023 – 06/12/2023

**Systems Involved**

- State of Alaska Email System

**Discovery Process Outline**

**SOURCE:** Systems Involved

**SEARCH:** Emails sent to or from SOA Employees Searched for the Dates Involved that contain terms listed in the Search Terms section below.

**SEARCH TERMS:**

(bear OR wolf) NEAR(25) (meat OR hide\* OR teeth OR claws OR skull OR pounds OR salvage OR donate OR transfer)

**RESULTSET:** Results will be in a .pst per custodian.

**Email Records Search**

- SSO receives the request and creates a Service Request.
- SSO approves the request and sends it to the DOA commissioner for approval.
- SSO receives the approval.
- SSO completes the Email Search Description and Cost Estimate and provides it to requesting agency.
- SSO begins the search after the requesting agency notifies SSO that the requesting agency received the payment of the cost estimate.
- SSO provides the results to the requesting agency.

**Hours Breakdown**

- SSO setup and approval of the request
- SSO search, collection, processing, review, and delivery

**Hourly Rate**

- \$70.06

**Accumulative Cost Estimate**

- Hours = 1
- Cost = \$70.06

***Total Estimate                      \$70.06***

SIGNATURE OF REQUESTER \_\_\_\_\_



THE STATE  
of **ALASKA**  
GOVERNOR MICHAEL J. DUNLEAVY

## Department of Fish and Game

OFFICE OF THE COMMISSIONER  
Headquarters Office

1255 West 8<sup>th</sup> Street  
P.O. Box 115526  
Juneau, Alaska 99811-5526  
Main: 907.465.6136  
Fax: 907.465.2332

# MEMORANDUM

TO:	Rick Green Special Assistant to the Commissioner	DATE:	2/5/2019
FROM:	Doug Vincent-Lang Commissioner	PHONE:	907-465-6141
	<i>DVL</i>	SUBJECT:	Delegation of Alaska Public Records Request Denial Authority

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In accordance with Title 2 AAC 96.335, you are hereby delegated denial authority for Alaska Public Records Requests on behalf of the Department of Fish and Game.

## **2 AAC 96.335. Denial of request**

- (a) A request for a public record that complies with this chapter may be denied only if
- (1) the record is not known to exist after the public agency makes a diligent search for it;
  - (2) the record is not in the public agency's possession, and after a diligent search the public agency does not know where the record is to be found;
  - (3) the record has been destroyed in accordance with an applicable record-retention schedule;
  - (4) nondisclosure of the record is authorized by a federal law or regulation, or by state law; or
  - (5) the record is believed to be in the agency's possession but has not yet been located, in which case the public agency shall proceed under (f) of this section.
- (b) A request may be denied by the public agency head or by an agency employee to whom denial authority has been delegated by the public agency head.
- (c) An initial denial of a written request must be in writing; must state the reasons for the denial, including any specific legal grounds for the denial; and must be dated and signed by the person issuing the denial. If a request is denied by a public agency employee to whom denial authority has been delegated, the notice of denial must reflect this delegation. A copy of 2 AAC 96.335 - 2 AAC 96.350 must be enclosed with the denial.
- (d) A denial of a written request, in whole or in part, must state that
- (1) the requester may administratively appeal the denial by complying with the procedures in 2 AAC 96.340;
  - (2) the requester may obtain immediate judicial review of the denial by seeking an injunction from the superior court under AS 40.25.125 ;
  - (3) an election not to pursue injunctive remedies in superior court shall have no adverse effects on the rights of the requester before the public agency; and
  - (4) an administrative appeal from a denial of a request for public records requires no appeal bond.
- (e) A denial of a written request is considered to be issued at the time the denial is either delivered to the United States Postal Service for mailing, or hand-delivered to the requester by an employee or agent of the public agency.
- (f) If a written request is denied because a record has not yet been located and the record is believed to exist in the agency's possession, the office in the public agency responsible for maintaining the record is believed to exist in the agency's possession, the office in the public agency responsible for maintaining the record shall continue to search until the record is located or until it appears that



the record does not exist or is not in the public agency's possession. The public agency shall periodically inform the requester of its progress in searching for the requested record.

(g) A record that is the subject of a public records request that has been denied shall not be destroyed or transferred from the public agency's custody, except that records may be transferred to state archives and records management services as provided by [AS 40.21](#) and regulations adopted under AS 40.21. A public agency may not destroy or transfer custody of a record to which access has been denied or restricted until at least 60 working days after the requester is notified in writing that the request has been denied, or if there is an administrative or judicial appeal or other legal action pending at the end of the 60-working-day period, until the requester has exhausted those actions.

**History: Eff. 11/6/94, Register 132**

**Authority:** [AS 40.25.110](#)

[AS 40.25.120](#)

[AS 40.25.123](#)

[AS 40.25.125](#)

**Editor's note:** As of Register 176 (January 2006), and acting under [AS 44.62.125](#) (b)(6), the regulations attorney relocated former 6 AAC 96.335 to 2 AAC [96.335](#), and made conforming technical changes to 2 AAC [96.335\(c\)](#) and (d)(1), to reflect Executive Order 113 (2005). Executive Order 113 eliminated the Telecommunications Information Council and transferred its functions to the governor and to the Department of Administration. The history note for 2 AAC [96.335](#) carries forward the history from former 6 AAC 96.335.

As of Register 158 (July 2001), the regulations attorney made technical revisions under [AS 44.62.125](#) (b)(6), to reflect the 2000 renumbering of former [AS 09.25.100](#) - 09.25.220 by the revisor of statutes. The provisions of former [AS 09.25.100](#) - 09.25.220 were relocated to [AS 40.25.100](#) - 40.25.220.

As of Register 204 (January 2013), and under [AS 44.62.125](#) (b)(6), the regulations attorney made technical corrections to 2 AAC [96.335](#).

## **2 AAC 96.340. Appeal from denial; manner of making**

(a) A requester whose written request for a public record has been denied, in whole or in part, may ask for reconsideration of the denial by submitting a written appeal to the agency head.

(b) An appeal under (a) of this section must be mailed or hand-delivered to the agency head within 60 working days after the denial is issued and must include the date of the denial and the name and address of the person issuing the denial. The appeal must also identify the records to which access was denied and which are the subject of the appeal. If an appeal is from the failure of the agency

to respond to the records request within the appropriate time limit under 2 AAC [96.325](#), the appeal must so state, must identify the records sought, and must identify the public agency to which the request was directed and the date of the request.

(c) The 60 working days within which an appeal must be filed begins to run upon the issuance of the denial or, if no denial is issued, upon the expiration of the time period within which the public agency should have responded.

**History:** Eff. 11/6/94, Register 132

**Authority:** [AS 40.25.110](#)

[AS 40.25.120](#)

[AS 40.25.123](#)

[AS 40.25.125](#)

**Editor's note:** As of Register 176 (January 2006), and acting under [AS 44.62.125](#) (b)(6), the regulations attorney relocated former 6 AAC 96.340 to 2 AAC [96.340](#), and made a conforming technical change to 2 AAC [96.340\(b\)](#), to reflect Executive Order 113 (2005). Executive Order 113 eliminated the Telecommunications Information Council and transferred its functions to the governor and to the Department of Administration. The history note for 2 AAC [96.340](#) carries forward the history from former 6 AAC 96.340.

As of Register 158 (July 2001), the regulations attorney made technical revisions under [AS 44.62.125](#) (b)(6), to reflect the 2000 renumbering of former [AS 09.25.100](#) - 09.25.220 by the revisor of statutes. The provisions of former [AS 09.25.100](#) - 09.25.220 were relocated to [AS 40.25.100](#) - 40.25.220.

As of Register 204 (January 2013), and under [AS 44.62.125](#) (b)(6), the regulations attorney made technical corrections to 2 AAC [96.340](#).

**2 AAC 96.345. Appeal determinations; time allowed; by whom made**

(a) As soon as practicable, but not later than the 10th working day after the close of the record on appeal, the agency head shall issue a written determination stating which of the records that are the subject of the appeal will be disclosed and which records will not be disclosed. The written determination must comply with 2 AAC [96.350](#).

(b) The agency head may extend the 10-working-day period for a period not to exceed 30 working days upon written request from the requester, or by sending a written notice to the requester within the basic 10-working-day period.

(c) The agency head may delegate authority and duties under (a) and (b) of this section to a full-time employee of the public agency not involved in the denial and not subordinate to the employee



responsible for the denial. The employee delegated this authority may not subdelegate to another employee.

**History:** Eff. 11/6/94, Register 132

**Authority:** [AS 40.25.110](#)

[AS 40.25.120](#)

[AS 40.25.123](#)

[AS 40.25.124](#)

**Editor's note:** As of Register 176 (January 2006), and acting under [AS 44.62.125](#) (b)(6), the regulations attorney relocated former 6 AAC 96.345 to 2 AAC [96.345](#), and made a conforming technical change to 2 AAC [96.345\(a\)](#), to reflect Executive Order 113 (2005). Executive Order 113 eliminated the Telecommunications Information Council and transferred its functions to the governor and to the Department of Administration. The history note for 2 AAC [96.345](#) carries forward the history from former 6 AAC 96.345.

As of Register 158 (July 2001), the regulations attorney made technical revisions under [AS 44.62.125](#) (b)(6), to reflect the 2000 renumbering of former [AS 09.25.100](#) - 09.25.220 by the revisor of statutes. The provisions of former [AS 09.25.100](#) - 09.25.220 were relocated to [AS 40.25.100](#) - 40.25.220.

As of Register 204 (January 2013), and under [AS 44.62.125](#) (b)(6), the regulations attorney made technical corrections to 2 AAC [96.345](#).

## **2 AAC 96.350. Contents of determination denying appeal**

A determination under 2 AAC [96.345](#) responding to an appeal must be in writing, must specify the specific statute, regulation, or court decision that is the basis for the denial, and must state briefly the reason for the denial. A denial under this section is the final agency decision. A denial must further state that, as provided by [AS 40.25.124](#), the requester may obtain judicial review of the denial by appealing the denial to the superior court.

**History:** Eff. 11/6/94, Register 132

**Authority:** [AS 40.25.110](#)

[AS 40.25.120](#)

[AS 40.25.123](#)

[AS 40.25.124](#)

AS 40.25.125

**Editor's note:** As of Register 176 (January 2006), and acting under AS 44.62.125 (b)(6), the regulations attorney relocated former 6 AAC 96.350 to 2 AAC 96.350, and made a conforming technical change to 2 AAC 96.350, to reflect Executive Order 113 (2005). Executive Order 113 eliminated the Telecommunications Information Council and transferred its functions to the governor and to the Department of Administration. The history note for 2 AAC 96.350 carries forward the history from former 6 AAC 96.350.

As of Register 158 (July 2001), the regulations attorney made technical revisions under AS 44.62.125 (b)(6), to reflect the 2000 renumbering of former AS 09.25.100 - 09.25.220 by the revisor of statutes. The provisions of former AS 09.25.100 - 09.25.220 were relocated to AS 40.25.100 - 40.25.220.

As of Register 204 (January 2013), and under AS 44.62.125 (b)(6), the regulations attorney made technical corrections to 2 AAC 96.350.