



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,
and Economic Development

BIG GAME COMMERCIAL SERVICES BOARD

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State of Alaska
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATION, BUSINESS AND PROFESSIONAL LICENSING

BIG GAME COMMERCIAL SERVICES BOARD

MINUTES OF MEETING
December 05-07, 2022

These draft minutes were prepared by staff of the Division of Corporations, Business and Professional Licensing. They have not been reviewed or approved by the Board.

By the authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting (teleconference) of the Big Game Commercial Services Board was held December 06-08, 2022, at 550 W. 7th Ave, 15th Floor, Anchorage, AK.

Tuesday, December 05, 2022

Roll Call/Call to Order

The Chair, Jason Bunch, brought the meeting to order at 9:01 am

Board Members Present Constituting a Quorum:

Jason Bunch - Licensed Registered Guide - Board Chair
Aaron Bloomquist - Registered Guide Outfitter
Martin Boniek – Licensed Transporter
Pete Buist - Public Member (joined at 9:11 am)
Larry Kunder – Public Member
Mike Flores – Licensed Transporter
Clay Nordlum – Private Landowner

Board member(s) absent

Jerry Burnett - Board of Game Representative

Staff Members present:

Thomas Bay – Executive Administrator
Jennifer Summers – Senior Investigator
Lee Strout – Investigator
Katrina Eldred – Investigator, Probation Monitor

Members of the Public Present:

Mark Richards – Executive Director, Resident Hunters of Alaska
Sam Rohrer – President, Alaska Professional Hunters Association
Thor Stacey – Alaska Professional Hunters Association
James Smith
Zach Decker
Loren Karro
CBSS
Johnny Richardson
Josh Ellis
Pete Mueller
Wayne Kubat
Steve Perrins II
Candy Snow – DNR
Jacob Fletcher
Alison Osborne
Zach Million – BLM
Aaron Frenzel – AWT
Nathan Hawkaluk
Tim Booch
Peter Barela
Luke Milyard
Two unknown attendees

Review Agenda

The board reviewed the Day 1 agenda. Chairman Bunch informed the board that he wanted to add a regulation proposal to agenda item #6, “New Proposals Overview FOR Public Comment,” by creating a new subsection titled, “Providing Transportation Services While Simultaneously Providing Guide Services.” He also suggested the board remove agenda item #8(B), “United States Coast Guard,” from the “State and Federal Agency Updates” section of the agenda because the representative was already scheduled to provide a presentation on Day 2 of their meeting.

Upon a motion duly made by Aaron Bloomquist, seconded by Mike Flores, and approved unanimously without any objections, it was

RESOLVED to amend the agenda by adding a regulation proposal to agenda item #6, “New Proposals Overview FOR Public Comment,” by creating a new subsection titled, “Providing Transportation Services While Simultaneously Providing Guide Services,” and removing agenda item #8B, “United States Coast Guard” from the “State and Federal Agency Updates” section of the agenda.

Ethics Review

The board discussed a possible ethical disclosure from Aaron Bloomquist but found that the disclosure was not required to be disclosed.

Review/Approve Meeting Minutes

The board reviewed the draft minutes for their August 16, 2022, board meeting, which was held via teleconference.

Upon a motion duly made by Aaron Bloomquist, seconded by Martin Boniek, and approved unanimously without any objections, it was

RESOLVED to approve the meeting minutes as written.

Pending Regulation Proposals

Chairman Bunch informed the board that they had one pending regulation proposal, from their last meeting, titled, "Supervision and Participation." He reminded the board that they already had an at length discussion on the topic and that they needed to decide to move forward with it or not. He informed the board that if they did not want to move forward with it then they would just need to let it expire, which is what would happen if a year passed without the board taking action following the regulations project being sent out and returned from the public comment period. He also informed the board that a new "Supervision and Participation" regulation proposal would be discussed during agenda item #6, "New Proposals Overview FOR Public Comment," and that it would supersede the pending regulation proposal if the board decided not to take action on it. The board decided not to take action on the pending regulation proposal.

New Proposals Overview FOR Public Comment

Mr. Bloomquist presented the status of proposals that are being voted on at this meeting or the next. He asked for attendee awareness and input.

Supervision and Participation: Purpose is to improve communication among employees and clients while eliminating unnecessary and arbitrary borders. He added that 5G satellite communication should be possible this winter, making good supervision even more possible.

Guide/Transporter Boat/Plane Identification: Purpose is to require lettering to identify vessels/planes as transporter/guide assets. Law enforcement needs to be able to identify them, and the public needs to know whether who they see in the field is a licensee or not.

Marine Transporter Vessel: Provides the board with regulation mirroring the intent of the statute, which was written for liveaboard vessels, not six-packs. Aligns with Coast Guard safety regulations.

Guide Use Area Registration and Registered Guide Contracts: Addresses an issue that arose when someone purchased a business that closed after the first of the year, so they couldn't change areas. This affects other similar situations, avoiding waste of a year.

Helicopter Use: Clarifies that helicopters are not allowed in guiding.

Booking Agents and Hunt Planners: These individuals are not licensed by the board. The regulation seeks accountability to address issues in this area where a license may be required. This will be discussed with LAW during the meeting tomorrow.

Transporter Activity Report: Makes changes to the report form, collecting information about overnight trips for vessel-based crews. Eliminates collecting poundage.

Guides Providing Transportation Services: Issue arose with Alaska State Troopers (AST), and this regulation seeks to clarify that a certain practice is legal.

The chair noted that the board was 45 minutes ahead of schedule and recommended they spend the balance of time reviewing the proposed regulations.

The board discussed Guide/Transporter Boat/Plane Identification: Several members raised inter-agency logistical concerns that might arise. One member suggested use of a symbol instead of twelve-inch letters. Another suggested use of wording that aligns identification with FAA requirements as opposed to creating a new identification system within the guiding industry. The intent behind the regulation is for personnel on the ground to be able identify whether the vessels/planes are transporters or not—especially in matters of complaints or overcrowding. All air taxis currently have twelve-inch “N” numbers. Marine vessels could have a “G” or “T” in addition to their identification numbers. The chair said that ADF&G requires a placard on vessels. All vessels, including skiffs, should be included in the requirement. Important that the identifier be visible from a distance.

The board weighed alternatives. One member suggested the board use existing transporter activity reports to gather information about overcrowding. One member raised concern that this idea would not be within the purview of the board and might run afoul of federal identification requirements. Members discussed whether the cost of this regulation would be low- or no-impact on the board or on licensees. An oval black-and-white sticker used to be required in the 1990s. It was suggested that the print file for the sticker could be posted online so licensees could send to their printer. Members raised concern about placing more work on staff to produce and mail special identification. The chair suggested ADF&G might be willing to distribute on DCCED’s behalf.

At least one member was unclear of the purpose for this regulation and wanted to hear from transporters. A member explained that the board was hearing complaints about overcrowding but could not determine whether the crowding is from transporters or residents. Members felt that if this was true, the board should be seeing legitimate complaints through the investigative staff. The chair explained that competitive hunting is lawful, so overcrowding may be a problem but not be a legitimate violation.

The board recessed for a break at 10:15 a.m. and reconvened at 10:45 a.m. A quorum was maintained.

State and Federal Agency Updates

Alaska Department of Natural Resources; Division of Mining, Land and Water (DNR/MLW): Candy Snow, Permitting Unit Manager for the Southcentral Office. Ms. Snow encouraged licensees to ask questions of their regional office. The mapping and permitting/leasing feature is regularly updated, and they are happy to share what activity may be occurring in the area. She explained there are three types of land use authorizations:

- Commercial recreation day use registration can be obtained online or in the office. This includes visitor day use fees at the end of the season.

- Commercial recreation permit (CRP) allows overnight use up to 14 days. Both of these types of permits are good for a calendar year. She recommends applying in November or December for the coming year. This type of permit cannot be completed online and may take a couple of days to complete.
- For long-term, the Land Use Permit (LUP) is valid up to 5 years. This creates your “dot on the map.” This can take several weeks since it requires public notice. Landowner permission may be required for some permits, and fees increase with each permit type. Caching is also possible under this permit. Bonding, insurance, and annual reporting are required for the LUP. The division of DNR/MLW works with the BGCSB on enforcement and communication. They are working on streamlining the permitting processes, including more over-the-counter services. Annual and final reporting must be completed, including photos, or the permit can’t be closed and will continue to assess fees and DNR/MLW will retain the bond, assess penalties, or even end up in trespass. She encouraged users to contact the regional office if any questions arise.

She said there are some recent changes to spike camp permitting associated with CRPs and LUPs. She also explained that leasing is a different process than permitting, with leasing ultimately possibly leading to purchase of the property. There are also additional authorizations required for film crews. She clarified that spike camps associated with a permit do not have to be at specific locations—they may be mobile within the allowable radius. There were questions about bear baiting, so she said she would provide an update on those standards at the March meeting. One of the board members suggested DNR consider bundling complex services because it is very difficult for guides to work on state lands. Ms. Snow appreciated the feedback and mentioned a few areas where DNR has made improvements. She said she would carry that request forward to the Permitting Policy Team.

Bureau of Land Management: Zach Million, Program Lead for Recreation and Visitor Services. Mr. Million displayed a map of BLM field offices and encouraged guides to use their regional field office. There are twelve recreation staff in Alaska, in addition to permitting staff and facilities. He explained various permits available, which for guide-outfitters will almost exclusively be a commercial special recreation permit. Permitting must include a NEPA or environmental analysis. There is a minimum use fee plus 3% of gross receipts earned while on federal land. Currently, permits may be held from one to five years, and he anticipates growing to ten years. BLM has a lot of new staff and has filled most of their vacancies. They are working toward an online permitting service that is not yet functioning in Alaska. He explained that the NEPA process is the longest part of the application. One member said it took six months to get his permit, but it lasted for five years, which he appreciated.

Alaska State Troopers/Alaska Wildlife Troopers (AST/AWT): Captain Aaron Frenzel. Captain Frenzel reported that AST received three new positions in this year’s budget; recruitment and training can take up to two years. Troopers may be diverted to heavier use areas during particular events, like salmon runs, which leaves them underpopulated in other areas. He appreciated the good working relationship with the board. There is currently only one Office of Special Prosecutions (OSPA) prosecutor for wildlife cases for the entire state, so cases might be heard in other courts. This creates delays and can result in moving smaller or less complex matters to the civil arena—such as working with Investigator Strout and the board—instead of the criminal arena. The chair mentioned that the board has initiated several regulations projects to clarify matters that have created complications with law enforcement. He encouraged Captain Frenzel to review those and let the board know any concerns. Another board member registered concern about the differences in sentencing among similarly situated cases. Captain Frenzel explained some examples of where a criminal charge may be the same, but the facts of the case are different, which can affect outcomes. Cases referred to another jurisdiction—handled by a DA or magistrate—can lead to changes, as can plea agreements and Rule 11 agreements. Captain Frenzel stated that he appreciated the board’s support for additional positions in AST, as well as Department of Law.

Captain Frenzel asked if the Transporter Working Group had made progress in creating an informational packet. No one knew for sure, so Chairman Bunch said they would look into that during Old Business.

Alaska Mental Health Trust Authority Land Office: Pete Mueller. Mr. Mueller shared a PowerPoint presentation with the board outlining the new big game guide permitting program. There is one exclusive permit available per land tract to a master guide or a registered guide with 8+ years' experience and other qualifications. Bonding and insurance are required. It is valid for five years and is revocable and renewable. He explained additional requirements and details, as well as locations. There are also opportunities for licensed transporters. He also explained that AMHTA Land Office holds a land sale once a year, typically in the fall through sealed bid auction.

U.S. Fish and Wildlife Service: Nathan Hawkaluk. He spoke about guiding in the Arctic National Wildlife Refuge and recommended a few other personnel who would be useful to invite to future BGCSB meetings from his office. He said eight Guide Use Areas were open last cycle. Prospectuses are ranked and receive a list of "best qualified" and staff choose permittees from that list. He said there were fewer qualified applicants in the last year. He said that "hunt planner" activity has not hit his radar as dramatically this fall as it did in the spring, so they will continue to pay attention to that. He said there is a current proposal regarding property that has been unattended up to 12 months. This is not exclusive to guides and could be any type of property and was essentially a loophole. The current proposal would reduce "unattendance" to four months. He said there are fifteen refuges across the state and recommended inviting additional representatives to cover other areas in the state.

No other state or federal agencies were represented.

The board recessed for lunch at 11:56 p.m. and reconvened at 1:32 p.m. A quorum was maintained.

Division Update

Melissa Dumas, Administrative Operations Manager for the division, presented the board's FY22 year-end fiscal report of revenues and expenditures and a quick overview of the first quarter of FY23. She explained that the board ended FY22 with a surplus of \$940,195 heading into a non-renewal year. The chair asked about progress on creating an exam database and whether the board was paying for that service. Ms. Dumas said that the contractor had not worked on this program yet, so there was no cost to this program. She indicated she would provide Mr. Bay with an update to pass along to the board.

Ms. Dumas explained indirect cost allocation methodologies and reviewed the specific indirect expenses of this licensing program, which totaled \$160,000 for the year. She reviewed the fee analysis that had been presented to the board in March and indicated that she would recommend to the director to reduce the annual reporting fee from \$300 down to \$150. She encouraged the board to review and make recommendations; the chair indicated they would discuss further on Wednesday.

She let the board know that their requested upgrade to the Hunt Record database was in the department IT's workflow queue; this cost was an indirect expense that would not come out of their surplus. Chair Bunch said he did not trust the state to meet their needs; Ms. Dumas explained that it is on the IT list and she expected it would get done; she offered to discuss with the director and bring back additional information or provide it to Tom. A member asked whether the board had its own budget, and she explained how the division's expenditure authority is granted by the legislature. The member stated that ADF&G used an outside contractor for IT, so DCCED should be able to do that, too. The chair said he would ask the director his remaining questions about

the IT project. He asked what happened if fees were not reduced; Ms. Dumas explained that fees need to be reduced to meet statutory requirements. He said he would be fine to allow the surplus to grow to create an audit finding and place pressure on the division to do what the board wants.

Mr. Bay stated that the board wished to travel to Kodiak instead of Fairbanks next year. Ms. Dumas explained how travel costs are identified through the division's budget and how travel is requested and approved, including the travel plan process. The division's travel expenditure authority is shrinking, and the Administration's position is to hold more meetings via videoconference since most business can successfully take place online. One member explained that licensees are unlikely to attend a multi-day Zoom meeting and are more likely to attend in person if the meeting is within driving distance. Chair Bunch expressed unhappiness and frustration about the bad attitude and lack of service at the DNR venue and the Atwood Building and how spending several thousand dollars for a private venue was the only way to get licensees to engage at board meetings. Chair Bunch thanked Ms. Dumas and looked forward to additional information she would be bringing back to the board regarding the IT project.

Investigative Unit Update

Investigative Report

Investigator Lee Strout presented the written report to the board, showing 55 open cases and 19 closed cases during the reporting window. One member asked how many cases are open and never make it to board member review because they are not jurisdictional or another reason. Inv. Strout said that rarely happened; most cases do end up going through the investigative process. The board member stated that there are reasons why complainants may feel that "nothing happened"—the investigation takes time and needs to go through a formal process, which sometimes includes a criminal investigation, as well. He encouraged people who feel like cases are not progressing to have patience.

Probation Monitor Report

Investigator Katrina Eldred was available to present the report but had technical difficulties and was unable to be heard by the board. Mr. Bay shared his screen showing the probation report, and Inv. Strout explained there were 12 licensees on probation and two had been released. Most are in compliance with their terms; one licensee on probation essentially disappeared, and the division is working to prepare a license surrender in that case.

Executive Session

Upon a motion duly made by Aaron Bloomquist, seconded by Larry Kunder, and approved unanimously without any objections, it was

RESOLVED to enter Executive Session in accordance with AS 44.62.310(c) and Alaska Constitutional right to privacy laws to discuss matters that may prejudice the reputation and character of any person, provided they may request a public discussion, and matters which by law are required to be confidential. Executive Administrator Tom Bay and investigators Lee Strout, Katrina Eldred, and Jenni Summers are requested to remain during the session.

The board entered executive session at 2:39 p.m. and reconvened at 4:26 p.m. A quorum was maintained.

Without any further business on the agenda, the board recessed for the day at 4:27 p.m.

Wednesday, December 06, 2022

Roll Call/Call to Order

The Chair, Jason Bunch, brought the meeting to order at 9:00 am

Board Members Present Constituting a Quorum:

Jason Bunch - Licensed Registered Guide - Board Chair

Aaron Bloomquist - Registered Guide Outfitter

Martin Boniek – Licensed Transporter

Pete Buist - Public Member

Larry Kunder – Public Member

Mike Flores – Licensed Transporter

Clay Nordlum – Private Landowner

Board member(s) absent

Jerry Burnett - Board of Game Representative

Staff Members present:

Thomas Bay – Executive Administrator

Agenda Review

Upon a motion duly made by Aaron Bloomquist, seconded by Clay Nordlum, and approved unanimously without any objections, it was

RESOLVED to amend the agenda by adding a new item prior to public comment.

License Actions

The board discussed case 2022-000772, including the details of the offense and the terms of the consent agreement.

Upon a motion duly made by Pete Buist, seconded by Aaron Bloomquist, and approved unanimously without any objections, it was

RESOLVED to accept the consent agreement in case 2022-000772.

The board discussed case 2022-000248, including the details of the offense and the terms of the consent agreement.

Upon a motion duly made by Pete Buist, seconded by Aaron Bloomquist, and approved unanimously without any objections, it was

RESOLVED to accept the consent agreement in case 2022-000248.

The board discussed case 2022-000705, including the details of the offense and the terms of the consent agreement.

Upon a motion duly made by Pete Buist, seconded by Aaron Bloomquist, and approved unanimously without any objections, it was

RESOLVED to accept the consent agreement in case 2022-000705.

The board discussed case 2017-000993, including the details of the offense and the terms of the licensee's request.

Upon a motion duly made by Pete Buist to approve the licensee's request for an amended order, seconded by Aaron Bloomquist, and objected to by all members, it was

RESOLVED to deny the request for an amended order in case 2017-000993.

The board discussed case 2022-000168, including the details of the investigation and how it was resolved.

Upon a motion duly made by Pete Buist, seconded by Aaron Bloomquist, and approved unanimously without any objections, it was

RESOLVED to issue the transporter license applied for in case 2022-000168.

The board recessed for a short break at 9:25 a.m. and reconvened at 9:46 a.m. A quorum was maintained.

Hunt Record Database

The chair reminded attendees that the board discussed a request to the division to enhance the hunt record database during the previous day's business. He did not have anything further to report this morning.

Public Comment

Mark Richards, Resident Hunters of Alaska: Stated members are frustrated over Unit 19C sheep hunting by non-resident hunters. They have been working with Alaska Professional Hunters Association, who says there are no conservation concerns, but the problems are over allocation. RHAK would like 19C to be closed and is making that proposal to the Board of Game. He does not believe guides can self-limit. He would like the BGCSB to penalize guides who take sublegal sheep. He is seeking data from AST/AWT regarding sublegal sheep. The Palmer/Anchorage AST/AWT office penalized two resident hunters and did not penalize four non-resident hunters for taking sublegal sheep. RHAK would like guides to support draw hunts and find a way to compromise when it comes to sheep because conservation is an issue. He also registered concern that the in-person meeting was cancelled, and the public was not informed, so he lost money on flights. He hopes more in-person meetings will be held, especially in Fairbanks, because they are more productive. He would like to hear from Jerry Burnett and the Board of Game on the sheep issues.

Mike Flores responded and asked for patience since the program is understaffed. The sudden cancellation was by the venue, not the board. He would also like to meet in Kodiak, as well as Fairbanks. Tom Bay mentioned that he did not know about the mailing list as a new board liaison and would use it in the future. It takes time to locate and procure a venue, so there was no time for that to happen quickly. He encouraged people to listen to the board's discussion about meetings scheduled the next day. He said a new licensing examiner was hired a week ago.

Tim Booch: Agreed that in-person meetings are preferable and would like to see a meeting in Kodiak. He would like the board to focus on the topics of helicopters and hunt planners/booking agents. He mentioned that spike camps were part of the congestion problem and would like to eliminate DNR permits that allow multiple spike camps to be located anywhere. A Guide Concession Program might be less necessary if everyone knew where the spike camps were located ahead of time and adhered to those locations. He complained about guide use of YouTube and Rumble.

Wayne Kubat: Commented on the supervision proposal, saying that communication was not the “silver bullet” solution and was inferior to improved distance definitions. He mentioned several potential changes to definitions that he would provide during public comment on the regulations.

James Smith: Commented on the supervision proposal, saying that the current regulations are fine. He encouraged the board to ensure all regulations are clear so there is little room for multiple interpretations.

Aaron Bloomquist thanked Mr. Booch for his involvement with board matters, especially as a younger, newer licensee.

Dick Rohrer: Reviewed financial data that was publicly available and that had been provided to the board by staff. He suggested the \$300 record filing fee be eliminated because the board had a large surplus and could anticipate more revenue during FY23. He anticipated the board would have nearly \$1.4 million in revenue this fiscal year with just under \$600,000 in expenditures. Division data plus numbers from the APHA/McDowell Report indicates the filing fee generates about \$100,000 in revenue, which the board does not need. He also stated that he opposed the addition of daily communication requirements to supervision regulations.

Aaron Bloomquist thanked Mr. Rohrer and reminded the attendees that Investigator Strout anticipated up to \$500,000 in hearing costs next year, given the pending cases. Mr. Rohrer reminded the board that licensees should be paying what the program costs, not more.

Steve Perrins, Sr.: Would like to be involved in board subcommittees. He has been involved in transporter issues in Kodiak and would like to be brought up to speed on what is happening with transporters in that area. He said there are a lot of guides also operating as transporters who are decimating the deer population in Kodiak. He stated that an RHAK official told him that *they* do not want to compromise. The conservation issue should be most important and doesn't see RHAK engaging in compromise discussions. He said that people are confused about when and for how long and for what purposes helicopters can be used. It is difficult to get the correct information. He is concerned about apparent age discrimination with the proposed communication requirements in supervision regulations. He believes the businessman should be responsible for running his business—supervision is not a problem and new proposed requirements are overregulation. He looks forward to additional discussion.

One board member said there are several transporter proposals on the table for discussion and the board looks forward to his participation. The board is aware of transporter conflicts in Kodiak. Board subcommittee processes have changed slightly and are often formed in response to the most present issues. Mr. Perrins stated that Department of Fish and Game (DFG) says his lodge is not “in the field”; Mr. Bloomquist clarified that this board has its own definition of “in the field” and the chair asked Mr. Perrins to review the BGCSB statutes and regulations related to guiding. Different agencies have different regulations, so it is important to cite the *relevant* source.

Dan Montgomery: Commented on the supervision proposal. He doesn't think daily communication is necessary to mandate; his business typically communicates daily. He thinks there should be exceptions for medical issues,

second degree of kindred, like guides do in other situations. He supports twelve-inch numbers on boats and aircraft but doesn't think it will make a difference. Flying through the mountains during sheep season equates to spotting sheep and no one has ever been prosecuted. It is a waste of time and effort. Transporters need to be regulated more tightly. Guides with three-year registrations should be able to change GUAs the same year if the area has not been used that year. He supports in-person meetings and more subcommittee meetings because they create better regulations and solve problems.

Aaron Bloomquist asked Tom Bay if the board could allow same-year changes of GUAs if they had not been used prior to April 1. Tom said that is really a matter for the board to consider and that they should ask the attorney for legal guidance on whether it would be possible. He didn't think it would be a problem as long as it was legal.

Steve Perrins II: Thanked the board for their engagement and hard work. He also thanked Mr. Rohrer for his analysis and agreed that the \$300 filing fee should be eliminated. He believed everyone was aware of the competition in Kodiak and how the deer population is being negatively affected. He would like the transporters on the board to lead on this issue. He said that per AST/AWT transporter data on Kodiak last year, out of 127 hunters, only 12 were residents. Limiting transporter use areas or making them more identifiable will help. Transporters should care about conservation. He understands that things take time to get accomplished and encouraged open discussions with guides on important topics like the Guide Concession Program. He said that he would like to see guide license numbers go back to the way they were. He thanked Tom for his work as the new board liaison.

Mike Flores said he had looked into some transporter statute changes and anticipated this board would address transporter issues at this meeting. Board of Game is anticipating limitations on Kodiak deer. He asked what type of boats Mr. Perrins was seeing in Kodiak. Mr. Perrins said they seemed to be liveboards that would send Zodiacs to the shore.

The board discussed changes in license numbers for the past several years.

James (last name unclear): Has anyone heard concern from the refuge about transporting?

Chair Bunch said the refuge is involved with the Kodiak Advisory Committee, which is collecting transporter data. It includes a variety of stakeholders.

Registered Guide Exam

Chair Bunch reviewed the testing times and locations for the week and said he believed all six proctors had been secured. If anyone else was available, they should let him know.

Subcommittee Updates

Exam Subcommittee has not been very active because Chair Bunch does not have time. Feedback he has heard is that people would like more practical, theoretical questions, such as injuries and when a sublegal animal is shot. These questions are often ones that reveal lack of knowledge and experience. Questions need to have a source reference. The chair reviewed the work Lauren Kara had done and his plan to evaluate questions that are repeatedly problematic. He suggested that the division's consultant might be able to help organize the effort.

Transporter Subcommittee has not met recently since Mike Flores was serving on the governor's bycatch committee. Multiple proposals will be discussed that afternoon, focusing on public safety. They are evaluating a

mock-up of a new Transporter Activity Report. There needs to be further discussion about marine vs. air. He did not believe there was support to pursue limited entry.

Guide Concession Program or limited guide use are registration program is ongoing. The purpose would be to limit guiding on state land. Chair Bunch had selected Rick Green from DFG, Christy Colles from DNR, Ted Spraker as a public member, Coke Wallace as an interior guide, and himself as a maritime guide. They had looked at the previous 2013 proposal, which had a variety of hurdles, including whether legislation is needed. The biggest hurdle is staff time and resources to support the effort. It needs to be compliant with the Constitution, per the Owsich decision. It needs to be a public process yet streamlined to manage the information coming in. Meetings should be publicized. He hopes to kick it off in January and have a plan before the board by the March meeting for further discussion. Tom Bay clarified that the board had approved the chair to form the committee at the last meeting and no further approval was required. He said the first meeting would need to be publicly noticed.

Partnerships Subcommittee is being organized by Aaron Bloomquist. They held one meeting about nine months ago to gather information about how people are doing partnerships. Everyone is doing it differently, and not everyone is consistent with the law. He plans to write a proposal for the board to consider but is unsure whether regulations are necessary or helpful. He would appreciate input on methods that might assist guides who are working on these partnerships, especially since there are legal cases involving them.

The board recessed for lunch at 11:28 a.m. and reconvened at 1:00 p.m. A quorum was maintained.

USCG Vessel Presentation: Luke Milliard, U.S. Coast Guard Vessel Inspector, Kodiak Marine Safety Detachment. Mr. Milliard shared a brief presentation on passenger safety. He appreciated being invited since he was learning about transporters and understood that many transporters and guides may not be aware of federal regulations pertaining to “uninspected passenger vessels (UPVs),” which is what the USCG considers to be a transporter vessel. He explained differences between “passengers” (crew or friends) and “passengers for hire” (customers) and some regulations pertaining to fishing vessels that have been modified for overnight accommodations. He discussed additional mandatory endorsements, registration, licenses, drug testing, firefighting, and documentation required to carry passengers for hire and for specific vessel weights. Transporters will likely require many of these elements to legally operate. He discussed “safe harbor” and when 24-hour watch is required. Property or environmental damage, injury, death, marine casualty, and other circumstances may require additional drug/alcohol testing and reporting. He reminded the board that a UPV must always be under the command and control of licensed individuals if passengers are on board. He described ways the Jones Act may impact transporters, especially pertaining to vessels not constructed in the U.S. There are many regulations pertaining to operating marine vessels, so he encouraged guides and transporters who operate marine vessels to contact their sector or marine safety detachment to ensure they are aware of the rules and to maintain compliance.

Review of Regulations Proposals

AAG Harriet Milks joined the meeting to assist the board in discussion of potential regulations projects.

Supervision and Participation

Mr. Bloomquist explained that he and Chair Bunch had made a few revisions to the draft after it had gone out for public notice. Since the changes were extensive, his intent was to replace the prior version with the new version he was presenting. Mr. Bay displayed the new version on the screen for the board and attendees to follow.

AAG Milks suggested the board recommend updating the definition of “field” in a future statutory change.

Mr. Bloomquist stated that supervision is all about communication in various ways. He reminded everyone that satellite-enabled cell phones would be available statewide within the next year. While that had both negative and positive implications on the wilderness experience, communication anytime and anywhere would be possible. Mr. Bloomquist also stated that experienced contracting guide board members, in concert with Investigator Strout, should be able to determine whether the guide could be reasonably responsive according to the situation, unit, and other factors.

Chairman Bunch said he had read the legislative testimony on the statute that implemented “primarily in the field” expressly so the board could provide for exceptions to being in the field. He remembered that the board at that time interpreted the phrase to mean more than 50% of the hunt. He also reminded the board that each member would need to weigh in and be involved in the decision on what to move forward.

Guide and Transporter Boat and Plane Identification

Chairman Bunch reiterated that the intent of the regulation is to make identification of licensees in the field easier by persons on the ground and summarized the previous day’s conversation. Members reiterated their discussion regarding pros and cons of the proposal. Mr. Bloomquist provided ideas to implement use of a sticker while reducing administrative burden on staff. The chair suggested the proposal be revamped for official consideration the following day. Mr. Flores said he believed the overcrowding concerns stemmed from hunting pressure, not the means of access to the hunting location. Mr. Bloomquist said he would revise for the board’s consideration the next day.

The board recessed for a break at 3:25 p.m. and reconvened at 3:29 p.m. A quorum was maintained.

Public Comment

Thor Stacey provided comment on behalf of the Alaska Professional Hunters Association (APHA). At their last meeting their membership discussed the proposed regulations and ultimately agreed that the problems the regulations intended to address were legitimate problems in need of a regulatory solution. Members had questions about the specifics of various regulations, especially regarding helicopters, supervision, and GUA registration. He provided a high-level overview of his recollection of the “primarily in the field” statute, since it was one of his first bills as lobbyist for APHA. He reinforced the chair’s perception that the “primarily” concept was to provide the board with some wiggle room to consider and regulate circumstances times when the guide may not be in the field.

Zach Decker offered comments on the hunting climate in Southeast Alaska and generally supporting the proposal to require licensees to mark their vessels. He agreed that good business owners are already utilizing strong communication and adequate supervision as the situation dictates. He warned the board about criminalizing lack of communication because someone’s battery dies.

Wayne Kubat had concerns about the chair’s definitions of “supervise” and “conduct” as stated earlier in the meeting.

Taj Baker said that he was not in favor of the daily communication proposal. Some clients had complained about guides texting more than glassing.

Dan Montgomery spoke about concerns with the supervision proposal. He felt daily communication was a good business practice but should not be mandated.

Steve Perrins II cautioned the board against adopting a guide concession program and felt state land operators were not adequately represented in the working group.

Tim Booch offered perspectives on various proposals.

Coke Wallace offered perspective on the sheep hunting climate in 19C.

The board recessed for the day at 4:31 p.m.

Thursday, December 07, 2022

Roll Call/Call to Order

The Chair, Jason Bunch, brought the meeting to order at 9:00 am

Board Members Present Constituting a Quorum:

Jason Bunch - Licensed Registered Guide - Board Chair

Aaron Bloomquist - Registered Guide Outfitter

Martin Boniek – Licensed Transporter

Pete Buist - Public Member

Larry Kunder – Public Member

Mike Flores – Licensed Transporter (excused)

Clay Nordlum – Private Landowner

Board member(s) absent

Jerry Burnett - Board of Game Representative

Staff Members present:

Thomas Bay – Executive Administrator

Upon a motion duly made by Aaron Bloomquist, seconded by Clay Nordlum, and approved unanimously without any objections, it was

RESOLVED to amend the agenda as discussed.

Public Comment

Tim Booch made a few comments regarding topic the board may consider.

Zach Decker commented on hunting in Southeast as it relates to identification of vessels and licensees' responsibility to report potential violations.

Mark Richards addressed the sheep hunting situation in 19C.

Wayne Kubat offered additional concerns about potential supervision regulations.

Steve Perrins, Sr. offered perspectives about potential supervision regulations. He wondered what problems are occurring that require guide supervision to be so tightly regulated when businesses are already practicing daily/regular communication. When the statute was passed, the technology was dramatically less and safety for guiding was very different. He also pointed out that helicopter activity exists that is unrelated to hunting and cautioned the board regarding wording of regulations.

Dan Montgomery commented on Mr. Perrins' statements and mentioned an altercation he had with an unlicensed person who was acting as a guide, which the division had declined to investigate on grounds of lack of evidence. He encouraged the board to increase enforcement.

The board recessed for a break at 10:00 a.m. and reconvened at 10:08 a.m. A quorum was maintained.

Review of Regulations Proposals

Providing Transportation While Providing Guide Services: 12 AAC 75.200

Chairman Bunch discussed some examples of why the regulation change is needed. Mr. Bloomquist offered additional concerns that enforcement has been inconsistent and that this issue is only recently being enforced. He stated 12 AAC 75.250(d)(2) is already in place. Chairman Bunch felt that the issue was with 12 AAC 75.200. He encouraged clarity in regulation to make interpretation by guides and enforcement easier. Mr. Kunder asked whether "guide-outfitter" means the licensee or an unlicensed person representing the guide. Mr. Buist stated he thought it was any licensed guide, and Mr. Bloomquist thought it encompassed any employee, including an unlicensed packer. Mr. Bloomquist felt the regulation would allow guides to transport in any GUA. Chairman Bunch clarified that the draft is not intended to allow that but instead to limit to the GUA in which the guide is registered.

Chairman Bunch asked whether a guide-outfitter could delegate transportation service to an unlicensed employee, and AAG Milks said it did under the legal principal of agency, which allows delegation. She indicated that LAW would be able to make drafting changes to improve the wording while maintaining the board's intent. Mr. Kunder asked if a stop along the way outside the guide's GUA would be allowable under subsection (2). He could see examples of how "terminate" could be interpreted differently. He also asked if the words "under contract" should be added, and AAG Milks said that she believed it was already implied since guides would not be performing these duties without a contract. Mr. Bloomquist stated that exemptions for weather already exist. Mr. Kunder asked why this regulation is necessary if 12 AAC 75.250(d) already requires guides to provide transportation.

Helicopter Use

Mr. Bloomquist presented this new proposed regulation to address incidental use that may not be related to activity under the guide-outfitter's license. Examples included helicopter use for flightseeing or for persons residing in rural areas that are served by helicopters. People are finding loopholes by using a helicopter to do unrelated tasks like flying in building materials, then using the resulting structure for hunting. AAG Milks weighed in that Board of Game regulations under 5 AAC do not hamper this board's ability to regulate licensees. She encouraged clarity in regulations. She reviewed the upcoming change in Department of Law's regulations process and said they would perform a full review. Mr. Buist suggested adopting language that would be wider, encompassing all services, and AAG Milks offered a wording suggestion. Mr. Buist wondered if someone could build a cabin with a helicopter, then sell it to a guide, would the guide be in trouble. AAG Milks said no because the guide did not use a helicopter. Mr. Bloomquist said many licensees were contacting him with theoretical examples of potential loopholes. The board discussed how intent is relevant to activities conducted by helicopter.

GUA Registration and RGO Contract Requirements

The proposal would amend 12 AAC 75.230 and 12 AAC 75.260. Mr. Bloomquist said the intent is to eliminate some regs that no longer apply, as well as to address situations where someone could change a GUA if they buy a new business, have a new concession, or other qualifying event.

Hunt Planners and Booking Agents

Mr. Bloomquist presented the draft of a new regulation and explained the business of hunt planners: Persons selling and outfitting—and sometimes transporting—DIY hunts that skirt the edge of the law. Booking agents are contracting for hunts without licenses and knowledge of who the registered guide may be. AAG Milks explained that the board was created in AS 08.54.591 to oversee licensees and regulating their activities. Its ability to regulate commercial services outside of licensure is limited and does not cover these related services. She suggested that the board reword the regulation to say that these activities require a license; however, this board doesn't have the ability to enforce it. Mr. Bloomquist asked if the board could write a letter to the Department of Law and Alaska State Troopers to enforce unlicensed practice or if the board could put a notice on the web site. AAG Milks said this is already covered in AS 08.54.720(11) and the board could post an advisory on its web site. She also showed the board that, under their statutes, violating this law is a misdemeanor. Mr. Bloomquist stated that he intends to set this proposal aside to work on the issue later.

The board recessed for lunch at 11:53 a.m. and reconvened at 1:00 p.m. A quorum was maintained.

Marine Transporters

The proposed language would add a sticker to vessels licensed by the board. Mike Flores reported that the DFG “green football” sticker is printed in Anchorage. He recommended that this board use the existing program but use a different color, where the “football” color would indicate guide who is transporting and the year indicator (such as “22”) would indicate a transporter. Mr. Bloomquist suggested a regular vinyl sticker would be better than using a foil-backed sticker (like DFG's) on a fabric airplane.

Mr. Boniek asked for clarification on what types/sizes of boats this would apply to. Chairman Bunch said that would be useful feedback to receive during the regulatory public comment period. Mr. Boniek said he didn't feel a sticker program would solve the current problems between guides and transporters. Chairman Bunch said that guides in SE Alaska and Kodiak have requested this program in particular to help identify the credentials of the captain/pilot. It might help reduce false accusations about licensees. Chairman Bunch reminded the board that there was a similar program in place when the previous iteration of the board was sunset. He encouraged members to research that language and how it worked, if they wished. Mr. Flores said he would take on the research project and report back to the board.

Air Transporters

The proposed language would add a sticker to aircraft licensed by the board. Mr. Boniek said he wasn't sure he wanted the proposal to be adopted but would like it to move forward to public comment so he could hear the thoughts of licensees.

Marine Transporter Vessel and Captain Requirements

Chairman Bunch reviewed the board's proposal to set specifications for liveaboard vessels. Mr Flores said he spoke with the sponsor of the legislation that enacted AS 08.54.650, and her intent was for there to be permanent living conditions on these boats. Mr. Boniek asked how many of these requirements are duplicates of USCG requirements already in place. Mr. Flores said that (a)(1) is unique to the board. His opinion is that (a)(2) is the most important element of the proposal because the vessel contains all of the survival gear necessary to the crew and clients. Subsection (a)(3) is also a safety measure. Subsection (b)(1) supports AS 08.54.650(b) that requires permanent quarters, and Mr. Flores said that is not often the case. Chairman Bunch said that defined specifications would help enforcement. Mr. Flores and Mr. Bloomquist each said the galley and sanitation

requirements of subsection (b)(2) and (3) are also something that many boats do not have but benefit the safety of the crew and fulfill the intent of the statute. Mr. Boniek stated that this seemed like something that should be worked out in the marketplace. He mentioned that guides don't have to meet these standards. Chairman Bunch agreed. He suggested the regulations could be separated into safety standards and commercial standards. Mr. Bloomquist said the intent he and Mr. Flores had in drafting this was solely to clarify the existing statute.

Chairman Bunch asked AAG Milks if the requirement in (a)(3) needed to be separately in regulation if it will also be adopted in the transporter activity report. She said yes, it would, because it changes the obligations of the licensee. Chairman Bunch said it could be removed from this section and added to 12 AAC 75.400 relating to transporter activity reports, and AAG Milks said that would be a good idea. Mr. Bay asked if the information in the transporter activity report that is not stated in regulation could be required. AAG Milks said no, that it needs to be in the regulation. Aaron Bloomquist asked if the form could be adopted by reference, relieving the board of needing to adopt regulations. AAG Milks said that the transporter activity report was a form provided by the department by statute, so the board would be discouraged from doing that. Putting the requirements in regulation would also relieve the board from having to wade into the realm of form design.

The board continued with a discussion of potential changes to the transporter activity report, which was then laid on the table until the next meeting. AAG Milks advised the board to pursue any changes to the form via regulation.

The board recessed at 2:11 p.m. and reconvened at 2:26 p.m. A quorum was maintained.

Professional Ethics Standards for Transporters

The board discussed a proposal related to professional ethics standards for transporters, specifically restricting services in areas where clients are not legally permitted to hunt. The focus is to mirror a guide regulation prohibiting drop-off on tidelands if the client can't hunt in adjacent uplands. Mr. Buist pointed out that there are legal differences in wording between freshwater and saltwater which may affect the draft. Mr. Bloomquist stated that AS 08.54.600(c)(1) provides the authority for the board to establish transporter ethics. Mr. Boniek posed a question about what happens if the allowable land is inaccessible at the intended drop-off point. Board members indicated that the transporter should find a different allowable location. Mr. Boniek also raised concerns about this regulation being contested in the court system because transporters are not personally trespassing in these situations, whereas guides would be.

AAG Milks said the best way to address theoretical situations posed by licensees is to put a proposal out for public comment. She discussed the upcoming changes to the LAW review process and timeline for next steps in the regulations process. Regulations Specialist Alison Osborne explained the importance of board approval after drafting to ensure the version that is publicly noticed is accurate.

Upon a motion duly made by Aaron Bloomquist, seconded by Mike Flores, and approved unanimously without objections, it was

RESOLVED to approve to send to the drafter the proposed regulations project to amend 12 AAC 75.440, Professional Ethics Standards for Providers of Transportations Services, with the intent of approving the language at the March meeting.

The board proceeded to take action on regulations they discussed earlier in the meeting.

Upon a motion duly made by Aaron Bloomquist, seconded by Mike Flores, and approved unanimously without objections, it was

RESOLVED to approve to send to the drafter the proposed regulations project to create a new regulation pertaining to marine transporter safety provisions, except for subsection (a)(3).

Mr. Flores left the meeting, but quorum was maintained.

Upon a motion duly made by Aaron Bloomquist, seconded by Martin Boniek, and approved unanimously without objections, it was

RESOLVED to approve to send to the drafter the proposed regulations project to create a new regulation relating to supervision and participation.

Mr. Boniek clarified that this is a different project than was sent out earlier in the year.

Upon a motion duly made by Aaron Bloomquist, seconded by Clay Nordlum, and approved unanimously without objections, it was

RESOLVED to approve to send to the drafter the proposed regulations project to create a new regulation pertaining to marking of aircraft and boats used by guides and transporters, which will require a sticker on the side of a licensee's boat.

Mr. Boniek dropped off the call due to technical difficulties, preventing a quorum. The board recessed at 3:05 and reconvened at 3:10. Mr. Boniek stated he intended to vote "no" on the regulation regarding 12-inch numbers on aircraft, although he would like to receive public comment.

Upon a motion duly made by Aaron Bloomquist, seconded by Clay Nordlum, and approved by all members present with one objection by Mr. Boniek, it was

RESOLVED to approve to send to the drafter the proposed regulations project to create a new regulation pertaining to marking of aircraft and boats used by guides and transporters, which will require 12-inch stickers on guide and transporter aircraft.

Chairman Bunch suggested a wording change to the proposal to amend 12 AAC 75.230 regarding Unique Verification Codes (UVCs). Mr. Bloomquist commented on the chair's suggestion, which was withdrawn.

Upon a motion duly made by Aaron Bloomquist, seconded by Martin Boniek, and approved unanimously without objections, it was

RESOLVED to approve to send to the drafter the proposed regulations project to amend 12 AAC 75.230, Guide Use Area Registration.

Mr. Flores rejoined the meeting. Chairman Bunch offered a change "any class of licensed guide or transporter may not use a helicopter in any manner relating to the provision of services under this section, including transportation to, or from, the field of any unprocessed game or parts of game, any hunter or hunting gear, or any equipment, including vehicles, building materials, shelters, equipment for building runways, animal feed, furniture, etc; this paragraph does not apply to transportation of a hunter, hunting gear, or game during an emergency rescue operation in a life-threatening situation or to remove a wrecked aircraft from the field"

Mr. Bloomquist raised concerns that this might be used retroactively, which AAG Milks stated was unlikely to happen because of due process and existing legal precepts.

Upon a motion duly made by Aaron Bloomquist, seconded by Mike Flores, and approved unanimously without objections, it was

RESOLVED to approve to send to the drafter the proposed regulations project to create a new regulation prohibiting the use of helicopters for guiding or transporting purposes.

Chairman Bunch wished to postpone the discussion of the Transporter Activity Report until the March meeting. There was no objection.

The board discussed changes they wanted to make to the published draft of 12 AAC 75.200, including removing subsection (3) and the “or” preceding it, and leaving the word “only” at the top of subsection (a).

Upon a motion duly made by Aaron Bloomquist, seconded by Clay Nordlum, and approved unanimously without objections, it was

RESOLVED to approve to send to the drafter the proposed amendment to 12 AAC 75.200, Registered Guide-Outfitter Providing Services, which will allow registered guide-outfitters the ability to transport clients to and from their guide use areas.

Staff Update

Mr. Bunch updated the board that Janet Bunch had joined the team as occupational licensing examiner. He mentioned that Director Chambers was moving to the commissioner’s office to help boards with policy governance and regulations. Sylvan Robb would join the division as director.

Board Business

Pete Buist provided a brief update on the Wood Bison Planning Team in Fairbanks in October, at which he represented the board.

Mr. Bloomquist asked AAG Milks to refresh the board on their discussion regarding a letter advising hunt planners and booking agents that they may be acting inconsistent with statute. She stated that any action taken regarding unlicensed activity would be handled in a civil case, not by this board, but that the board can be firm in encouraging these actors follow the law. She offered to review Mr. Bloomquist’s draft letter. The board discussed sending the letter to the Alaska State Troopers and posting on the web site, as well as sending to any known hunt planners and booking agents.

Upon a motion duly made by Aaron Bloomquist, seconded by Clay Nordlum, and approved unanimously without objections, it was

RESOLVED to write an advisory letter regarding appropriate concerns that the BGCSB has regarding booking agents and hunt planners and provide it to the public.

The board discussed locations for the meeting to be held March 28-30, 2023.

Aaron Bloomquist moved to hold the March meeting in Kodiak. Seconded by Mike Flores.

Mr. Bay offered some reasons why the meeting might be difficult to hold in Kodiak. Mr. Bloomquist said that the Board of Fish and the Board of Game regularly hold meetings in Kodiak and that he was willing to advocate “up the chain” for this trip. Mr. Buist stated that he had already counted on the meeting traditionally being held in Fairbanks and could not attend in Kodiak. Another member also stated he could not attend on those dates.

The motion was withdrawn.

The chair confirmed the meeting would be held in Fairbanks and they would plan meetings out far enough to be able to work with the division on planning a Kodiak meeting. Mr. Bloomquist said he heard that APHA would schedule their meeting in conjunction with the BGCSB meeting to encourage attendance at the board meeting. The board discussed concerns about holding the December meeting too early since Kodiak and Southeast guides are likely still in the field.

Upon a motion duly made by Aaron Bloomquist, seconded by Mike Flores, and approved unanimously without objections, it was

RESOLVED to hold the December 5-7, 2023, meeting in Anchorage with the intent of holding the spring 2024 meeting in Kodiak.

Administrative Operations Manager Melissa Dumas joined the meeting to discuss the proposed fee analysis. The chair mentioned that various projections put the board at \$700,000-\$800,000 surplus by the end of the fiscal year. He reminded everyone that the division’s intent was to eliminate the hunt record filing fee once the debt was relieved. He did not want the filing fee to go away and had plans for spending the surplus and that half of the surplus could be eaten up by legal expenses, per Investigator Strout’s estimation. Ms. Dumas indicated that the board would not be charged for IT’s work on the hunt records database since they don’t use a cost accounting model; the expense would be reflected in the division’s indirect cost. Mr. Bloomquist reminded the board that legal expenses are high and volatile, and a fee reduction should wait. Chairman Bunch suggested a fee reduction might be appropriate in March.

Ms. Dumas explained the timeline for changing this regulation and that now is the time for the board to provide the division its input for the change to occur in spring 2023. She suggested changing the fee to \$150 and count any \$300 payments as two years of payments. The chair suggested that any fee change occur after March 2023.

Mr. Bloomquist registered concern that a fee reduction may not be possible for March 2024 given the looming legal expenses. Mr. Bunch also suggested a sliding scale for filing fees, depending on the number of hunts a guide performed. The board did not propose a motion on this subject.

Task List

- Chairman Bunch will send final regulation wording to Mr. Bay.
- Mr. Bay will complete the paperwork for three consent agreements, a denial letter, and several regulations projects.
- Mr. Bloomquist will draft a letter for AAG Milks to review.

The board adjourned at 4:14 p.m.