

2023 Big Game Commercial Services Board
Guide Concession Program Workgroup
Summary of Proposal – Version 1.6

HISTORY AND PROCESS

During the December 2022 annual Big Game Commercial Services (BGCSB) board meeting, the board approved formation of a workgroup to examine complaints received by the public and licensees of poor wildlife conservation practices, overcrowding, and overutilization of hunting in some areas of the state. The board chair was appointed to the workgroup and asked to solicit the following representation. The workgroup consists of:

Department of Natural Resources (DNR) Representative:
Christianna Colles, Director; Division of Mining, Land, and Water

Department of Fish and Game (DFG) Representative:
Rick Green, Special Assistant to the Commissioner

Public Citizen:
Ted Spraker

Interior Guide/Outfitter on State Land:
Coke Wallace, Master Guide-Outfitter

Coastal Guide/Outfitter on State Land/BGCSB Representative:
Jason Bunch, Chair, BGCSB; Registered Guide-Outfitter

The BGCSB chair, Jason Bunch, a guide with over 15 years of experience on both federal and state land was chosen to lead the workgroup, which was staffed by the Department of Commerce, Community, and Economic Development (DCCED). State agencies engaging with the workgroup included DNR, DFG, DCCED, and Alaska Wildlife Troopers (AWT).

The workgroup held a series of public meetings **January - October 2023**, focusing on the concept of creating a guide concession program on state lands. Two in-person public meetings were held to hear from the general public—one in Fairbanks and one in Anchorage. Six Zoom meetings were held specifically to receive comments from the public on individual topics. The workgroup received written comments throughout the **ten**-month process.

The process utilized a review of the 2013 Proposed Guide Concession Program (GCP) Framework Document (ADL 230869) as a starting point. This framework was the core product of DNR's proposed concession program on state land, which included research and legislation from 2008-2013. Although this substantial effort was never realized, it scrutinized similar issues the workgroup was tasked with evaluating, including:

Agency Responsibilities	Statutory Authorities and Requirements
Applications	Scoring and Ties
Awards	Terms
Fees	Transferability

Implementation	Transporters
Mapping	Types of Concessions
	Vacancies

Generally, public testimony illustrated the complexity of Alaskan lands and wildlife resources, the various agencies who manage them, and the user groups themselves. Public comments tended to fall in one of the following categories:

- Licensed guides in favor of a concession program who have experience in areas that receive a high volume of use or where winter and predator mortality is high.
- Licensed guides not in favor of a concession program with experience in areas that are not congested with user groups and/or are in areas still abundant with game.
- Newly licensed guides in opposition because they fear lost opportunity.
- Licensed guides who are skeptical of the state’s ability to successfully manage a concession program.
- Resident sport hunters who generally favor concessions when a comparison is drawn between federal and state land experiences.

PROBLEM STATEMENT

Currently, there is no process by which the commercial use of state land is allocated among commercial big game hunting guides, and there is no limit on the number of DNR Division of Mining, Land and Water authorizations a guide can have on state land or how many, regardless of size, commercial hunting operations will be allowed to operate in one area. This method of management has frustrated wildlife conservation. As a result DFG and Board of Game are unable to develop allocation schemes that bring the highest benefit to the public. In “problem areas” the status quo continues to contribute to overcrowding and resource overutilization. Several related issues have been identified by members of the guide industry, the Big Game Commercial Services Board (BGCSB), and the Board of Game (BOG). Chronic issues include a decreased incentive to practice sound wildlife management, decreased quality of experience for guided clients, conflicts between commercial users and general public (resident hunters, subsistence users, private property owners), lack of land stewardship, and difficulties in enforcing game laws.

Recently, certain areas of the state have reported decreased numbers in sheep, brown bear, caribou, and moose. These reports have led to at least one decision by the BOG to restrict and close guided non-resident hunting opportunity. The cause of these decreased wildlife populations are complex but generally result from a combination of high winter mortality, predation, and increasing habitat degradation from climate change. Hunting opportunity must be viably reduced when population’s decline to ensure sustainability.

A review of these issues and a recommendation on how to proceed with permitting of guided hunting is necessary to assist the BOG, DFG, and DNR with wildlife conservation/utilization and land stewardship. This recommendation has the goal of supporting sustainable small business opportunity for big game commercial services, increase quality hunting experience for both residents and non-residents and assist AWT in enforcing game laws.

OVERVIEW OF CONCESSION IMPLEMENTATION PROCESS

STEP ONE: A BOG proposal is generated by any interested person to implement a concession within specified area. BOG alerts related agencies to prepare to comment on the proposal at that meeting,

STEP TWO: BOG reviews proposal with ADFG, BGCSB, DNR and public. If supported, a recommendation is sent to DNR for implementation within a specified area. Allocation may be established.

STEP THREE: DNR Advisory committee reviews recommendation and establishes criteria, such as number of unlimited guide outfitters, limited guide outfitters, GUA or concession boundaries, potential number of clients for species, etc.

STEP FOUR: DNR offers concession applications and completes random draw for limited authorizations.

IMPLEMENTATION

The workgroup generally accepted the 2013 Framework proposed by DNR. This document will explain any departures from that proposal.

A concession program for big game commercial services will require partnerships among several state agencies, each with specific responsibilities within the program to address elements of wildlife conservation, land management, and regulation of professional guiding services.

Authorization of a Concession Program

A concession program will serve as a tool for the Board of Game, whose primary responsibility is to conserve and develop Alaska's wildlife resources, making allocation decisions related to wildlife.

Proposals to enact state land concessions within a GMU will be brought before the BOG during their regionally scheduled meetings when criteria such as wildlife conservation, social conflicts creating reduced opportunity, or negative impacts to game law enforcement are suspected. The proposed area will be within the region scheduled and be a portion of Game Management Unit (GMU), a Game Management Sub-Unit or Guide Use Area (s) (GUA). The BOG will consult with relevant state agencies and the public to ascertain the viability of a concession implementation proposal. During these meetings:

- BGCSB administrator will provide licensing, guide and transporter use data, mapping information and the board's recommendation to support, oppose or be neutral.
- DNR permitting officer will provide land use data.
- DFG staff will be prepared to provide wildlife information, resident, non-resident, guided, unguided and transporter use information.
- BOG will take public testimony on the proposal.

Once an area is considered appropriate for concession through the BOG public process, the BOG will recommend DNR implement the concession program in the proposed or affected area.

Management of the Concession Program

As the state's land manager, DNR has the expertise to provide land use authority for a concession in the form of a lease specific to big game commercial services providers. These will not be permits and will convey some level of interest in the land.

An advisory board will be created in statute to assist DNR with criteria specific to the area. The advisory board will consist of the appropriate area biologist from ADFG, permitting officer from DNR, and representatives from BOG and BGCSB to ensure all effected state agencies and user groups have representation and DNR has all relevant information. The responsibility of the advisory committee is to provide criteria such as joint use vs sole use, available species and possibly numbers of species available, mapping and boundary adjustments, etc.

DNR will need statutory authority, funding, and resources to create an office of Guide Concessions (initially this may be an ad-hoc DNR staff group until total workload to administer the program is better understood). BOG, DFG, and BGCSB may need additional statutory authority to carry out their partnership roles. Additionally, AWT, DNR, and BGCSB will likely need additional authority to enforce the new concession program. The workgroup highly recommends the minimum necessary authority be granted in statute, with the program details established in regulations. This will allow DNR to maintain a flexible public process that can change transparently with the needs of the BOG and the industry.

PROGRAM DESIGN

Competitive Offerings will be publicly noticed as a solicitation for applications by DNR for a concession area once recommended by BOG and details of the concession have been recommended by the advisory committee. The application will be a scorable questionnaire to find the most capable candidate for the offering, incorporating as little subjectivity as possible. The more subjective the application, the more difficult to articulate a clear "best candidate." The application will be simple and streamlined, including parameters for each answer that requires a narrative. It is recommended the BGCSB create a workgroup with representation from all effected agencies and guides with state land experience and guides with federal land experience to draft a viable application and scoring criteria. This workgroup will be vital to the success of the program. Many guide-outfitters who have decades of experience with these types of applications through the federal prospectus process. The federal prospectus is far from perfect, but experience gleaned from it will be valuable. The highest scoring application(s) will be awarded.

The number of applications a guide can submit will not be limited. Concession implementation will be kept to smaller areas of the state such as GMU sub units or small clusters of GUAs that meet criteria outlined for concession implementation. To begin, DNR will use caution, only instituting one area at a time to prevent an application backlog and also allow for critical components of the program to be adjusted before moving forward with the next. This "small

bite” approach will be responsive to wildlife dynamics and keep the administrative burden and cost at a minimum, while allowing application opportunities for every qualified guide.

The number of concessions a guide can be awarded will be limited to three Guide Use Areas with only one state land concession within any one Guide Use Area. This approach ensures opportunity for new entry and removes the potential for monopoly of use within any single GUA. Most of the recommended concession boundaries illustrated within the 2013 GCP Framework Document mapping follow current GUA boundaries and are acceptable. The division of some larger GUAs into multiple concession areas continues to be warranted.

Types of fees will be revisited once costs of implementation and management are further investigated. The program will be funded by a reasonable application fee established in regulation. Per-client fees will be determined through relevant hunt record data provided by DCCED, which will need to be authorized in statute. The fee structure per client is generally accepted and provides for equity among the various sizes of businesses.

The workgroup discussed the following guidelines for fees, with final determination through the regulations process:

- Annual per-client fee:
 - These fees will only apply to non-resident clients that are guided or outfitted. Guides will not be required to pay a fee for clients who are Alaska residents.
 - Fees will be linked to the type of animal pursued.
Example: The fee is \$500 per client for those species that require a guide for non-resident hunters (brown bear, Dall sheep, mountain goat) and \$250 per client for all other species.
 - This fee is per client/per contracted hunt only, regardless the number of animals pursued by that client within that contracted hunt.
Example: If a client is pursuing a brown bear *and* a Dall sheep, the client fee is \$500 for that contracted hunt. If a client is pursuing a brown bear *and* a moose the client fee is also \$500 for that contracted hunt. If a client is pursuing a moose *and* a caribou the client fee is \$250 for that contracted hunt.
- Existing required DNR permit fees will be assessed.

Types and duration of concessions are recommended in accordance with the 2013 GCP Framework Document, with changes illustrated below:

The full concession is the primary type of concession that will be offered:

- Full Concessions will be offered through the competitive process
- Up to two full concessions per area to be established by the Concession Advisory Board.

- These leases will not limit the number of assistant guides, however, they will be limited to the number of clients and species annotated on their permit consistent with the operations plan that must be submitted with the application.
- DFG and/or BOG will be consulted and provide recommendations during the scoring process concerning number of each species identified and/or establish an allocation for each species where conservation concerns exist during the proposal process.
- DFG will have the opportunity to adjust the allotment of each species during the award process and annually as required to ensure successful wildlife conservation is being achieved.

The limited concession is the second type of concession that will be offered, providing opportunities for smaller business and new entry. This type of concession will not be attractive to more established guides with larger businesses, who will compete for full concessions.

- Limited Concessions will be awarded through a random draw application. There will be one limited concession per concession area.
- The general terms and the duration of the concession permits are the same as those listed above for full concession permits.
- Limited concession permittees will only be allowed a maximum of four clients per calendar year, per concession area.
- ADFG will be consulted and provide recommendations during the scoring process concerning number of each species identified.
- ADFG will have the opportunity to adjust the allotment of each species during the award process and annually as required to ensure successful wildlife conservation is being achieved.

Duration of concession will be for 10 years.

- The workgroup does not see the need to revisit concession permits at the 5-year mark established in the 2013 GCP Framework Document proposal.
- Permit stipulations will be established such that unlawful or undesirable activity can result in loss of the permit at any time.
- Removing the 5-year evaluation provides for a more streamlined effort while providing for maximum flexibility for management.

Vacancies will be filled within the first year of the permit term by offering the concession to the next highest scoring applicant.

- If the vacancy occurs after that first year and there is more than one year left before its regularly scheduled competitive process, it will go back out to public offering within one year of the date it was judged vacant by DNR.
- It is important to acknowledge an area can go unused for a variety of reasons but is not “vacant.” Vacancy is defined as having no occupant or being unoccupied. Health emergencies, no client interest, not winning a drawing permit are all reasons a concession land use permit could go unused but does not meet the criteria of unoccupied.

- For this reason, if a permitted concession area is determined by DNR to be vacant, the decision will be appealable by the concession holder.
- If, after additional public offering, a concession still remains vacant, DNR will look at the scores for all applicants for the concession area and offer the concession to the next highest eligible applicant.
- If none of the above results in finding an eligible concession holder, the concession will be re-offered at the next offering. If an eligible applicant is found and the vacant concession is awarded, the term for the permit will only be for the remainder of the original permit's term. If a concession becomes vacant with less than a year left on the original permit, the concession will be offered at the next regularly scheduled offering.

Transferability of a concession lease within the allowable parameters of the Alaska Constitution is crucial to the success of a concession program.

- This program will allow transfer of the remaining balance of a concession permit to a qualified guide with an approved operating plan.
- The main benefit of transferability to Alaska is to encourage guide business owners to operate high quality, modern businesses that are competitive with other landowner guide operations. In turn, these investments ensure a focus on wildlife conservation practices with a long-term goal of sustainability, allowing a guide to sell his or her business assets and transfer the remaining term of the land use concession.
- Secondly, it allows for new entry into the concession program by providing a means for guides to take over a business they may have mentored under for years or to step into the role of business owner for the first time.
- Elements for the agencies to consider when creating regulations for the program:
 - Provisions for emergency transfers if a guide is hurt, sick, or incapacitated.
 - Requests for transfers must be made in writing to DNR.
 - A permit can only be authorized to a natural person.
 - A transfer is subject to approval by DNR, who may consult with the BGCSB and AWT.
 - The criminal history of the transferee, especially relating to fish and wildlife violations, will be a primary consideration.
 - A permittee who transfers his/her privileges will not be eligible to be considered for competitively awarded permits for the same type of activity for a period of three years following the authorized transfer.
 - The transfer is part of a sale or disposition of the current permittee's entire business.
 - The current permittee was conducting the commercial operation under the concession lease for a minimum of 10 years.
 - Transfer can only be to other qualified persons that can demonstrate the ability to meet standards outlined in the competitive application upon which the existing permit was based.
 - The transferee must follow the operations plan of the original permittee. The transferee may modify the operations plan with the written consent of DNR in consult with ADFG, BOG, BGCSB as long as the change does not result in increased adverse impacts to state resources or other users.

- Upon timely approval of the transfer, DNR will issue the new permittee a permit for the remaining portion of the original permit term. DNR retains the right to restrict, suspend, revoke, or not renew the permit for failure to comply with its terms and conditions.
- Transfer of permit privileges issued under this paragraph in the case of death or disability of the permittee, subject to DNR approval. The workgroup recommends transfer to the spouse, including the ability of the spouse to contract with a qualified guide to carry out the remainder of the permitted activities.

Mapping was completed successfully in the 2013 GCP Framework Document. These maps and boundaries will be utilized by the advisory committee as a starting point. The BGCSB is responsible to establish guide use area boundary changes under regulation.

Transporters will not be included in the hunting guide concession program. Transporters provide valuable services to resident sport hunting enthusiasts. Limiting resident hunting opportunity is not in the purview of this workgroup nor its agenda. Furthermore, it is generally believed that with a reduction in the number of guides providing services in an area, air transportation services could begin to decrease naturally. The workgroup recommends DNR, BGCSB, and DFG continue to collect data regarding transporter services. When a concession area is instituted, this data will be critical in deciding what tools if any will be required for further wildlife management and land stewardship.

Enforcement will be responsibility of all agencies involved within their statutory authority. The Alaska Wildlife Troopers (AWT) are in the field during hunting seasons conducting in-person contacts. They understand the issues brought to the workgroup and believe concessions will be a tool that will benefit their ability to enforce wildlife regulations. AWT initial recommendations are that DNR will be granted authority to enforce violations and conditions of a lease which will empower AWT to ticket violators for same. DNR, AWT, and BGCSB will likely need additional statutory authority for enforcing concessions and continue to work closely together to ensure the concession operations are being conducted in Alaska's best interests.

Increased compliance communication between DNR and the BGCSB is recommended. Any guide/outfitter who provides services without land use authority is in violation of AS 08.54.720(4). A land use permit specific to guide-outfitter operations may benefit this process, especially in areas where a concession program has not been implemented.

NEXT STEPS FOR WORKGROUP – VERSION 1.6

- Revise further as needed, then adopt a final recommendation. Goal: October 2023
- Communicate the workgroup recommendation to agency heads and determine whether an agency will take the lead to move forward or serve as a consultant to a private entity who will advocate for this program in the legislature.
- Once the lead is established, identify who will draft the statutory authority required for all agencies involved.
- Identify what elements are best created as regulations, keeping in mind that the program may need to remain flexible and agile as circumstances change.

DRAFT