



Guide Concession Program (GCP) Workgroup

June 9, 2023, at 9:00 AM via Zoom

Members: Jason Bunch, Chair of the Big Game Commercial Services Board (BGCSB); Registered Guide; DCCED
Christy Colles, Division Director, Mining, Land, and Water; DNR
Rick Green, Special Assistant; DFG
Coke Wallace, Master Guide

Absent: Ted Spraker, Public Member

Facilitator: Sara Chambers, Boards and Regulations Advisor; DCCED

The meeting convened at 9:05 a.m. Many members of the public observed via Zoom.

Transferability Discussion

The group discussed the guidance provided to the agencies by Department of Law, which essentially stated that a concession (permit, lease, license) meets the Owsich test if it is competitive and has an end date when the existing permission would be reviewed and potentially renewed. If the new “owner” of the concession met the concession standards, it might have an advantage in the renewal process.

The legal review related to the constitutional question and not any specific concession/lease/permit process authorized in statute. The legislature could determine to make a concession non-transferable and, thus narrower, than what is constitutionally available.

Director Colles stated it would be clearest if statute set forth the authority for transferability and regulation clarified the terms or parameters of the transferability of any instrument used. She felt it would be cleanest if a concession was issued to a natural person since the individual, not the business, must be registered in the GUA and responsible for adhering to the laws.

Chairman Bunch outlined the U.S. Fish and Wildlife standards for their concession program, including aspects that might be beneficial to a state program and those that might not work. The group felt it would be important to prevent “insincere profiteering” in selling a concession because of the lack of public process, potential for exorbitant cost, and other possible restrictions on those who could compete.

Other ideas discussed included giving the new owner a one-time credit of the “experience points” of the previous owner when renewing the permit and accommodations for downscaling instead of short-term divestment. Mr. Wallace gave an example of how complete divestment would not be advisable when guides want to sell part of their business. Resource driven, not revenue, driven. The concession could be longer than existing permits in order to extend the time they are working under the initial term.

Public comment: Transferability

Mike Sciotti

Questions about whether the concession program is new or replacing the existing permitting scheme. Director Colles explained that there is no current proposal but a new program would have to work with the existing permit/lease program. Asked about transferability to spouses under the USFW program. Wanted the group to consider newer guides’ ability to enter the concession program, so criteria in addition to longevity should be considered.

Aaron Carter

Agrees that the program should be resource, not revenue, focused. Should be transferred to a natural person, not an entity. Should be a competitive process, not sold. If someone leaves a permit, is there a waiting period until a new permit can be issued?

Tim Booch

Has experience guiding on state land permits, as well as federal land. Concerned about what may happen if a death or health emergency occurs, placing the existing hunt contracts in jeopardy. Permits should be transferred to another non-contracting registered guide to fulfill the remaining contracts. Feels that DNR's existing permits and leases should be limited. How is the two-mile spatial separation being maintained by DNR? He has had permits issued right next to his camp. Director Colles mentioned that was a BGCSB limitation, not DNR's. DNR can't limit by location.

Allen Barrette

Would a concession discriminate against other permittees in the area, like trap-line cabins? Would that open a can of worms for other industries? Agrees this should be about resources and issue to natural persons. Would want to see public disclosure of contracts with corporations. Mr. Green said the statute would be specific to the kind of concession and not apply to all industries. Director Colles said that currently, any cabin transfer goes through DNR and is not a competitive process. He would not want to see an area locked up by a corporation for their own clients' exclusive use. Stated that his comments were his own.

Wayne Kubat

Would like to see a ten-year permit and include a right of first refusal clause if constitutionally allowed.

Hugh Krank

Was one of seven committee members on the first GCP proposal. Raised concern that the committee was meeting when many guides are not available. Preferred to meet only in the winter. If a guide unexpectedly passes away, how could the assets be transferred? For example, his wife is not a guide, but could she work to hire a guide to take over the business and assume the concession? Concerned about proposal process that favors guides who are not very polished or able to express themselves in writing. Could a guide who loses a bid on his own be able to assume the concession of another person? Does the BGCSB have the authority to limit the number of guides in a GUA? Can it stop approving GUA registrations until areas are less congested? Can proposals be provided to the public? Chair Bunch said that the board can't refuse to issue a permit if someone is qualified. He mentioned that the workgroup has been meeting since January. There is no current proposal under consideration.

Thor Stacey

Speaking on behalf of APHA, which submitted written comment, as well. Appreciated this discussion. APHA believes emergency transfer should be included for a short time to ensure obligations are met and not a hardship on the survivors. APHA has always understood that there is a narrow path to transfer a concession that needs clear-cut standards. APHA shares the concern about monetization and monopolization. The current fear is that without a program going forward, hunting issues will be managed by drawing permits, which is likely to mean Outside corporations will take over Alaska because they can hire many guides to apply for the draw. This has a hard impact on small businesses. APHA expects that a statute change will be required and would like to do that in concert with this committee. Appreciates the committee's work.

Sam Fejes

Was one of three guides who had an original 55-year lease. Appreciates the committee's work. Agrees with transfer only to a natural person. The top priority should be the resource, which may suffer if there is no concession program.

Willie Dvorak

Appreciates the committee's work since it is difficult. Ten years ago, the discussion was that the guide industry would not survive without a GCP—and here we are. The GCP is like a "Rube Goldberg machine." Instead of a new, complex concession program, a solution might be simply to limit the availability of tags through DFG. That keeps the focus on the resource. Reduces a lot of concerns.

Zach Decker

Is a lease or permit considered "real property" that could be used as collateral for a loan? Works under USFS permit system, which is different than the USFW system. There are some models for entities to assume concessions under USFW. Other considerations include insurance and other aspects that are done through the entity. Mr. Wallace acknowledged that there will be a lot of details and complexity when dealing with these issues. Canada is moving in the direction of corporate domination of the industry.

Joe Klutsch

Has a considerable background in this topic. Supports the APHA comments sent to the committee. Discussed the supreme court decision on Owsichuk and felt the 2013 GCP proposal was consistent with the decision. Spatial distribution of hunters is important. Does not want to see a draw system be the result. Concerned about who would be judging the prospectus process. Doesn't think the legislative process will be successful and believes DNR currently has the authority to implement a concession program. Appreciates the committee's work.

Mel Gillis

Agrees with Mr. Klutsch that the prospectus process should be reviewed by people who have the qualifications to do so. People should be able to protect their investments, which can take time. Should be resource-driven and issued to a natural person. Agrees with APHA comments. Appreciates so many people being part of the meeting, listening, and offering comments.

Upcoming meeting dates and topics

- Public comment on specific topics (9am -11am):
 - Friday, June 23: **Permit terms and fees** (# of applications that can be submitted, length of time, full vs. limited/number of assistant guides, number of concessions that can be awarded per guide, vacancies; application fees, per-client fees)
 - Thursday, June 29: **Application and award process; award evaluation panel; ties**
 - Thursday, July 6: **Mapping considerations**
 - Thursday, July 13: **Transporter considerations**
 - Thursday, July 20: **Wildlife considerations**
 - Thursday, July 27: **Enforcement considerations**

The meeting adjourned at 11:42a.m.

Comments, feedback, and ideas may be submitted to BigGameCommercialServicesBoard@Alaska.Gov. They will be forwarded to workgroup members ahead of the next upcoming meeting.