

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

BIG GAME COMMERCIAL SERVICES BOARD

**MINUTES OF MEETING
October 26, 2015**

By the authority of AS 08.01.070(2) and AS 08.86.030, and in compliance with the provisions of AS 44.62, Article 6, an executive session teleconference of the Big Game Commercial Services Board was held October 26, 2015.

The staff of the Division of Corporations, Business and Professional Licensing prepared these minutes. They were approved by the board during the December 7-10, 2015 meeting.

AGENDA ITEM 1 CALL TO ORDER/ROLL CALL

The meeting was called to order by Kelly Vrem, Chairman at 1:04pm. There was a quorum.

Board Members present:

Kelly Vrem, Master Guide-Outfitter
Tom Atkins, Transporter
Henry D. Tiffany IV, Master Guide-Outfitter
Michele Metz, Private Landowner
David Brown, Board of Game Representative
Karen Polley, Public Member
Brenda Rebne, Private Landowner
David Jones, Transporter
Gene Peltola, Public Member

Board staff present:

Cindy Hansen, Licensing Examiner

Harriet Milks, Department of Law
Lt. Paul Fussey, Department of Public Safety

AGENDA ITEM 2 APPROVAL OF THE AGENDA

On a motion duly made by Mr. Peltola, seconded by Ms. Polley and approved unanimously, the agenda was approved.

AGENDA ITEM 3 PACKER SUBCOMMITTEE UPDATE

Chairman Vrem explained the changes from the Department of Law with the subcommittee draft language and suggested taking out “unforeseen circumstances”. Mr. Tiffany IV agreed with the Chair that there wasn’t a quorum at the earlier meeting; however, those present and the troopers agreed to delete “unforeseen circumstances”. Henry stated Mr. Want had suggested that the language specify assistant *guides* to prevent, for example assistant *river rafting guides*. Ms. Rebne asked if the board could change the wording and get it out for public comment. Chairman Vrem stated the board has tacit approval to remove “unforeseen circumstance” and Mr. Want’s suggestion is not a substantial change so both would be acceptable. Mr. Brown stated he thinks it is wise to speak about it. Chairman Vrem stated it isn’t a deal-breaker if it doesn’t get in.

Chairman Vrem stated the fleshing part can be performed while the licensed guide is primarily in or near camp. Primarily means “for the most part”. If the registered guide takes a client to the airport or to another camp, fleshing can continue as long as the supervising guide is primarily present.

Ms. Polley stated it basically has that in the proposal. Chairman Vrem stated the reason he wanted it to be clear is because this is the scenario that the Troopers walked into when they found an unlicensed person fleshing a bear hide without the guide present. Ms. Rebne stated that unless the board defines “present” the issue won’t be solved. Ms. Tiffany IV stated a likely scenario is a packer who is being trained and has the basics but is slow. Fleshing is a slow process. If the hunter has shot a moose or brown bear, even if the packer has the basics of fleshing, it will still take him all day or even more than a day to finish the job. We need to address the supervising guide taking the client out to hunt for more game two miles from camp. He does not see that as a problem but the troopers do. If the supervising guide has to watch the fleshing of the hide then he might as well do it himself. Ms. Polley

stated she remembers the troopers talking about needing the exact number of feet to make this work. Ms. Atkins stated he agrees with the Chair and believes the board has beaten this horse to death. He believes “physically present” needs to be redone or someone will get cited. Chairman Vrem stated he spoke with Ms. Milks from Dept. of Law who agreed. He had pointed out to Ms. Milks that the contracting guide is ultimately responsible for the unlicensed person who could wreck the cape and she recognized that the guide isn’t just going to walk away unless there is some degree of supervision and because the guide is under some kind of warranty to take care of the trophy, that it would not be taken lightly. He believes this language supports it and the board should go on record stating that this would not be a problem. Mr. Atkins stated if a guide has shown the packer how to flesh a hide and leaves to take the client to the plane he is not sure if the troopers will agree. Chairman Vrem stated he thought the board had an agreement with the troopers.

AAG Ms. Milks and AST Lt. Fussey came online.

Chairman Vrem stated the board’s current proposal should permit a supervising licensed big game guide have an unlicensed person sitting in a spike or main camp working on a cape or hide without the supervising guide standing behind them. If the client is done with his hunt, can the guide fly the client to King Salmon while the unlicensed person continues to flesh the hide?

Mr. Brown stated he does not think it would or that it should. The board is defining the term “physically present” and he believes the legislature did not want unlicensed persons performing duties that require training. They can flesh the hide as long as the supervisor is physically present at or near camp. Fifty miles away in a plane isn’t present. The fleshing is supposed to be the licensed guide’s job. An unlicensed person can do the job only if the supervising guide is there. In his opinion the current language would not allow a guide to fly a client to King Salmon and should not.

Chairman Vrem stated the legislature did not address this and part b was a second effort. This has been an accepted practice that has been around since he has been in the business. It was common practice for the packers to also be the fleshers and back in the day they were called “skinners”. He would think the supervisor could be gone for an hour or two while the packer stays at the spike camp. It is an acceptable procedure as long as the packer is under the supervision of a licensed guide. Mr. Atkins stated he agrees with the Chair. Anyone who has had the privilege of sitting down with a bear hide knows it is a pretty boring job that may

take four or more hours. He does not think the guide needs to be there and if the guide is gone for an hour he does not think it's going to do any harm. The supervising guide should be able to leave orders such as leave the lips and ears alone. This has been done for ages. Ms. Polley asked Lt. Fussy for the AST interpretation of trying to develop a licensed training program and making certain it is done under the supervision of a licensed guide; how does AST view the scenario of "physically present"?

Lt. Fussy stated he understood there had been changes made to the proposed language. Ms. Polley stated the board had removed a redundant "unforeseen circumstances". She asked if "physically present" means that the licensed guide must be in or near camp. What does physically present mean in terms of a guide leaving the camp to continue guiding and how would the troopers interpret this.

Lt. Fussy stated his question remains the same as before-what does "primarily in or near camp" mean to the board. Does it mean a guide is at camp in the morning and gone the rest of the day with hunters? Does it mean the guide can leave the unlicensed person at the spike camp? Currently the proposed language is vague and there isn't a definition for "primarily in or near camp".

Ms. Polley asked if it would be much clearer, in his opinion, if the board stated the guide must be physically present with the unlicensed person. Lt. Fussy stated that it would be; however, obviously we want to have a clear and concise regulation that will also satisfy the guides so they can do their business. "Primarily in or near camp" means different things for different people. Ms. Rebne stated that all the examples have been for post guided hunts for trying to define "physically present". Could the board have specific language about performing post-guided tasks?

Ms. Milks stated those activities are defined as guiding activities so the work of the guide continues after the animal has been killed and even after the hunt. What we are trying to do is determine how many of those post hunt activities can be done by an unlicensed person rather than a licensed person.

Chairman Vrem stated there are two points that come to mind: # 1-we have ratcheted it up to become an assistant guide. Not long ago a person could become an assistant guide based on a recommendation of a guide. Because of public comments we have instituted a period of time that a person must be trained. On my way to obtaining my pilot's license I took many solo flights and made judgements on my own and gained confidence. The second point is that I can get a waiter at a small café in a nearby town to flesh a hide and the only pain will be to pay the person. I

want to get to the point where the board can discuss skills that an unlicensed person has to learn to become a confident guide. After basic instruction the only way an unlicensed person will get that is through repetition.

Ms. Rebne stated that as a bystander and not a guide she does not think that will be possible. It may mean that a licensed guide must be present during the training. The troopers want someone physically present. Mr. Jones stated that the preparation of trophies is defined as guiding and it is a service provided by the guide for the client which is denied to other people. When an unguided hunter returns from a hunt they will often say, "I have no idea how to cape this deer" and he thinks, "good luck. I can't do it because I'm not licensed". He does not want unlicensed persons to cape or flesh unless they are under direct supervision.

Ms. Polley moved that 12 AAC 75.130 (b) (c) with the removal of "If spoilage or loss of a trophy is believed to be likely," be public noticed for public comment with the intent of taking final action at the December meeting and Mr. Jones seconded it.

Discussion: Ms. Metz asked and Ms. Polley stated that "physically present" is defined as "in or near camp". In the past a trained person would take four to six hours to flesh the hide and the troopers want to be clear that the supervising guide must be physically present or near camp.

Ms. Milks stated that it is the board's decision to define physically present. The troopers may comment during the public comment period but ultimately it's going to be the board's decision. Mr. Atkins stated really it's the troopers because the board may decide but the troopers enforce the law and if they see it differently they will write a ticket. Ms. Milks stated that ultimately what the board needs to provide is clear language and yes, trooper input is very important to the board. Chairman Vrem stated his position has been all along that this is our board and our regulation and we do not have to accept all testimony; we can modify it. He would not be comfortable sending this out for public comment unless the board can make changes without starting over. Ms. Rebne stated she knows they have had a lot of discussion on what the intent of the board was because it wasn't spelled out in the language in our previous minutes. We have to be very clear in our minutes about our intent. Five years from now someone isn't going to know what our intent was unless we spell it out in this meeting. She would like to see that on the record so the troopers can look back.

Mr. Tiffany IV stated he agrees and believes we are close. He is not comfortable with the current "primarily in or near camp" but the intent must be clear so the

troopers understand. They won't take the time to look in the minutes so he does think the board will need to figure it out. Mr. Atkins stated the guides have been involved in this and would it be better to agree with what we have now and change it later on after public comment? Ms. Milks stated it is her understanding this proposed language will need to be public noticed so the board can adopt a regulation based on public comment of "in or near camp". If the board does nothing then nothing happens. You can't meet separately about language. You could come up with other proposed language. One could argue that the board could put it out and sees what comes back, perhaps with good comments and suggestions. Chairman Vrem stated the language "in or near camp" will need to remain in the proposal for public comment.

Ms. Milks stated the board needs to think about how to describe a temporary absence. "Physically present" is not very ambiguous but it also doesn't mean a guide may be gone for two days. Putting it out for public comment gives you time to describe the circumstances of someone who is not physically present but also not constantly looking over the shoulder of the unlicensed person.

Ms. Rebne stated she likes this direction and it is a move in the right direction. It is a reasonable explanation for the absence. She thinks the board should explore continuing down that road now so we have something that leads to a reasonable acceptable explanation about why the guide wasn't there. We should clarify a reasonable absence. Mr. Atkins stated he thinks we need to go with what we have and get that part legal and on the books and then work on this other part down the road.

Ms. Metz stated she is okay with putting this proposal out for public comment and can have time to work on it at the meeting. Mr. Peltola stated he supports putting it forward now and reserves the right to amend it based on what we might hear in public comments. Mr. Jones stated he supports it for being put out for public comment. Mr. Tiffany IV stated deleting the "unforeseen circumstance" section, he supports it too.

Upon a motion duly made by Ms. Polley, seconded by Mr. Jones and approved by roll call vote, it was:

RESOLVED that 12 AAC 75.130 (b) (c) with the removal of "If spoilage or loss of a trophy is believed to be likely," be public noticed for public comment with the intent of taking final action at the December meeting.

Roll Call Vote:

	APPROVE	DENY	ABSTAIN	ABSENT
Kelly Vrem	X			
Michele Metz	X			
David Brown	X			
Tom Atkins	X			
Henry D. Tiffany IV	X			
Karen Polley	X			
Brenda Rebne	X			
David Jones	X			
Gene Peltola	X			

AGENDA ITEM 4 PROPOSAL TO ESTABLISH TRANSPORTER USE AREAS

Mr. Atkins stated he wants to talk about this as a transporter and air taxi business. This proposal would be difficult for him because he is an on-demand operator. For example, if he receives a call in unit 19 for a hunt the next day and he is not registered in that area then he will not be able to take them. Most of his clients are guides and so this example is not necessarily for him as it is for other transporters who are also on-demand. He does not understand why the board is trying to establish this. If a business has a transporter license and is not reporting with their transporter activity reports, then they are breaking the law. This would be an enforcement issue. It would jeopardize what he could do as well as turn away other transporters. They will just go back to being air taxis without dealing with the TAR forms. He does not agree with this proposal. It is a revenue source and while there is probably a need for it and probably a need to control the transporters, the board has a lot of open cases on the books and they are not transporters. He does not think there are that many "problem" transporters.

Mr. Jones stated he agrees with Mr. Atkins. He is not clear what the board is trying to accomplish by creating use areas for transporters. He does not like more regulations and bureaucracy, which will cost more and add to our debt unless it's necessary. He does not see a screaming need for this proposal. The transporter

activity report form has a section that clearly requires the clients, area and big game information. There isn't any uncertainty. The proposal stated it will improve ADF&G, but the harvest ticket comes with a report that states when and where game was taken. ADF&G already receives information to manage the resource so he doesn't understand how this will benefit them. An unguided hunter just has another layer of expense to the transporter to take into the field. He does not agree that it will benefit the agencies; rather, he believes it is a slippery slope to add more bureaucracy and therefore cannot support it.

Mr. Tiffany IV stated he was not afraid to say what everyone knows; we are tasked with regulating big game guides and transporters. It has become clear over the last two years that the legislature and public have become concerned over the impact of transporters and air taxis with our resources. Basically the transporters and air taxes are unregulated and the legislature is tired of it. So he supports this. It lays a foundation the board can build upon. It can be argued that everyone will give up their transporter license and become an air taxi. That is their choice. The transporters have flown under the radar long enough and it has become clear to him from studies and legislative hearings that it only takes a few bad apples to spoil it for everyone and we have to address those few bad apples and the negative impact they have on our resources. He does not see anything particularly wrong with it. As Mr. Atkins alluded, it won't restrict anyone, they will only need to list all of the areas they will provide a service.

Mr. Atkins stated that the next step will be fees. He isn't dealing with \$25,000 brown bear hunts; he is dealing with smaller hunts. He will not register for every use area. He doesn't hear public outcry or legislators about problems with the transporter/air taxi industry. This is a revenue source. He has heard some guides complain. We compete with everyone in the industry with a super cub. It allows assistant guides to fly for registered guides. It is not just air taxis dropping off hunters; it is everyone including the assistant guides. There isn't any restriction on them at all.

Chairman Vrem stated he wants to table this at the December meeting. Mr. Tiffany IV stated he agrees with many of Mr. Atkins statements about an assistant guide flying all over the place. This proposal is also a revenue source and one of the things we are doing is balancing our debt, as unsavory as that is. Chairman Vrem stated that an assistant guide is only allowed to use his personal airplane. Ms. Rebne stated that she would support transporter use areas. She considers this as a member of the general public and what she has read. Nobody thinks of an air taxi or

transporter, they think it is a guide when they see a hunter getting out of an airplane or boat. She knows that because she thought like that before she joined the board. The guides are restricted to their three to four areas. This is a move in the right direction. The air taxis need to be reined in somehow. We don't have control over the air taxis but we do have some over the transporters and we should use that. We don't want to drive anyone out of business but we need to regulate them.

Upon a motion duly made by Mr. Peltola, seconded by Ms. Metz and approved by roll call vote, it was:

RESOLVED to table the PROPOSAL TO ESTABLISH TRANSPORTER USE AREAS until the December meeting.

Roll Call Vote:

	APPROVE	DENY	ABSTAIN	ABSENT
Kelly Vrem	X			
Michele Metz	X			
David Brown	X			
Tom Atkins	X			
Henry D. Tiffany IV	X			
Karen Polley	X			
Brenda Rebne	X			
David Jones	X			
Gene Peltola	X			

AGENDA ITEM 5 PUBLIC COMMENT

Chairman Vrem asked if anyone wanted to make a public comment. There was none.

AGENDA ITEM 6 EXECUTIVE SESSION

On a motion duly made by Ms. Polley, seconded by Ms. Metz and approved unanimously, it was

RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing confidential disciplinary matters for the purpose of discussing investigations and reports.

Staff member Ms. Hansen remained during executive session.

In the matter of the investigative review of Case No. 2011-000560

Ms. Polley moved to accept the surrender in Case No. 2011-000560 and Ms. Metz seconded.

Discussion: Mr. Tiffany IV stated this individual has voluntarily surrendered his license and he sees no reason to oppose that. Chairman Vrem concurred.

Upon a motion duly made by Ms. Polley, seconded by Ms. Metz and approved by roll call vote, it was:

RESOLVED to accept the surrender of Daniel J. Pepin A#7230.

Roll Call Vote:

	APPROVE	DENY	ABSTAIN	ABSENT
Kelly Vrem	X			
Michele Metz	X			
David Brown	X			
Tom Atkins	X			
Henry D. Tiffany IV	X			
Karen Polley	X			
Brenda Rebne	X			
David Jones	X			
Gene Peltola	X			

In the matter of the investigative review of Case No. 2015-001388

Ms. Polley moved to accept the consent agreement in Case No. 2015-001388 and Mr. Tiffany IV seconded.

Discussion: Mr. Jones stated he thinks the board should accept this consent agreement since this person had a difficult legal history, wants to become an assistant guide and is showing good faith with a consent agreement. Chairman Vrem agreed with this statement.

Upon a motion duly made by Ms. Polley, seconded by Mr. Tiffany IV and approved by roll call vote, it was:

RESOLVED to accept the consent agreement of Bradley D. Wheeler.

Roll Call Vote:

	APPROVE	DENY	ABSTAIN	ABSENT
Kelly Vrem	X			
Michele Metz	X			
David Brown	X			
Tom Atkins	X			
Henry D. Tiffany IV	X			
Karen Polley	X			
Brenda Rebne	X			
David Jones	X			
Gene Peltola	X			

In the matter of the investigative review of Case No. 2015-000595

Ms. Polley moved to accept the consent agreement in Case No. 2015-000595 and Mr. Tiffany IV seconded.

Discussion: Mr. Tiffany IV stated he will vote to accept the consent agreement. This is a case of less than professional paperwork and the individual will hopefully pay closer attention in the future. Ms. Polley stated she will also vote to accept the consent agreement because she believes it is more than paperwork; the meat and horns issue could have been another case.

Upon a motion duly made by Ms. Polley, seconded by Mr. Tiffany IV and approved by roll call vote, it was:

RESOLVED to accept the consent agreement of Travis L. Maxwell A#6670.

Roll Call Vote:

	APPROVE	DENY	ABSTAIN	ABSENT
Kelly Vrem	X			
Michele Metz	X			
David Brown	X			
Tom Atkins	X			
Henry D. Tiffany IV	X			
Karen Polley	X			
Brenda Rebne	X			
David Jones	X			
Gene Peltola	X			

In the matter of Case No. 2011-000143

Ms. Polley moved to hold the request to amend a consent agreement in Case No. 2015-000143 until the December meeting at which time we may have additional information from the respondent and investigations and Mr. Tiffany IV seconded.

Discussion: Mr. Atkins asked if the board will want to have the individual come forth at the December meeting. Chairman Vrem stated yes as well obtaining information from the investigations office. Mr. Atkins stated perhaps the board does not have to have the person there in person. Chairman Vrem stated the board should provide him with the opportunity.

Upon a motion duly made by Ms. Polley, seconded by Mr. Tiffany IV and approved by roll call vote, it was:

RESOLVED to hold the request to amend a consent agreement for Randall L. Quincy R#1180 until the December meeting.

Roll Call Vote:

	APPROVE	DENY	ABSTAIN	ABSENT
Kelly Vrem	X			
Michele Metz	X			
David Brown	X			
Tom Atkins	X			
Henry D. Tiffany IV	X			
Karen Polley	X			
Brenda Rebne	X			
David Jones	X			
Gene Peltola	X			

In the matter of the Challenged Exam Questions

Ms. Polley moved to direct the department to send a letter to the applicant challenging the exam about the option to retake the exam and provide available study materials and Mr. Tiffany IV seconded.

Discussion: There was unanimous agreement.

Upon a motion duly made by Ms. Polley, seconded by Mr. Tiffany IV and approved by roll call vote, it was:

RESOLVED to send a letter to the applicant challenging the exam about the option to retake the exam and provide available study materials.

Roll Call Vote:

	APPROVE	DENY	ABSTAIN	ABSENT
Kelly Vrem	X			
Michele Metz	X			
David Brown	X			
Tom Atkins	X			
Henry D. Tiffany IV	X			
Karen Polley	X			
Brenda Rebne	X			
David Jones	X			
Gene Peltola	X			

In the matter 12 AAC 235, 12 AAC 75.260, 12 AAC 75.130 and 12 AAC 340

Ms. Polley moved to public notice for public comment 12 AAC 235 for 90 days and 12AAC 75.260, 12 AAC 75.130 and 12 AAC 340 for 30 days and Mr. Peltola seconded.

Discussion: There was none.

Upon a motion duly made by Ms. Polley, seconded by Mr. Tiffany IV and approved by roll call vote, it was:

RESOLVED to public notice for public comment 12 AAC 235 for 90 days and 12AAC 75.260, 12 AAC 75.130 and 12 AAC 340 for 30 days.

Roll Call Vote:

	APPROVE	DENY	ABSTAIN	ABSENT
Kelly Vrem	X			
Michele Metz	X			
David Brown	X			
Tom Atkins	X			
Henry D. Tiffany IV	X			
Karen Polley	X			
Brenda Rebne	X			
David Jones	X			
Gene Peltola	X			

AGENDA ITEM 7 OLD BUSINESS

The Governor's Office Boards and Commissions

Ms. Polley stated the agency had solicited applications from board members and was because she has already been appointed for a term. She believes her applications should already be on file and will find out why the board has to do this again. Mr. Tiffany IV stated he supports her efforts. Mr. Atkins supports her query

as he had the same question and was told by Ms. Hansen to be safe and turn in his application again. Ms. Polley stated it should only be for those members whose term expires next year. Mr. Tiffany IV asked her to let the rest of them know before the deadline of November 1st and she agreed.

Board Audit Review

Chairman Vrem stated the review will be out soon.

Guide Seminars (Guide Standards subcommittee-Mr. Tiffany IV & Joe Want)

Mr. Tiffany IV had not had any communication with Mr. Want. He believes this is an important endeavor. Ms. Hansen explained that the investigations office wanted to know for future consent agreements. Mr. Tiffany IV stated that since the seminars are conducted by volunteers it would be premature to make it part of a consent agreement. Chairman Vrem stated he will talk with investigation about future seminars and give a report in December.

AGENDA ITEM 8 NEW BUSINESS

Board of Game Sheep Committee

Board of Game Liaison David Brown stated the BOG has created a working group for Dall sheep and since the Guides Association represents only 30% of the guides; the BOG decided a member of the BGCSB or a recommendation should be on the working group. Chairman Vrem stated he recommends a subcommittee of the two guides and two transporters on the board meet and present suggestions for possible names to attend the working group. Ms. Hansen advised the board of the public notice requirement for subcommittee meetings. Mr. Tiffany IV suggested that the Chair make the suggestion. Chairman Vrem agreed that he will do this quickly as there is a working group meeting next week. Mr. Brown pointed out this would be a recommendation to the BOG and needs to happen with the next two days. Chairman Vrem asked both transporter board members if they were interested. Mr. Jones stated his experience with transporting sheep hunters is very minimal. Mr.

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Atkins stated he will not volunteer but will support whoever the Chair decides.
Chairman Vrem stated he and Mr. Tiffany IV will decide and contact Ms. Tibbles.

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AGENDA ITEM 9 ADJOURNMENT

FEB 10 2016

CBPL

The Chair adjourned the meeting of the Alaska Big Game Guides and Commercial Services Board at 3:43pm.



Respectfully submitted:

Cindy Hansen, Licensing Examiner



Kelly Vrem, Chairperson

Big Game Commercial Services Board

Date: 2/10/16

Date: 1/29/16