

**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
January 21, 2011**

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, a scheduled meeting of the Big Game Commercial Services Board was held December 7-9, 2010 in Anchorage, Alaska, Coast International Inn.

Friday January 21, 2011

Item 1. Call to Order/Roll Call

The meeting of the Big Game Commercial Services Board was called to order by Paul Johnson, Chair at 9:30 a.m. Members present constituting a quorum were:

Paul Johnson, Registered Guide-Outfitter, Chair
Dirk Nickisch, Transporter
Leif Wilson, Transporter, Vice-Chair
Dick Rohrer, Registered Guide-Outfitter
Robert Mumford, Public Member
Raymond Stoney, Private landholder
Ted Spraker, Board of Game
Brenda Rebne, Private Landholder

Present from the Division of Corporations, Business and Professional Licensing were:

Karl Marx, Licensing Examiner
Cynthia Spencer, Licensing Examiner
Jun Maiquis, Regulations Specialist
Lee Strout, Investigations
Quinten Warren, Chief Investigator

Present from State and Federal Agencies were:

Clark Cox, Natural Resource Manager, Dept. of Natural Resources (DNR)
Dianna Leinsenger, DNR
Teri Moodey, DNR
Cliff Lars, DNR
Duncan Pervus, DNR
Lt. Bernard Chastain, Public Safety

Present from the public were:

Michael Spisak, Assistant Guide #6786 & Transporter #875
Michael Litzen, Master Guide-Outfitter #129
Tom Atkins, Registered Guide-Outfitter #727
Karen Polley, Public

Item 2. Review/Amend Agenda

Mr. Rohrer moved item .6 Board Statute Proposals up on the agenda to after 3. Ethics Disclosure.

Item 3. Ethics Disclosure

The Board had no ethics violations to report.

Item 6. Board Statute Proposals

Mr. Rohrer asked attendees to refer first to page 6 AS 08.54.720(a)(8)(A) and (B) then to page 7 AS 08.54.720(f)(2) which states that the court **shall** order the Board to suspend a guide license for (a)(8)-(14). He suggested moving (a)(8) to (f)(1) which states that the court **may** order the Board to suspend a guide license. Although this has not come up yet, as the statutes read now a guide could potentially be required to lose their license for one year for a regulation violation such as paperwork. Lt. Chastain stated that while this has not come up yet, a similar situation is where the impetus for the strict liability offences proposal. Lt. Chastain stated that the troopers have no problem moving this to "may" since this will give the court discretion although the violation would still be a misdemeanor.

Ms. Rebne phoned in and Mr. Johnson took a moment to brief her.

Lt. Chastain went on to say that this change to statute would help enforcement and the Department of Law by giving more flexibility to take action without having to suspend a license although suspension would still be an option for serious offenders. During discussion Mr. Rohrer stated that he does not feel that strict liability is not possible in the future too.

On a motion duly made by Mr. Rohrer, seconded by Mr. Nickisch, and approved unanimously, it was

RESOLVED to support moving (8) to AS 08.54.720(f)(1)

Roll Call Vote

NAME	YES	NO
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	

Dick Rohrer X
Dirk Nickisch X
Raymond Stoney X
Brenda Rebne X

THE MOTION PASSED BY A MAJORITY VOTE.

Item 4. Regulation Proposal/Review

Mapping Boundary Update Public Notice

Mr. Johnson introduced regulation specialist Jun Maiquis. Mr. Maiquis stated that he needs some sort of trail of which regulations the Board intends to amend. Ms. Spencer clarified that 12 AAC 75.235 is what needs to be changed and that 12 AAC 75.265 is what allows the Board to change mapping boundaries. Mr. Rohrer referred to the December 2010 list of boundaries to be considered for amendment. These are limited to a few DNR boundaries and to open the any US Fish & Wildlife Service boundaries as needed. Ms. Rebne asked to clarify that this was voted on to public notice at the December 2010 Board meeting and this is now just to clarify the intent. Mr. Maiquis offered to work with the staff to draft language, check this with Kevin Saxby, and e-mail it to Board members to make sure it is the way the Board wants it public noticed. Mr. Johnson asked to leave the wording broad.

Transporter GMU Registration 12 AAC 75.435

Mr. Marx explained that staff had drafted this proposed language based on existing GUA registration regulation but simplified to just GMUs. Mr. Wilson stated that the intent was only for marine transporters to register GMUs. Mr. Johnson stated that he does not see what registering GMUs for air transporters will accomplish. Mr. Rohrer stated that he has no problem with either wording for the public notice but intended it to be just marine based transporters. Ms. Rebne compared this proposal to previous attempts to have transporters register areas. Mr. Mumford stated that he was comfortable with either wording. Mr. Spraker agrees that marine transporters need to be looked at first but all transporters will eventually need to be looked at and he is concerned with just piecemealing this. Mr. Nickisch stated that he understood Mr. Spraker's concerns but would like to keep this worded as just marine for now. Ms. Rebne made a motion to notice it as written but there was no second. Mr. Wilson had questions about all permanent accommodations and vehicles used wording. "Marine" will be added to the wording.

12 AAC 75.435. Marine transporter use area registration. (a) The department will register an applicant in a game management unit (GMU) if the applicant meets the requirements of AS 08.54.750 and this section. For each game management unit for which a transporter is registering, the transporter shall submit the following information on a form provided by the department:

- (1) The applicant's transporter license number;
- (2) The game management unit for which the transporter is registering;

- (3) The location(s) of any permanent accommodations that the transporter may provide in that game management unit;
 - (4) Vehicle(s) registration and description;
 - (5) Whether registration is for a single calendar year or multiple calendar years
- (b) Unless it is issued for multiple calendar years, a game management unit registration issued under AS 08.54.750 and this section expires December 31 of each year. A registration for multiple calendar years expires on December 31 of the last year for which it is issued. To re-register, the transporter must again submit a complete application under (a) of this section.

Aircraft Ethics 12 AAC 75.340(d)(8) Revision

Mr. Johnson asked if anyone remembered the intent of the original wording to allow aircraft to be used in areas where more than one or more brown or grizzly bear could be taken in a regulatory year. He stated that apparently the wording was significantly changed during the legal review. Mr. Wilson clarified that the original wording will have to be public noticed again and emphasized to the legal reviewers.

“...avoid using an aircraft in any manner to spot big game for the purpose of taking a specific animal, unless specifically authorized to do so under other applicable laws, or spring brown bear, grizzly bear unit areas where more than one bear can be taken in a year.”

On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was

RESOLVED to public notice the original wording of 12 AAC 75.340(d)(8) again

Roll Call Vote

NAME	YES	NO
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	
Dick Rohrer	X	
Dirk Nickisch	X	
Raymond Stoney	X	
Brenda Rebne	X	

THE MOTION PASSED BY A MAJORITY VOTE.

Mr. Maiquis asked if all of these public notices could be combined into one project. Ms. Hondolero suggested that additional instructions for completing hunt records could also be included. Mr. Johnson agreed, seeing no objections, that one mailing to applicable licensees is approved.

DNR “permanent” camp & structure definition in 12 AAC 75.340(d)(7)

Mr. Johnson asked Mr. Cox what the DNR definition of permanent is. Basically DNR does not allow structures that they define as permanent which means any sort of foundation. Mr. Nickisch suggested that for the intent of the regulation any structure left standing for more than one year would qualify as permanent. After some discussion and concurrence, Mr. Johnson stated that this would be the Board policy for now and that it would be on the March 2011 agenda for further discussion.

Item 5. “Regulation Proposal Form” Review

Mr. Johnson asked if there was any opposition to using this form. Mr. Rohrer stated that he did not think that there was a problem proposing regulations before but had no problem with using this form.

Item 6. Board Statute Proposals (Continued)

Mr. Rohrer brought up AS 08.54.610(c) on page 3. Mr. Johnson explained in a recent court case that this statute was too vaguely written since it did not specify that the guide's assistant meant assistant guide so this needed added

(c) A registered guide-outfitter may contract to guide or outfit hunts for big game and may provide transportation services, personally or through an assistant **guide**, to big game hunters who are clients of the registered guide-outfitter.

Mr. Wilson led some discussion about how this could complicate guide and transporter operations. Mr. Johnson suggested that more information was needed before proceeding with this request.

Mr. Rohrer reminded the Board to delete AS 08.54.610(e)(1) on page 3 which required a contracting to be physically present in the field, in order to line up with recent regulatory changes.

Moral Turpitude. Mr. Johnson asked if the Board was still interested in pursuing a statute for moral turpitude, unprofessional conduct, or gross immorality. Mr. Johnson conducted an informal roll call:

NAME	YES	NO
Ted Spraker	X	
Dick Rohrer	X	
Dirk Nickisch	X	
Leif Wilson	X	
Bob Mumford	X	
Brenda Rebne	X	
Raymond Stoney	X	
Leif Wilson	X	
Paul Johnson	X	

Mr. Johnson asked if the Board was still interested in a retired guide license. There were no objections.

Mr. Johnson asked if the Board was still interested in a guide use area (GUA) registration fee. There were no objections.

Mr. Johnson asked if the Board was still interested in a statute to support charging enforcement agencies an access fee for the hunt record and transporter activity report data base. While Mr. Johnson was not certain that this was still necessary there were no objections.

Mr. Johnson asked if all Board members had had a chance to read Ralph Miller's letter suggesting removing "incidental" from AS 08.54.790(10)(B) which would require all air carriers to hold transporter licenses in order to fly big game hunters off airfields and on unscheduled flights.

After some discussion, the Board decided to hold this issue until a later time so as not to confuse other basically housekeeping changes. Mr. Johnson suggested coordinating with the wildlife troopers on advertising to help clean up some transporter problems in the near future.

Mr. Johnson asked about adding private lands to AS 08.54.750(d) which allows for a portion of a fourth guide use area registration only on federal lands at this time. There were no objections but Mr. Rohrer suggested that this statute needed other cleanup. Mr. Johnson suggested moving this statute to regulation to give the Board more ability to control registration of a fourth area.

Item 7. Correspondence

Mike Spisak had submitted a letter challenging the State of Alaska's jurisdiction over air taxis transporting big game hunters. Kevin Saxby has disagreed with this position. Mr. Spisak was invited to join the discussion. Mr. Wilson concurred that the Department of Law assured him that this is legal and enforcement.

Item 8. Investigative Report

Mr. Strout was joined by Mr. Warren and briefed that the new investigative system was not yet generating an investigative report but it should be ready by the scheduled march Board meeting.

Item 9. Application Reviews

1. Bill Bondietti dba Timberline Outfitters and Packers, Transporter Renewal without Yes answers
2. Chad Strand, Assistant guide applicant with Yes answer
3. Jim West, Portion of a 4th GUA Registration

After reviewing information provided by staff regarding the transporter license renewal for Bill D. Bondiotti, dba Timberline Outfitters and Packers the Board conducted a roll call vote.

Ms. Rebne stated that she did not receive this application to review. Mr. Rohrer questioned the use of "outfitter" in the business name. Mr. Johnson asked Mr. Strout to contact Mr. Bondiotti about continuing to use the term "outfitter" in his business name.

On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was

RESOLVED to approve the application for licensure renewal as an Transporter for Bill D. Bondiotti dba Timberline Outfitters and Packers
Roll Call Vote

NAME	YES	NO
Leif Wilson	X	
Brenda Rebne		ABSTAIN
Paul Johnson	X	
Bob Mumford	X	
Dick Rohrer	X	
Ted Spraker	X	
Raymond Stoney	X	
Dirk Nickisch	X	

THE MOTION PASSED BY A MAJORITY VOTE.

After reviewing information provided by staff regarding Chad Strand's application for an assistant guide license the Board conducted a roll call vote.

Mr. Wilson stated that as far as he could tell Mr. Strand qualifies. Mr. Mumford stated that he does not see where the Board has any reason to deny this application.

On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was

RESOLVED to approve the application for assistant guide for Chad Strand
Roll Call Vote

NAME	YES	NO
Raymond Stoney	X	
Leif Wilson	X	
Brenda Rebne	X	
Dirk Nickisch	X	
Paul Johnson	X	

Bob Mumford	X
Dick Rohrer	X
Ted Spraker	X

THE MOTION PASSED BY A MAJORITY VOTE.

After reviewing information provided by staff regarding Jim West's ongoing registration of a portion of a 4th guide use area the Board conducted a roll call vote.

Mr. Rohrer stated that 13-07 does not meet the requirement as a 4th area unless the applicant was already registered in 6-02, which he does not. Ms. Spencer stated that she has had no written response to her letters. Ms. Spencer stated that she would be forwarding this to the investigative staff.

On a motion duly made by Mr. Rohrer, seconded by Ms. Rebne, and approved unanimously, it was

RESOLVED to deny the registration of a portion of a 4th guide use area for Jim West.

Roll Call Vote

NAME	YES	NO
Paul Johnson	X	
Bob Mumford	X	
Dick Rohrer	X	
Ted Spraker	X	
Raymond Stoney	X	
Dirk Nickisch	X	
Leif Wilson	X	
Brenda Rebne	X	

THE MOTION PASSED BY A MAJORITY VOTE.

Item 10. Board Discussion

A. Red Flag Resolution (MOA)

Mr. Wilson drove to a scoping meeting 1/12/11 concerning the US Air Force Red Flag training exercises. This series of seasonal low altitude training flights could have a serious impact on hunting north of Glennallen. He stated that AOPA is also concerned about the impact of this level of military operations on the Delta Controlled Use Area. The website is <http://www.jparceis.com/>

On a motion duly made by Mr. Nickisch, seconded by Mr. Spraker, and approved unanimously, it was

RESOLVED for Mr. Wilson to write a letter on the Board's behalf concerning the Red Flag Memorandum of Agreement to be mailed to all pertinent parties.

Roll Call Vote

NAME	YES	NO
Dick Rohrer	X	
Ted Spraker	X	
Dirk Nickisch	X	
Raymond Stoney	X	
Leif Wilson	X	
Brenda Rebne	X	
Paul Johnson	X	
Bob Mumford	X	

THE MOTION PASSED BY A MAJORITY VOTE.

B. Incomplete hunt records and transporter activity reports

Mr. Johnson stated that so many hunt records are being returned as incomplete, often due to confusion over the communication date, that the data base entry has a huge backlog. Mr. Rohrer stated that they should just be entered if only dates are incorrect and try to make future forms easier to use. He suggested changing dates client in the field be changed to dates client hunted. Ms. Spencer asked if these incorrect dates should be pointed out if the hunt records are being returned for other errors. Mr. Rohrer stated that he does not care about dates. Mr. Johnson asked if there were any objections. There were no objections.

C. Tentative Board Meeting Dates

Mr. Johnson asked if any Board member had scheduling conflicts with December 6-8, 2011 for the Anchorage Board meeting probably at the Coast International Inn again. There were no objections.

Ms. Spencer asked if any Board members had travel dates yet for the March 2011 Board meeting and if so please contact her after the meeting.

On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was

RESOLVED to adjourn into Executive Session under the authority of AS 44.62.310(c)(2) and (3), to hear consent agreements.

Roll Call Vote

NAME	YES	NO
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Dirk Nickisch	X
Ted Spraker	X
Raymond Stoney	X
Leif Wilson	X
Brenda Rebne	X
Paul Johnson	X
Bob Mumford	X
Dick Rohrer	X

THE MOTION PASSED BY A MAJORITY VOTE.

11:24 a.m. the Board returned from executive session.

Item 9. Application Reviews (Continued)

After reviewing information provided by staff regarding case #2010-001211 the Board conducted a roll call vote.

On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was

RESOLVED to accept the Patrick Wheeler consent agreement #2010-001211

Roll Call Vote

NAME	YES	NO
Ted Spraker	X	
Dirk Nickisch	X	
Raymond Stoney	X	
Leif Wilson	X	
Brenda Rebne	X	
Paul Johnson	X	
Bob Mumford	X	
Dick Rohrer	X	

THE MOTION PASSED BY A MAJORITY VOTE.

After reviewing information provided by staff regarding case #1700-08-036 the Board conducted a roll call vote.

On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was

RESOLVED to approve the Tony Eugene Dingess consent agreement #1700-08-036.

Roll Call Vote

NAME	YES	NO
Raymond Stoney	X	
Leif Wilson	X	
Brenda Rebne	X	
Dirk Nickisch	X	
Paul Johnson	X	
Bob Mumford	X	
Dick Rohrer	X	
Ted Spraker	X	

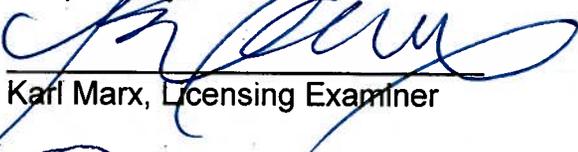
THE MOTION PASSED BY A MAJORITY VOTE.

Mr. Johnson asked if there was any further Board business. Mr. Mumford asked if he should send a copy of the proposed MOA with federal land holders eliminating fines of less than \$501.00 from prospectus bid considerations to other Board members and staff. Mr. Johnson stated that this would be good and the Board still supports this.

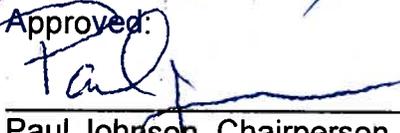
Ms. Rebne moved to adjourn seconded by Mr. Spraker.

The Board adjourned at 11:30 a.m.

Respectfully submitted,


Karl Marx, Licensing Examiner

Approved:


Paul Johnson, Chairperson
Big Game Commercial Services Board

Date: 3-16-11