

CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS
ALASKA STATE LANDS ADVISORY GROUP
AUGUST 8, 2016 | TELECONFERENCE

DRAFT MEETING MINUTES

10:17am – Call to Order

Members Present – Stan Leaphart, Ray Kreig, John Crowther, Scott Ogan, Bill Satterberg, JP Tangen, Mead Treadwell

Also on the line – Rod Arno, Warren Olson, Representative David Talerico + staff, Susan Smith, Cameron Eggers, Bill Horn, Chad Hutchison, Charlie Lean, Ron Somerville, Sara Taylor

Due to transposed numbers in the meeting notices, callers joined throughout the teleconference

PROPOSED MEETING AGENDA

10:00am – Roll Call; Opening Comments; Approve Meeting Minutes
10:15am – Budget Update; Action Item Review (Sara)
10:30am – Draft Outline Discussion
12:00pm – Case Study Assignments
12:30pm – Public Participation
01:00pm – Closing Comments; Adjourn

10:17am – Budget Update; Action Item Review

Set aside pending Sara Taylor joining the call

DRAFT OUTLINE DISCUSSION – Bill Horn

[Brief overview of the draft outline]

Mead Treadwell – [question]

Bill Horn – a petition has standing under the Administrative Procedure Act (petition for changing rules, where things have to change). Coast Guard example, petition for rulemaking filed by a group of lodges. If agencies blow you off a court can compel them to respond in a substantive manner. IBLA is a different “intermediate court.”

Mead Treadwell – specify which petitions for rulemaking would apply under Administrative Procedure Act.

Bill Horn – US Fish and Wildlife Service and National Park Service usurping of state primacy on fish and game.

Scott Ogan – can CACFA could do the petition itself?

Stan Leaphart – CACFA has the statutory capability to file a petition.
Sara Taylor will send CACFA legislation to Bill Horn

Bill Satterberg – I have a five-page paper on disobedience aspects that I will send out this afternoon.

Bill Horn – I feel most comfortable addressing broken promises. When it gets to political tactics, may not want to be discussed at-length in the document. Some of these things can be included in a cover note transmitting to CACFA and the Governor/Legislature.

JP Tangen – to the extent this constitutes a petition, follow form for legislation/litigation/rulemaking.

Bill Horn – our thought is that putting legislation in there is a good idea.

JP Tangen – changes in statute need to be in there. Maybe even a constitutional amendment.

Bill Horn – tell us what we are asking for vis-à-vis BLM/Forest Service/USFWS.

Scott Ogan – go for all but military lands and national parks but maintain navigable waterways, rights of way RS2477, fish and wildlife on all lands.

JP Tangen – Alaska has four parks not appropriate for the National Park System; low visitor counts, etc. Possibility of Service surrendering some of their lands should be on the table.

Bill Horn – the draft outline is predicated on primarily BLM and maybe USFS; NPS/Refuges/Wild and Scenic Rivers was maybe a bargain struck in ANILCA. Political probabilities diminish.

JP Tangen – don't give up on submerged lands.

Bill Horn – ANILCA Section 103(c)/Sturgeon case is all about that. RS2477 was solved as large federal units were “subject to valid existing rights.” Subsequent disregard of these clauses has caused the problem.

Mead Treadwell – four-part hierarchy: big bite on BLM/USFS/some NPS and USFWS; respect for conservation units; validation of RS2477 state rights of way, navigable waters, 90-10 trust relationship, management of fish and wildlife, no-more clause and other ANILCA promises; state consent power on management plans, whatever happens.

Ray Kreig – don't exempt NPS and USFWS as it hurts us with equal protection arguments etc. Obviously parts of the National Park System are National Park Service-level lands we should keep as national parks. Are we with Utah or not?

Bill Horn – four-part guidance is good for now. State law may need to be addressed vis-à-vis the Governor's prerogatives and the Compact.

Mead Treadwell spoke about trust relationship in 90-10. Used Mental Health Trust, Indian Trust, Educational Trust rights of beneficiaries as an example.

Scott Ogan spoke about no-more clause.

Mead Treadwell asked Rod Arno re Statehood Fish and Game.

Rod Arno – Alaska and 49 other states should maintain full control. No compromise.

Charlie Lean – joins Rod and concerned about duties of Alaska Land Use Council. No interference with allocations on Land Use Council.

Bill Horn – part of the option is to pick up what is going on with other states. Need affirmative declaration of state primacy.

Ron Somerville – the ESA and ANILCA have been so distorted by the courts as to give more power to the agencies. Need to make sure we support efforts elsewhere. We have to assert state primacy, only going to get worse if tribal governments get primacy, also. Some of the things happening on wildlife will happen on fisheries.

Warren Olson – I see a situation of whichever administration coming on board having no funds, money, staff – state has to assume and take responsibilities. If Mr. Horn can give us a clue on impact of the debt, deficit and effects, that would be good.

Bill Horn – as these funding issues have gotten tougher, ironically, partnership with the states have gotten weaker, aggrandizement of federal authority has gotten stronger. There are ways to include that in the discussion.

JP Tangen asked to include some broad economics in his outline.

Rod Arno – wholeheartedly agree. Regarding what is happening in GMU23, as much as we want to say that economics plays into that on subsistence, we need to look at a conversation on the effects on guides and the local economy. Do we say “adhere to ANILCA” or “repeal and start over.” We’re not seeing Refuge Improvement Act finalized.

Question of what to recommend in State law. We suggested it be handled two ways – transition/cover memo with this petition, and a section in the petition showing how the State was putting its own house in order.

Bill Horn – the indictment section will all have mechanisms for Administrative Procedure Act.

BUDGET UPDATE – John Crowther

Department of Natural Resources planning on how we go forward for next year is ongoing. Sue Magee is still on staff as the Statewide ANILCA Coordinator. We will work to protect that funding. It is getting pretty lean at the Department, funding in Sara Longan’s section is largely project-dependent.

ACTION ITEMS

1. Communication with Governor re: budget
2. Final rulemaking at USFWS and NPS – recommend APA petition and confrontation. Scott Ogan thinks IBLA case might be made. Any and all means necessary to challenge this decision.
3. Bill Satterberg, carrying on in Dick Randolph’s position, will find a confrontation approach.
4. Mead Treadwell will send a draft letter around.
5. Check on Land Use Council legislation, wildlife and the statehood compact.

12:05pm – *Sara Taylor joins meeting*

Warren Olson – Any communications about sovereign issues, should try to get amicus from other fish and wildlife agencies.

Bill Horn – Others are hoping the State will file suit in this case. A significant number of fish and wildlife agencies will support. Point person is Carol Bambery, General Counsel at the Association of Fish and Wildlife Agencies.

CASE STUDY ASSIGNMENTS – Sara Taylor

Concept was to have thumbnails on particular topics related to or that could be impacted by the transfer of lands/authorities which required and deserved further study. Bringing expertise of the membership to bear on providing drafts to the contractor. Potential topics include: RS 2477s, Firefighting, NPR-A, Wildlife Management, Mining, Large Project Approvals, Timber. Have drafts of 700-1000 words for review by early next week.

JP Tangen to consider case study on mining

Warren Olson to draft case study on the recent Mosquito Fork lawsuit, with notes on the Gulkana case

12:30pm – Public Participation

No one on the line asking to provide testimony

BUDGET UPDATE; ACTION ITEM REVIEW – Sara Taylor

There is money left over in CACFA's legislative appropriation, about \$60K including the \$32K ASLAG had left to spend out of the \$50K allocated to the group at our June 2015 meeting. The Executive Committee voted to spend this remainder to allow CACFA to operate through our October meeting (which includes keeping me on and funding meeting expenses, like teleconference fees and publication of notices). It does not include travel, but if there is sufficient money left over in October, some travel could be provided for, though travel also must be approved by the State. There will still need to be money to pay for meetings after October, as well, since the group will need to accept, discuss and review the draft report in December and early next year. No one has asked for my resignation yet, which could happen anytime, but I plan to be around through the October meeting, and I will pass on instructions to someone at DNR to facilitate meetings of the membership after that.

Mead Treadwell – if there were funds, could you still be available?

Sara Taylor – absolutely, there is nothing else I would rather be doing. I have been trying to figure out ways to keep CACFA funded. Joe Balash reminded me of a way we used to fund the Nav Team, which was a joint team with Departments of Law, Natural Resources and Fish & Game. Money from the legislature would be given to the group through LB&A. I investigated that route with some of my contacts and it is a possibility, in the sense that it worked for the Nav Team and its efforts (Scott might remember something about this), but it feels like it was something we might have needed to put into place a couple months ago.

Scott Ogan – the PAAD unit used to be funded this way, and I remember having to send frequent reports to LB&A to document our efforts and outcomes. It was decided it would be better just to have PAAD be funded directly through the Department of Natural Resources.

Sara Taylor – only remaining “Action Item” is an old one, for me, to develop a memo on the “no more” clauses in ANILCA. Is that still something the group would like to have?

Mead Treadwell – yes, we had some significant discussion on it today.

12:45pm – Set Next Meeting Date

Sara Taylor – the next CACFA meeting is October 28 and 29. No ASLAG meeting is scheduled around that date. If we meet in September, when the draft report is due, I will need to know soon to be able to public notice the meeting 30-days in advance.

Bill Horn – the draft report could be sent in batches for review, as portions are completed.

Sara Taylor and Cameron Eggers to discuss and distribute possible meeting dates to the membership

12:50pm – Closing Comments

Ray Kreig – want to be very clear and unmistakable about transferring national parks to the State. Possible case study on how the State of Alaska can do a better job in managing parks while maintaining appropriate protections. No ASLAG/CACFA members are in favor of a wholesale vacation of National Park-level environmental protections. States have been pioneers of creating protected areas. New York led with Catskills and Adirondacks; Alaska led with Wood-Tikchik State Park. Problem lies in national parks destroying communities, like the family mining community in Kantishna. That destruction has impoverished the Denali Park visitor experience needlessly.

Rod Arno – appreciate this discussion. As far as funding for CACFA, a couple of concerns. After talking to the Governor on Friday, there could be a partial funding of CACFA, stressed the importance of at least keeping the Executive Director employed by the State. The amount of money cut made no real difference to the state budget, was politically inspired. Outcry from the public, some people are willing to donate to support CACFA, but no sense trying to get funding without the Governor supporting the cooperation of the state agencies.

Stan Leaphart – be sure to check out the 1800+ page Eastern Interior Resource Management Plan.
Sara Taylor will distribute the link

12:55pm – Adjourn