

**APPROVED MEETING MINUTES**  
CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS  
MAY 31 & JUNE 1, 2012  
LEGISLATIVE INFORMATION OFFICE  
1292 SADLER WAY, SUITE 308  
FAIRBANKS, ALASKA

**THURSDAY, MAY 31, 2012**

**CALL TO ORDER**

Chairman Keller called to meeting to order at 1:00 p.m.

**ROLL CALL**

Leaphart called the roll at 1:00 p.m. with the following members present: Rod Arno, Mark Fish, Representative Wes Keller, Charlie Lean, Senator Menard, Warren Olson, Colleen Richards (joined the meeting at 2:40 p.m.), Susan Smith, and Ron Somerville. Mike Meekin, Alex Tarnai and Franks Woods were unable to attend.

Commission staff in attendance: Executive Director, Stan Leaphart, Assistant, Karrie Improte.

Others in attendance: and three members of the public: Mr. Christopher Estes, Guest Speaker; Catherine Richardson; Ernest Prax, Representative Keller's staff; and Sue Magee from the ANICLA Program.

**AGENDA**

Motion to accept the agenda Commission Arno; second Senator Menard; agenda approved at 1:02pm.

**MINUTES**

Motion to approve the minutes with corrections, Senator Menard, second Commissioner Somerville; minutes from February 24 & 25, 2012 meeting approved at 1:03 p.m.

**COMMUNICATIONS**

**1:07 p.m. From the Executive Director –**

**Leaphart** reviewed the following items in the meeting packet mailed prior to the meeting:

A letter dated January 26, 2012 from Rick Obernesser, Superintendent of the Wrangell-St. Elias National Park and Preserve addressed to Mr. Stan Leaphart and the Commission thanked the Commission for its comments on the Nabesna Off-Road Vehicle Management Plan and Final Environmental Impact Statement and proceeded to address the major points raised by the Commission in its comments dated September 30, 2011. The letter also included a copy of the Record of Decision signed National Park Service.

**Leaphart** – This is the National Park Services response to our comments. By the time of our letter they hadn't signed the Record of Decision. The response speaks for itself

**Commissioner Somerville** – We should do something now

**Commissioner Arno** – It's been three years since the lawsuit A letter needs to go to the Attorney General and the Governor to NOT let this stand if implemented this summer. It's atrocious.

**Leaphart** – We have laughed about this, the response about...a reliable area transporter provides service for \$600 - \$1000 per person pick up/ drop off per hunting trip approximately 1/8 the cost of a Honda Four Tracks Foreman. Implying, I guess that you are going to use it once and then throw it away. It's an absurd response and I honestly can't believe they put that in writing.

After our meeting in February but he ANILCA Program staff, the folks from Fish and Game, DNR, DOL, all that participate in putting together the State original comments on the draft and then the protest letter on the final got together and there doesn't seem to be a lot of options available at this point but we have all agreed to keep looking at possible solutions to addressing this maybe in a legal arena. The Department of Law was really clear if there was a cause for action. It is a decision yet to be made as to what the State next action will be.

**Commissioner Arno** - This is unfortunate that that is the case. I would have liked to have seen what the response was back from the State's team. How does something raise to the level of the AG's office clearly, restricting subsistence uses in the Preserve is one of the original things in ANILCA. Is the AG's office going to say, hey we'll look at this later, the precedent has been set. Is there a Statute of Limitations? Just letting it drop is unfortunate.

**Leaphart** - I don't think it's fair to say they are letting it drop. There are, like every thing else we do we operate from deadlines; there are other deadlines that have to be met while this has no critical time crunch. If there is a Statute of limitation, we are well short of that. Everyone is still trying to find out which avenues are available.

**Representative Keller** - Is it worth one more response to the response? We are still documenting the grievance for the record.

**Commissioner Smith** - I agree with that. I think that it seem the legal arena is looking for some perfect case with some violations that are...this is it to me. Establishing a new re-route for a trail and then calling it new trails and then calling it, saying that traditional uses don't apply. That's new. If we continue to allow violations of ANILCA fly by like this it is setting a precedent. We can just see our rights slipping away.

**Commissioner Somerville** - There are other ways to impact this issue. Maybe we can take this back to our delegation.

**Representative Keller** - Will it make any difference to wait to the next meeting.

**Commissioner Somerville** - If this is going to go into effect. I would like to file something

**Commissioner Smith** - It's not very helpful when the Superintendent answers questions with quotes from the ROD. Quoting what the document says, twisting the question, I don't think the document is legitimate.

**Commissioner Olson** - Has AOC been involved for how long?

**Commissioner Arno** - Since the lawsuit, we intervened in that.

**Commissioner Olson** - We've been involved since the lawsuit and this is the outcome of three years. All I want to do is exhaust avenues and push this to the people who can move it down the road. All I'm asking is prior to asking the AG to take action are the I's dotting and the t's crossed?

**Representative Keller** - Commissioner's, are you saying that we should do something now?

**Commissioner Arno** - It is reflected in the minutes to have the Ag comes back to us and we haven't seen anything from the AG's office. This letter's needs to go to the Governor and the AG's office and say that we've exhausted all these avenues, that the ROD has been signed and these responses in here are terrible. To let these stand it needs to be stopped quick. If it needs a motion, I think we should have a motion for Stan to take action.

**Representative Keller** - Does anyone have an objection?

**Commissioner Somerville** – I don't think it would have to be elaborate, I think it needs to illustrate it's a pattern. (Inaudible) ... They are the ones who can change those patterns. Otherwise it's just going to the courts. I do feel our delegation can put more pressure on this but also change the way they are approaching their management.

**Commissioner Arno** - Writing to the AG and cc-ing the Delegation I think is our best bet. We talked to them three years ago and the budget was slashed. That's their biggest hammer.

**Representative Keller** - Stan, advise us. Do you have enough?

**Leaphart** - I can put a letter together, no problem. I can check with the DOL before I do that. Again it is not a huge priority issue (for them). They have a lot of stuff on their plate right now. Now my understanding is that this summer they are going to do some trail work out their. The letter lists some projects they are going to do and they involve motorized trails. I'll send something around for everyone to review. Honestly, some conversations I've had with agency folks they have had as much trouble selling the preferred alternative I the draft with his own agency people as with the Plaintiffs in the lawsuit. It was very difficult and there was a lot of internal opposition with that preferred alternative.

#### **Communications (continued)**

**Leaphart** - Correspondence to Harris Sherman, Under Secretary, USDA Forest Service dated March 5, 2012 offering comments on the proposed final regulations for the National Forest System Land Management Planning found in Appendix I of the Final Programmatic Environmental Impact Statement stating that the regulations themselves violate key provisions of ANILCA.

Ruth Monahan, Deputy Regional Forester came to speak with us in Juneau and she agreed to take our concerns back to Washington D.C. and she did. They acknowledged receiving the comments but there were no changes to the Environmental Impact Statement or the Record of Decision.

A letter dated March 8, 2012 to the Division of Policy and Directives Management for the US Fish and Wildlife Service in Virginia regarding the Commissions comment on the Draft Policy in the interpretation of the phrase "Significant Portion of its Range" in the Endangered Species Act. The Commission agrees with the portion of the policy that states if a species is not endangered or threatened throughout all of its range but is endangered or threatened within a significant portion of its range and the population is a valid distinct population segment, then the distinct population segment will be listed rather than the entire species or subspecies. This a letter sent after the topic was discussed at our Juneau meeting. At this time the policy has not been finalized.

A certified letter dated March 28, 2012 to the Commission from Edwin L. Robinson, Assistant Director with the Renewable Resources and Planning Division of the BLM in Washington, in response to the Commissions formal appeal protest letter regarding the Delta River Special Recreation Management Area Plan and East Alaska Resource Management Plan Amendment. The purpose of the letter was to inform the Commission of the results of his review concluding the Glennallen office of the BLM followed applicable laws, regulations and policies and considered all relevant resource information and public input in developing the Plan and that there is no basis to change the Plan as a result of the Commissions protest.

We asked for an extension of the public comment period they extended the 30-day public review to 45-days; we requested public meetings in the area and there were none but they did meet in Paxon. We also protested their interpretation of ANILCA. There were only two protests, us and the State. There is a consistency review appeal.

**Sue Magee** – There is also an appeal to ABMA.

**Leaphart** – On April 11, 2012, a letter from the Commission to Mr. Steve Hoover, of the Alaska Federal Lands Long Range Transportation Plan with comments regarding the document specifically the Plans lack of consistent goals, the Plans lack of citing relevant provisions of ANILCA, inaccurate asset inventories, the absence of inland barge traffic and RS2477.

Correspondence to Ms. Carol Goularte, District Ranger on the Sitka Ranger District dated April 6, 2012 regarding the Commissions review of the Environmental Assessment for the White Sulphur Springs Bathhouse. The Commission, along with the other appellants, withdrew their appeals when the Forest Service agreed to defer any decision involving removal of the bathhouse until additional information was gathered from the public on the sites historical, traditional and cultural use. The Commission supports the proposed action to replace the bathhouse including the soaking pool and holding tank used to fill the pool and state that these actions are consistent with and permissible under both ANILCA, the Wilderness Act of 1964 and Congressional intent with regard to management of wilderness areas in Alaska.

The remainder of communication from the Executive Director are delayed until after the following presentation.

## **AGENCY REPORTS**

### **2:00 p.m. - Ms. Lenore Hepler, Eastern Interior Draft Resource Management Plan and Environmental Impact Statement, BLM-Alaska;**

(Handout, Maps and Power Point presentation)

Referring to the Power Point presentation throughout the discussion

The Eastern Interior Draft Resource Management Plan/ Environmental Impact Statement Planning Area is 30 million acres in size, 6,733,000 acres managed by the BLM. There are 4 Subunits: the White Mountains Subunit is 1,020,000 acres and includes the White Mountains Nat'l Recreation Area and the Beaver Creek National Wild River. The Steese Subunit is 1,275,000 acres in size and includes the Steese National Conservation Area and Birch Creek National Wild River. The Upper Black River Subunit is 2,361,000 acres; and the Fortymile Subunit is 2,100,000 acres and includes the Fortymile National Wild & Scenic River.

In the required planning steps for this document we are currently within the public comments period which is supposed to be 90-day but we have extended it to 150-days for the draft RMP.

The types of decisions the Plan will make includes: Land allocations by determining which lands will be available for mining, for disposal, for rights-of-way. The Plan will outline resource management objectives such as for natural and cultural resources such as vegetation, soil, and water; the Plan will decide what restrictions will be laced on allowable uses such as off-road vehicles designations and required operating procedures for land use activities; and make special designations such as determine which areas should be designated as 'Areas of Critical Environmental Concern', or as suitable for wild or scenic river designation. The ultimate goal is to have a mix of allowable uses and protective measures that: meets the needs of the American Public; are consistent as possible with state, local and tribal government plans and policies; and meet the mandates provided by Congress, such as; ANILCA designations, subsistence uses and access; the Federal Land Management Policy Act, multiple-use and sustained yield mandate; BLM regulations (43 CFR); reflects the direction given to us by the Courts on how to interpret these laws, and reflects BLM Policy.

The EIRMP Alternatives are discussed in Chapter 2 of Draft Plan. Alternative A proposed to continue Current Management Practices and is our no action alternative. Alternative B emphasizes the protection of

resource values. Alternative C provides for a moderate level of resource protection and resource development, this is the Agency's preferred alternative. Alternative D emphasizes resource development such as mining. The key Issue is 'Areas of Critical Environmental Concern' which is criteria from 43 CFR 1610) (1). An area is of critical environmental concern based on relevance, such as if it has a significant historic, cultural, or scenic value; a fish or wildlife resource or natural system or process; Importance or the relevant feature shall have substantial significance and values. An area generally requires qualities of more than local significance and special worth, consequence, meaning, distinctiveness, or cause for concern.

The Draft Plan also discusses Withdrawals or the closing of lands to staking of new mining activity, the entire area is closed to mineral entry. Under the authority of ANCSA the Secretary of the Interior has closed almost all of the planning area to new mining claims; whereas ANILCA closed the Steese National Conservation Area but gave the Secretary the authority to lift the withdrawal and the White Mountains National Conservation Area but gave BLM the authority to lease some minerals. Wild and Scenic River Act, as amended by ANILCA, doesn't allow disturbance within ½ mile on either side of "wild" segments. The BLM will makes recommendations to the Secretary of the Interior about withdrawals and the Secretary has to take action to lift the withdrawals.

In the Fortymile Subunit, Alternative C recommends 1,468,000 acres or 71% of Subunit be recommended open for mineral entry, refer to slide for graphic from the plan. For the Steese Subunit, Alternative C recommended opening 285,000 acres or 22% of the subunit for mineral entry; refer to slide for graphic from the plan. For the Upper Black River Subunit, Alternative C recommends opening 2,361,000 acres, or all of the subunit to mineral entry. As for mining in the White Mountains NRA, ANILCA closed the White Mountains to mineral entry but allowed for the development of a program for disposal of hardrock minerals through a leasing program. In 1986, the White Mountains NRA Plan recommended opening 44% of the area to hardrock mineral leasing.

The Draft RMP discusses a hardrock mineral leasing program under a section called "Alternatives Considered but Not Analyzed in Detail." Implementing a hardrock mineral leasing program was dismissed without further analysis under the assumption that only holders of valid mining claims could qualify for such a program. It is inappropriate to dismiss a leasing program without further analysis

Another Key Issue is Travel Management or Off-Highway Vehicle Use and the Plan proposes a change from Current Management to go from Gross Vehicle Weight Rating to Curb Weight, with limitations for winter and summer use for many areas: from ≤1500 pounds Gross Vehicle Weight Rating to ≤1000 pounds curb weight and ≤ 50" in width. This was determined to be better in that it is easier to determine and is consistent with the state's definition.

Travel Management within the White Mountains Subunit, Alternative C proposes major changes in compared to current in the weight restrictions. Restricting summer use to Designated Trails, except for game retrieval; opening one trail to UTVs (≤1500 curb weight and ≤64" width) which is currently not allowed; no summer OHV use on 565,000 acres, an increase of 2,000 acres.

Travel Management within the Steese Subunit, alternative C proposes changes compared to current in that minor change in the weight restrictions; restricting summer use to Existing Trails, except for game retrieval; allow no summer OHV use on 677,000 acres, an increase of 535,000 acres.

Travel Management within the Fortymile Subunit, alternative C compared to current includes major change in the weight/width restrictions for the Fortymile WSR Corridor: from ≤1500 pound GVWR to ≤1500 Curb weight AND ≤ 64" in width, outside the corridor: from ≤6000 pounds GVWR, to ≤1500 Curb weight AND ≤ 64" in width; restricting summer use to Existing Trails, except for game retrieval, no summer OHV use on 121,000 acres, currently no areas closed to summer OHV use.

Travel Management within the Upper Black River Subunit has no current plan. Alternative C to allow the entire subunit open to snow machines  $\leq 1000$  pounds curb weight and open the entire subunit to summer OHV Use  $\leq 1500$  pounds curb weight.

Public Participation for the Plan has been extensive. We have prepared Executive Summaries of each subunit with key issues on each; we've created posters on the key issues and indexes for issues and we are holding two meeting for each community

**Commissioner Arno** – Of the four alternatives, there is no alternative that discusses opportunity for access yet in the materials you are saying for the 'Travel Management' in the Fortymile subunit that visitation might double in the next 10 years. You are estimating that you are going to have twice as many people as you do now and right now you are estimating that you only have 350 miles of trails existing summer routes in the Fortymile area. You are increasing the traffic on these trails so there is nothing that says, so, what are the standards for maintaining those trails and who is going to pay for maintain those trails to the federal standard and if they are not maintainable to the standard then the other option is to lose the trail then you lose more access. In the plan for the public who use this area for recreation or to gather wild food source there is no option for them when the traffic double in the future. There's no option in here looking out ahead, it doesn't say, OK, here is the alternative that we have higher usage on the same trails.

**Lenore Hepler** - Getting a handle on use numbers is very hard and I don't have a lot of confidence in our use numbers. There are only so many places where we can get good numbers. We are going to be getting some money

**Commissioner Arno** - RS2477 they are not being acknowledge by the fed and they are lost to us in this process.

**Leaphart** - Things have developed recently, the BLM cabin policy is an issue that we inherited from Mike Kelly and one of the reasons that he got the Commission restarted. BLM has made some progress, put it before their RAC. I would like to introduce...

**Steve Harbies, BLM District Manager** – Handout

Our RAC deliberated on the trapping cabin policy with a three person sub-committee with trapping experience. They came up with a proposal and we looked at that and found we could meet their needs and mirror what they came up with and that is what you have before you know. It replaces the income requirement with an effort requirement which is what they wanted. This draft was endorsed by the RAC. There was one sticking point and that was on fee per cabin. The trapper's wanted a reasonable fee but the BLM is required to use is a trapping fee schedule in BLM regulations. That is based on, the fee structure, is based on number of hour staff specialist put into creating and monitoring a permit. The minimum, less than 8 hours is \$115, more than 8 hours it \$215. There is a monitoring fee and a processing fee that fall into that category. Another minimum permit requirement for remote cabins, \$250, that is in BLM regulations. We got a solicitor's opinion that we don't have the authority to waive the fee. This was brought to the trappers; they understood that and thought it was a much better situation than a percent of income. The \$250 is an annual permit. Permits are issued for 3 years; Leases are drawn out for more than 3 years.

### **3:00pm PUBLIC PARTICIPATION**

No public testimony.

### **COMMUNICATIONS from the Executive Director continued from earlier**

**3:04 p.m. Leaphart** – A response to our letter dated April 18, 2012 regarding our concerns about the Arctic National Wildlife Refuge Special Use Permit application process. They agreed with our points and made changes to the application by removing any guidance that can be considered supplemental and have rewritten

certain sections in the guidance section to better compliment the form's instructions. This was important because that got away from the Alaska specific application.

**Commissioner Arno** – this is part of the creep. If it is going to happen it will happen in ANWR.

**Leaphart** – A letter to Ms. Stephanie Brady, USFWS Anchorage, with comments on the Draft Environmental Impact Statement for the proposed Izembek National Wildlife Refuge Land Exchange and Road Corridor Project dated May 18, 2012. Our comments evaluated the impacts of the withdrawal of 150 acres of wilderness for a more significant inclusion of 43,000 acres; they assigned no value to the lands they were getting in the exchange. It (the DEIS) didn't present a balanced picture and calls into question the entire document.

And finally, a letter to Mr. Bud Cribley, the BLM State Director requesting an extension on the National Petroleum Reserve – Alaska Integrated Activity Plan and Environmental Impact Statement comment deadline by 45-days. They granted a 15-day extension.

### **REPORTS of the Executive Director**

**3:28 p.m. Leaphart** – First item of reports is the Wilderness Eligibility Reclassification for the Wrangell-St. Elias National Park and Preserve, noticed in the Federal Register on April 17, 2012. WRST has completed an analysis, per NPS Management Policies 2006, for the reclassification of lands currently deemed to be eligible wilderness based on the 1986 eligibility review conducted as part of the park's General Management Plan. Public comment from the Nabesna Off-Road Vehicles Management Plan and Draft EIS resulted in the NPS Director in reclassifying certain acres within the Nabesna District and the McCarthy Road corridor.

The Fish and Wildlife Service published a Final Rule for the Reclassification of the Wood Bison under the Endangered Species Act as threatened throughout its range on May 3, 2012 in the Federal Register. This action reclassifies the Wood Bison from Endangered to threaten based on the primary threat that led to the species population decline, unregulated hunting, is no longer a threat. The rule becomes effective on June 4, 2012.

The National Park Service is seeking public comment on the Serpentine Hot Springs Area Master Plan, within the Bering Land Bridge. In an outreach program including a workbook of exercises on development alternative has been release process to gain. Comments will be accepted until June 30<sup>th</sup>, 2012.

The US Fish and Wildlife Service released a proposed rule for the Polar Bear on April 19<sup>th</sup>, 2012 in the Federal Register. The proposal seeks to amend the regulations which implement the Endangered Species Act of 1973 that provides measures for that are necessary and advisable for the conservation of the polar bear. Comments will be considered until June 18, 2012.

Also released by the US Fish and Wildlife Service, a notice of intent from the Kenai National Wildlife Refuge in Soldotna to gather the information necessary to prepare an environmental impact statement in response to an application received for the Shadura Natural Gas Development Project. The project would involve construction and operation of facilities associated with the exploration and production of natural gas from the subsurface estate within the Refuge.

Meeting adjourned at 5:05 p.m.

**FRIDAY, JUNE 1, 2012**

**RECONVENE - CALL TO ORDER**

## **ROLL CALL**

Leaphart called the roll at 8:30 a.m. with the following members present: Rod Arno, Mark Fish, Representative Wes Keller, Charlie Lean, Senator Menard, Warren Olson, Colleen Richards, Susan Smith, and Ron Somerville. Mike Meekin, Alex Tarnai and Franks Woods were unable to attend. A quorum is established.

Commission staff in attendance: Executive Director, Stan Leaphart, Assistant, Karrie Improbe.  
Others in attendance: Sue Magee, Ernest Prax, Pete Buist,

## **8:35 a.m. AGENCY REPORTS**

### **Ambler Mining District Access Project, Alaska Department of Transportation and Public Facilities**

**Leaphart** – There is some information in packet regarding the first presentation today, the Ambler Mining District Project, a memo dated May 23. Section 204 4b of ANILCA has a provision that authorizes an access corridor across the southwest portion of Gates of the Arctic National Park and Preserve to provide service access to the Ambler mining district. This provision was put in there based on high mining potential in the mining district and it was included in the same section of ANILCA that created the Park. There has been a fair amount of discussion over the years about developing that but nothing has been started until the last couple of years. DOT has started working on the project so I have asked Ryan Anderson, Project Manager, with the Alaska Department of Transportation and Public Facilities to come and give us an update on the project and some background on what is involved and what they have done to date and what is expected over the next year or so.

### **Ryan Anderson, Design Group Chief in Fairbanks, DOT&PF Northern Region Pre-construction Section** (Handout and Power Point slide Presentation)

Our role in DOT is there is a planning group and the projects go to Pre-construction. We take project through reconnaissance, environmental work and the bid packages together that go out for bid. Then a project goes to our Construction Group. That is how we fit in, our role is to take a project, take a feasible project, get the environmental work done and permitted and then build a bid packet.

Today, we want to talk about the Ambler Mining District Access project and this is something we have been working on for about a year and a half. We are still in the reconnaissance phase we haven't entered the NEPA or done any environmental work yet. We are trying to figure out the best options, talking to people in the industry, trying to figure out what to carry forward.

We have a website [www.ambleraccess.alaska.gov](http://www.ambleraccess.alaska.gov). Our goal is to have all the reports, meeting note on the website until it is all available.

The first slide is our study area. This isn't a new concept, the Ambler mineral belt has been around for a long time. Kennecott did a lot of work in the 70's. Now it's Nova Gold, NOVA Copper. We are evaluating the potential transportation corridors serving the Ambler Mining District for the purpose of providing all season access for exploration and development of the mineral resources within this District. It's a State funded project:

\$4M Appropriation in FY2011 Capital Budget

\$1.25M Appropriation in FY 2012 Capital Budget

\$4M Appropriation in FY 2013 Capital Budget

The purpose of the project is to evaluate road, rail, barge and airport networks; addressing critical infrastructure needs for natural resource development, such as power and communications.

DOT&PF is still in the Reconnaissance phase – We have not initiated the NEPA process yet.



Major Engineering and Environmental factors for consideration:

Corridor Length; Federal Lands; Wild and Scenic Rivers; Salmon/Sheefish Rivers; Caribou Habitat; Threatened and Endangered Species Habitat; Wetlands Impacts; Material Site Availability; Drainage Crossings; Construction Costs; Maintenance Costs; Special Considerations

Referencing slides from the presentation - Route options

Northern Route: Corridor Length: 220 Miles, 13 large river crossings; Material Site Availability: Excellent; estimated cost: \$430M or approx. \$2M/mile. Crossing Gates of the Arctic National Park and Preserve

Southern Route: Corridor Length: 250 Miles; 14 large river crossings; material site availability is fair; estimated Cost: \$510M or approx. \$2M/mile. Crosses no Federal Conservation System Units.

Elliott Highway North Road: Corridor Length: 370 Miles, 12 + Yukon River Bridge large river crossing; material site availability is good; estimated Cost: \$990M, approx. \$2.7M/mile. Crosses no Federal Conservation System Units.

Nenana North: Railroads Corridor Lengths: 420-450 miles; 13-17 large river crossing + Yukon River Bridge; material site availability is good; estimated Cost: \$1.8B – \$2.0B or approx \$4.5M/mile). Crosses no Federal Conservation System Units.

DMTS Corridor Railroad: Corridor Lengths: 260 miles; 19 large river crossing plus the Noatak River Bridge; material site availability is Good to Fair; estimated cost: \$1.25B or approx \$4.8M/mile. This route crosses the Kobuk Valley National Park and the Noatak National Preserve.

DMTS Corridor Road: Corridor Length: 260 miles; 19 large river crossing plus the Noatak River Bridge; material site availability is good to Fair; estimated Construction Cost: \$720M or approx. \$2.8M/mile. This route crosses the Kobuk Valley National Park and the Noatak National Preserve.

Cape Blossom Road: Corridor Length: 250 miles; 22 large river crossings; material site availability is Fair to Poor; estimated Construction Cost: \$860M or approximately \$3.5M/mile. This route crosses the Kobuk Valley National Park and the Noatak National Preserve.

Cape Blossom Railroad: Corridor Lengths: 250 miles; 22 large river crossings; material site availability is fair to Poor; estimated Construction Cost: \$1.33B or approximately \$5.3 M/mile. This route crosses the Kobuk Valley National Park and the Noatak National Preserve.

Cape Darby/Seward Peninsula Road: Corridor Length: 340 miles 25 large river crossings; material site availability is fair to Good; estimated Construction Cost: \$960M or approximately \$2.8M/mile. This route crosses the Selawik NWR/WSR.

Cape Darby/Seward Peninsula Railroad: Corridor Length: 340 miles; 25 large river crossings; material site availability: Fair to Good; estimated Cost: \$1.6B or approximately \$4.7M/mile). This route crosses the Selawik NWR/WSR.

Our public outreach to date has been in the form of informal informational meetings to keep people informed and to listen. (from the slide)

January 10-11, 2011: Upper Kobuk Communities

April 25-26, 2011: Upper Kobuk Communities

May 12, 2011: Tri Village meeting in Shungnak

Dec-Jan 2011/2012: Project Update meetings in Kobuk, Shungnak, Ambler, Allakaket/Alatna, Bettles/Evansville, Selawik, Kotzebue, Noorvik, Kiana, Buckland, Hughes

March 15th, 2012: Tri Village meeting in Ambler Meeting Notes: <http://ambleraccess.alaska.gov>

The comments we have heard from the community: Need more opportunities for lower cost of living and jobs; worries that cultural resources in certain areas may be affected; ability to maintain subsistence lifestyle and cultural values in the future; importance of Sheefish and Caribou; who will be allowed road access and what types of uses?.

We will continue to work with the public and area communities by facilitating a Upper Kobuk Transportation Working Group with Representatives of Tribes and Cities; begin Subsistence Mapping effort in conjunction with ADF&G; work with appropriate organizations to facilitate discussions with Elders for Traditional Knowledge; begin economic studies to evaluate road benefits to Communities. To facilitate ADF&G Caribou

presentations and studies; to conduct fish studies to identify areas of concern; work with NWAB School District (through our Contractor DOWL HKM) to encourage involvement of younger people; to continue to identify and utilize Cultural/Subsistence Advisors for project field studies and community outreach; Identify and address road access issues, and utilize existing road development models to better understand possibilities;

#### Ambler Mining District Access – Next Steps

Develop a Proposed Action considering engineering, environmental and public input parameters. Establish Proposed Baseline investigations for Environmental Studies includes: wetlands, fish and wildlife, floodplains, cultural resources; and for Engineering Studies: increase imagery and LIDAR, surveying, river cross sections, river hydrology with UAF, geotechnical reconnaissance, and alignment evaluations; and continue with additional public outreach activities

#### Ambler Mining District Access – Next Steps for Summer 2012 – Spring 2013:

Continued Public Outreach; Continued Federal and State Agency Coordination; Continue efforts to develop a feasible proposed action; Move project into Preliminary Engineering/Environmental Phase

**Commissioner Lean** – What is going to be hauled on this route? Heavy ore? Will it open up the country for the public?

**Ryan Anderson** – NOVO Copper has done a preliminary economic assessment for this project and this road and bridge design will not be heavy duty like at Red Dog.

**Commissioner Arno** – Is DOT the only agency in this, are there any Federal agencies involved? We have here a copy of the Alaska Federal Lands Long Range Transportation Plan, have you presented to them?

**Ryan Anderson** – Yes, Deputy Commissioner Kemp was a part of that effort and Roads to Resources.

## AGENCY REPORTS

### 11:00 a.m. – National Park Service

**Leaphart** – Introduced Mr. Greg Dudgeon

#### **Greg Dudgeon, Superintendent, Gates of the Arctic National Park and Preserve, General Management Plan Amendment**

The Gates of the Arctic National Park and Preserve is acknowledged as the premier wilderness Park in the national park system, protecting 8.4 million acres of diverse arctic ecosystems in the central Brooks Range. The National Parks and Recreation Act of 1978 requires that we prepare a timely revision of the general management plans for each unit of the national park system. The General Management Plan Amendment/Wilderness Study EIS for Gates of the Arctic was initiated in 2009. When completed, hopefully in 2013, the Amendment will update and amend the park's 1986 GMP, setting broad management goals for the next 15 to 20 years. The GMP Amendment will meet the requirements for a wilderness stewardship plan as called for in NPS Management Policies. It will outline the kind of visitor use, administrative activities, and development that would be appropriate in the park in the future, and provide management direction for six designated wild rivers in the park. The 1964 Wilderness Act and Section 1317 of ANILCA require all NPS lands not currently designated as wilderness to be evaluated for possible recommendation for wilderness designation. To fulfill this mandate, the wilderness study is included as part of the GMP Amendment.

Section 1301(c) and (d) of ANILCA set forth several specific factors to consider in revising management plans, and to allow certain persons and officials to participate in the development of the plans and through civic engagement for the GMP Amendment addressed this requirement and included staff visitation to nine affiliated communities (predominantly Nunamiut and Inupiat Eskimo) and outreach to stakeholders, special interests, national constituents, and bureaus with management responsibilities in the Arctic. The draft GMP Amendment is to be released by winter, 2012. NPS will be seeking additional public comment on Plan

alternatives and proposals regarding wilderness designation.

Additional activities currently at Gates of the Arctic National Park and Preserve are: Park staff are participating in a variety of projects and collaborative work involving federal, state, and local agencies with land, resource management, and educational responsibilities in the Arctic and Interior Alaska. These include: Alaska Federal Land Management Agency Long Range Transportation Plan, which is identifying and prioritization needed transportation improvements; Dalton Highway Scenic Corridor Plan, a comprehensive evaluation of the highway's intrinsic qualities-scenic, natural, historic, cultural, archaeological, and recreational and will serve as a guide for the management, protection, and enhancement of those values over time; Landscape Conservation Cooperatives - Arctic and Boreal Forest management-science partnerships that inform integrated resource management actions addressing climate change stressors in the Arctic and Interior; the North Slope Science Initiative (multi-agency science-based program that integrates inventory, monitoring, and research activities to support resource-management decisions on Alaska's North Slope; the Western Arctic Caribou Herd Working Group that integrated 'grass roots' and agency working group - includes representation from 40 rural villages - for conservation and management of the herd; Ecosystem Climate Change Scenario Planning; Unit 23 Working Group helping to identify and reduce contention between subsistence and other consumptive users; Muskox Cooperators Group ; BLM Arctic Inventory and Monitoring ; the Tetlin NWR and Nebesna River Gauge -long term monitoring of water levels from freshwater sources in WRST; Dalton Highway Discoveries "web tour"; Allakaket, Alatna, Anaktuvuk Pass, Central, Circle, Kobuk schools science and natural history lessons for students at all grade levels); Central/Circle Wellness Camp in partnership with TCC, safety and conservation of public lands and resources; Armed Services YMCA the Mother-Son Adventure Program for Ft Wainwright, Eielson, and National Guard communities. Outdoor recreation and opportunities on public lands; Open Arms Child Development Center providing Environmental education activities, Leave No Trace, bear safety training for participants on overnight camping trips.

### **National Park System in Alaska - Issues Update**

#### **Joel Hard, State Director,**

The National Parks and the State of Alaska have a long history and the last few years we have struggled. Our role is to preserve resources and the natural condition. ANILCA recognizes human use and those things don't happen in other parts of the country. The balance isn't perfect but it's a better framework than others.

**Commissioner Fish** – There have been real conflicts created with people on the ground. I'd like to see an Alaska specific orientation for the new transfers on the difference you're talking about. AANILCA is a compromise but what we have seen is a gradual erosion of that compromise. That is why CAFA was created.

**Greg Dudgeon** – What we have done in Gates of the Arctic and in Yukon Charlie is that we have brought locals in to have a conversation with them on what it means to live a rural Alaskan lifestyle and what it means to come in conflict with a uniform. Other parks have a local panel to introduce new rangers to the community.

I think that we are doing better than in years past.

**Joel Hard** – I hope that direction, to begin that change and have a better appreciation of Alaska and ANILCA. You can't function reasonably without a working knowledge of that document

**Commissioner Somerville** – The corporate memory is disappearing. ANILCA left a lot up to the Superintendent.

### **GUEST SPEAKER**

#### **10:45 a.m. - Mr. Christopher Estes, Basin Wide Adjudication**

(Handout, Power Point presentation and subsequent supporting documentation sent by email)

**Mr. Estes** – Thank you for inviting me to share with you some ideas and background about basin wide water

adjudications which is one of the elements in our tool box in the State of Alaska for how we make decision on how to allocate water in the best public interest for all of our citizen's. I'm going to give you a very concise summary of issues that we face related to water allocation with a focus on how it relates to this basin wide adjudication which you all have in your briefing books a sub-set of the audit that the legislature preformed in 1997. In that, has very detailed information that provides background. It a very exciting issue and it's also very complex.

I'd like to start out with a reminder that we in Alaska, we live in a time machine compared to the rest of the world because we are such a young state. We are a pioneering population. We have the opportunity to make decisions that other people don't have anymore because we are in the beginning stages only being a state since 1959, we haven't yet explored the variety of tools and the benefits we have in our toolbox and hardly have had any litigation to determine what the right interpretation is. Much of what we talk about we can debate what answer is right or another, but I will tell you that we are so early in our statehood that we haven't explored these tools and we need to explore them now while we have a generation grid with the people who were here at the beginning part of statehood with a new generation that has no clue why we did what we did.

It's really important and I really try to emphasize this is a critical slide (referring to the presentation) and it is absolutely critical so people understand why Alaska has a greater need for resources to accomplish what other states can do with just a fraction of our resources. That (picture in the slide with Alaska superimposed on the lower-48 states) represents just 20% of the lower-48 land mass. The other slide I like to show is how much water Alaska really has compared to the lower-48. As you can see, when people who write national reports, they are really misrepresenting the countries status when you look at the proportion of Alaska's water. When you look at the majority of it is in really good shape and also less than 1% of our water is allocated. What might be a misnomer that most of our water is frozen 9 or 10 months of the year. Most of our water is located where we don't have infrastructure to access it. If you don't know how much water you have or where it is you can inadvertently make decision to hand out water that doesn't exist. Here we see water all over this table but if you don't know where it is on the table how you can make resources decisions that are all dependent on knowing about water. How do you live without water, life depends on it and there isn't anything that we do that is no water dependent whether it's energy or natural resource development. We can live without water and yet we don't put it up there with the other resources.

Why do we use water? We have two types of uses that we like to break it down on how people use water. We are also taking about frozen water. (Referring to slide 4) Also it's essential for wildlife, such as caribou need ice cover to migrate across water bodies. We don't often think, as a nation and as Alaskans, of the complexity of challenges we have managing. There is the use of water for transportation, barging and recreation and fish and wildlife. It's important to understand how water becomes available to us. We are only going to deal with the water that is on the ground in the discussion today, and it's important to understand that there is this whole cycle of water availability (referring to the water cycle on slide 6).

Text from Slide 4 –

**“Some water use purposes**

**In stream** - Water needed in the water body to support vital ecological functions and uses (include lakes/reservoirs). Examples: Fish and Wildlife, Recreation, Navigation, Water Quality, Ice conditions, too

**Out of Stream** - Water removed from the system or flow regime/water volume/stage altered\* (subsurface too). Examples: Power Generation, Domestic/Industrial, Public/Personal Water Supply, Irrigation, Water Export, Hatcheries, Ice Roads, etc.”

This is how we measure it (referring to slides), survey stations where we collect water data. Those stations, Alaska has since the early 1900's when the original gaging stations were put in order to be able to figure out how much water was available for mining purposes. A lot of the law in the west is based on mining and the need to have water for mining. Then it went on to agriculture, irrigation and then human consumption. In Alaska, we have put less than 500 of these gages (referring to slide 7) and there are only 100 operating in any

given year.

Text from Slide 7 –

“Measuring stream discharge and water level examples

- a. USGS stream gaging stations collect discharge (flow) data which are compiled and published.
- b. These data are typically the most comprehensive source of information on the amount of discharge in a stream water and well levels;
- c. Other state, federal and private entities also collect these and other hydrologic data.”

We have one of these stations for about every 7-8,000 square miles, on any given year, in the lower-48 its' 1 for every 400. When you look at the volume of water we have and the location then we really do not have a clue where 90% of our water actually is located in terms of how much and where it is located at any given period of time through out the year and yet we are being asked to make decisions as to how to divide it up without knowing what we have in the first place. If you look at the lower-48, if you look at the Colorado River, when the people divided up the Colorado River, they had 20 years of information but what they didn't know was that when they decided to divide it up was their data was from 20 high-flow years. In Alaska, we are lucky if we have one year of data. So, they made an error which we are forever paying for. That is another concept for you to consider. It cost about \$50,000 a year for one of those stations and you should have 15-20 years of data; and that is the best return on an investment for our natural resource development and what we are going to do in the future. If the people before me had done it then we would be in really great shape now. Our water laws are dependent on having good information so we don't make decision that are irreversible and over allocate the water, meaning we hand out more water than actually exists and our laws doesn't let us reverse bad decisions when it comes to move water, diverting it or impounding it.

We do have that ability to make sure that we don't leave too much water in the original source but that is a savings account because when it is there it's still available for use but we have ability to adjust that if we make a bad decision in the first place.

When we look at the complexity of land ownership in Alaska, you can see that if water decisions were based on land ownership it would be really complex but in theory the State is the manager of all the water, in theory, that's basin wide adjudication. The element that Warren has asked me to share with you and that is 'double reserve water rights'. You have all the detailed information in packets. When we first migrated to this country, the people who were not already here, we developed a system in the eastern part of the country that called the riparian system that said that because we had so much water that "...as long as you lived next t the water you are entitled to use a reasonable amount of water." As people started moving west they got into more arid conditions and they developed another system called the 'Doctrine of Water Appropriation', and that is what we use in Alaska. Basically, it says "...the first individual or entity that seeks to use a portion of that water has the first right to the use of that water." If there isn't enough water for other people to use that water only, if you are the first person you get to use, it's called the first in time, first in right. In Alaska we have some of the best if not the best laws in the nation and that says we have to balance how we allocate our water to make sure that we meet a variety of uses and not just one. In the west, many years ago when the federal government was creating polygon of land in the lower 48, established 'Indian Country' we were putting people on land where there wasn't any water we came up with the Winters Doctrine (Refer to the slide Federal Reserved Water Rights). The Winters Doctrine said that if you are going to put people on federal reservations of land then you have to give them enough water to survive there. Revised some of the original water rights decisions that wouldn't have allowed the people who lived on these reservation or who were told to live on these reservation to have enough water. The settlement of some of these is still on going to date at 100's of millions of dollars of cost because if the bad decisions of the past. Then the federal government decided that we should apply the same to our reserved polygon of federal land like the national parks, military reservations and various other federal lands. The Winters Doctrine was later expanded to cover all the federal lands. Then because of the conflict that occurred in state with this federal assertion to use water that had already been allocated the McCarren Amendment was passed by Congress which said that if a state has a system in place that can handle all types of water uses, as long as the state has all the tools to be able to decide who should get that water and they have a very specific judicial and administrative system,

the state can settle any conflicts between the state and federal water uses in the state system in a state court. I am really simplifying it. Then there was the Cappaert v. United States which established that the minimum amount of water that is necessary to meet the purpose of the federal reservation or the polygon of federal land. Other State related statutes that were passed to adjust our 1966 water law and prior to 1980 we didn't have the ability to handle leaving water in a river or lake and in order to be able to handle these federal reserve water rights under the McCarren Amendment we had to have an ability to reserve water or retain a portion of water meet various needs such as fish, wildlife, navigation and water quality. A few years later we learned that we didn't have the appropriate judicial process to carry out the McCarren amendment the legislature and a board called the Alaska Water Resources Board which still exists in statute but isn't funded. They met with a joint House-Senate resource committee. They ended up passing these laws in 1986 and a judicial system to administer the McCarren Act so Alaska could map its own destiny. One of the key elements is that if no one in the federal government does anything to assert how much water they might possible have, if they were able to succeed to establish the right, they don't lose that right until we as a state do not exercise the toolbox that we have in the state. By not dealing with the whole basin-wide adjudication, some time in the future our successors could have that water taken away because we didn't go through this process that we have in the state today. The good news is that we don't have that many conflicts. I can only think of three places where we have allocated more water on paper than exists. There is no conflict, it is merely a paper disconnect: Ship Creek in Anchorage, Indian River in Sitka and Gold Creek.

So what are the challenges? There isn't a lot of understanding or there lack of public comprehension but the more we are talking about where the water is and how much is in given location. There is the issue of, that Alaska is one of four states that doesn't look at water as one source when we know it is truly, hydrologic ally connected. We were smart enough to look at it and not treat it as one source. We have water quality/quantity links. We have water laws and water quality laws. We can ask to leave a quality of water in a river or lake to dilute a potential pollutant we can say that we need a quality of water to remain in the water body. That was something that the miners really liked. DEC has never used it, they have never been willing to use it. We do have limited hydrologic related historical data and there are expenses to collect, manage, and report data. Then the limited precision and accuracy of current estimation models to guess how much water. Nothing really matches collecting the right amount of good data so your models are calibrated well.

Here are some recommendations:

I really think we need to develop statewide long-term water use and needs plans that integrate all of our resource needs. If we are going to develop any type of mineral, petroleum, let's figure out all the water that is needed there because people are going to live there and drink it and there isn't any type of energy development that you do need water or any type of human need. Integrate water use and how much is there so we can make better use of the tools we have by not guessing. We want to understand the seasonal long-term baseline water quantity and quality information and relationships and continue efforts to better understand seasonal and long-term watershed ecological functions and relations to human, animals and ecosystems. Humans are not the only factor; fish and wildlife make a great contribution to our economy. We can do joint funding requests. I'm working on a national defense team where this country doesn't know where the water is. That is a national security effort. We have the national greatest source of water. No body can do this alone there are many groups who can work together specifically the Western States Water Council which is a sub-group of the western governor's association. We have been participating in this organization. We haven't been able to get the past few administration to pay their dues. It's another example of how we don't value our water or I'm not doing a very good job of communicating this issue. My recommendation is that we need to pay our dues and join in the Western States Water Council. I'd like to remind you of this, don't let people show just a lower 48 map, don't let them use it, make them show that Alaska is located there. People think we are some little polygon down there and we're not, we're up here and it makes a difference. A picture really makes a difference. Whenever I can I use a North American projection to put it in perspective and get it right so people see how we fit. Alaska is where the lower 48 was 170 years ago when they were dividing up the Colorado River. If we don't make decisions proactively...we

try to deal with the squeaky wheel but water is where the State can decide its own destiny, in my opinion.

One last recommendation, follow the advice of the Welker Audit. He suggested dividing the state into six hydrologic regions and that is the basis for our water export law. Basically it said that you have to show that water is in excess before you can export it and we have to charge fair market value. Welker didn't have enough knowledge that you could subdivide these basins into smaller ones. That is the one piece of technical piece of information to challenge him on. His basins are too big for this state to implement but his concepts are right on in my personal opinion.

**Commissioner Smith** – How does those buildings measure volume?

**Mr. Estes** – They measure the volume by pressure, you have a pressure reading at low, medium and high flow and if you know the profile of the channel at different seasons of the year and then you measure the velocity of the water you can develop what is called discharge. You measure the level or depth of the water and compare it to the other information, the area, the depth and the speed of the water in order to figure the flow. That is just surface water. There are different devices for sub surface water.

**Commissioner Fish** - Listening to your presentation a couple of things came to mind, Ship Creek is a great place to get started because that small drainage has an incredible (inaudible) very interested in the local drainages. They have college students working for college credits out there in the field collecting data on water condition not flow rate. That is a possibility of integrating interest and education on the local level.

**Commissioner Olson** – We have had this Welker Audit, this Commission, for six-months and it appears that mechanical things happen like elections, it appears to me, having been in this water situation for probably 20+ years, things happen and that's how it is. Couple questions: On the McCarren Act, what other states, which state, has had the biggest influence on the McCarren Act getting the federal government to come to State court and participate in the process?

**Mr. Estes** - Idaho and Montana and you remind me, I have all the data, there is a survey on what people are doing and I'll hand those out. The first handout is an updated, concise summary of what we were talking about and the rationale for it; then the second is called, 'Litigation and Legislation' and that is a recent meeting held by the Western States Water Council, it tells you how they handle the legislation for all the states and it's a weakness for Alaska to not be at these meetings. Then the issue that another court ruling related to the Federal Reserve Water rights process the federal government doesn't have to pay for collection of data on its own land, the state would have to pay for it. You can't compel them to do that. There is a resolution related to fee and another one related to the federal government to expedite it's role because...

**Commissioner Olson** – I have another question , in the interest of time, under the current situation, do the departments and their processes now and with your expertise and so forth, do you feel that this would be an advantage, would the Commissioner, whatever Commissioner we are talking about, if they had the bucks to enter this situation and get involved in these areas that are terribly over allocated, and use it as cookie cutter, what is your opinion on the current process and the people involved and the basin-wide adjudication process? The current situation against if we could take this to the legislative process and to the trustees on water and get them to participate...

**Mr. Estes** - In the long run, I would very much like to see what Mr. Welker suggested and that is to form a committee to figure out what resource we have and to deal with just one of these and make sure this generation uses the process to secure our resources for future generations.

#### **11:30 a.m. PUBLIC PARTICIPATION**

**Wayne Heimer** – The National Park Service says look at what is coming in the future. Now I consider that

these agencies are in the business of cultural change. The reason for ANILCA is because we found oil. Needed a road and had to establish land status. The National Park Service present the will of Congress and Congress made dire predictions that never came true.

**Al Barrette** – I'm here to express my concerns on the Joint Pacific Alaska Range Complex Environmental Impact Statement. My concerns are 1. Noise; 2. Why is the military asking to use State land?; 3. Northern Edge and other major operations are scheduled during (inaudible) these activities concern me.

**12:00 p.m. Sue Magee, State ANILCA Program Coordinator**

**Leaphart** – I'd like to introduce Sue Magee, she's here from Anchorage and she is the State's ANILCA Program Coordinator.

**Ms. Magee** - The State ANILCA Program is part of the Office of Project Management and Permitting and we act as the lead coordinating agency for interagency state participation in implementation of ANILCA and the program coordinates Review ANILCA land planning documents, policies and proposed regulations affecting conservation system units and other federal lands and initiatives affected by ANILCA. Our office has been overwhelmed by the volume of plans and actions. It seems like there is a huge plan out every month, I remember when I used to work a little over time every now and then but now it's all the time.

**LUNCH - adjourned at 12:01, reconvened at 1:30**

**1:30 p.m. UNFINISHED BUSINESS**

**A. Joint Pacific Alaska Range Complex Environmental Impact Statement**

The Joint Pacific Alaska Range Complex Enhancement and Modernization Draft EIS has been discussed before and final comments are due in a few weeks. The goal of this presentation is provide a brief overview of the facts and encourage discussion on which we may formulate Commission comments. JPARC is:

- A land, air, sea, space and cyberspace training facility;
- Geographically dispersed throughout Alaska;
- Provides mountainous terrain, cold weather and long period of daylight for realistic training;
- Accommodate new technology over a vast uncluttered electromagnetic environment;
- 64,000 sq. miles of airspace, 2,490 sq. miles of land space with 1.5 million acres maneuver lands and 42,000 sq. naut. Miles over the Gulf of Alaska.

**B. Bell Island Geothermal Leases**

The Tongass has released a Draft Supplemental EIS for the Bell Island Geothermal Leases. We commented and stated our support for the development of alternative energy sources but took no position on the Bell Island lease proposal. However the approval of the leases would be consistent with the forest-wide standards and guidelines in the Forest Plan which encourage the exploration, development and extraction of locatable and leasable minerals and energy resources. The proposed lease areas is located in the North Cleveland Inventoried Roadless Area, the recent decision which makes National Forest lands in Alaska subject to the Roadless Rule means that any affirmative consent determination will require final authorization by the Secretary of Agriculture. Although, the proposed lease acreage encompasses only 7.3 percent of the IRA, with development of the geothermal plant likely occurring on the private land on Bell Island. The Swan Lake to Tyee Lake Electrical Intertie is also located in the IRA in close proximity to the pending lease areas. As described in the SEIS, any additional impacts to the IRA resulting from the exploration, drilling and utilization of geothermal resources would be minimal and should not preclude the Secretary from authorizing the consent determination.



### **3:00 p.m. PUBLIC PARTICIPATION**

Leaphart distributed a letter just received from **Russell Richard Robinson**, North Pole, who was not present, was distributed and read by the Commission individually. The content was acknowledged and did not request any action by the Commission.

**Representative Keller** - He affirms US public law 85-08 the Paper Act and the 90-10 split with respect to mineral revenue. He doesn't give up his land based property rights and if Mr. Robinson would like to come in and testify he is entitled to.

In the room we have Mr. Mark Ames who has come in to testify on federally designated lands.

**Mr. Mark Ames** – Grateful, native born Alaska for the interior region of the 49<sup>th</sup> State pertaining to federal designated lands. I hitchhiked in today to remind this Body of the ownership claim registered in the Fairbanks Recording District. The first words of the Alaska Constitution, “We the people of Alaska, grateful to God...” I’m here to share with you this public information that you are not aware of regarding subsurface mineral, oil and gas below extracted or developed, where it pertains to federally designated lands in part the National Petroleum Reserve. There has been no consideration in your deliberations at all this time with this information which needs to be shared with each Commissioner here. Our State legislature needs to be much more active in the retention and preservation of our 90% provision regarding the aforementioned. It’s a providential land base provision which echoes back to the Alaska State Statute of mines and mining accepted 92 years after the 1872 Treaty signed by Eisenhower in August 1959. There was an acquiescence clause attached to this which the Borough Mayor and unanimous Assembly interest in, the State Legislature re-affirmed our interest. There are communities throughout Alaska that have claimed interest in this and the understanding which is in the public record.

### **3:10 p.m. NEW BUSINESS**

#### **1. National Petroleum Reserve – Alaska Draft Integrated Activity Plan**

BLM is accepting public comment for their NPR-A Draft Integrated Activity Plan and they have agreed to extend the comment period on this plan so that the public and us would have more time to review it. The comments period is extended to June 15. Unfortunately, the BLM has alternately followed and ignored key provisions in an extensive list of statutes, regulations, policies and manuals, in some instances omitting relevant information. The result is a draft plan that more closely resembles a management plan for a conservation system unit or similarly designated area. They continue to conduct studies in the inclusion of eligibility and suitability determinations for rivers within the planning area for the purpose of recommending their designation as wild and scenic rivers. Unlike the wild and scenic river reviews, the draft IAP/EIS does acknowledge the NPRPA Section 105(c) study and the recommendation of no wilderness in the 1979 report to Congress. They do claim that Secretary Salazar's June 1, 2011 directive to consider wilderness values in management decisions applies to the NPR-A.

### **COMMISSIONER COMMENTS**

**Commissioner Somerville** – Suggested a potential capitol budget request to the governor to draw attention to the need for additional funds for the Department of Law and the ANILCA Program to bring handle sovereign issues.

**Representative Keller** – Motion to draft a budget request to the Governor?

**Commissioner Fish** - The need for more expertise is growing because of the volume of work and the only way to retain expertise is to mentor within the program.

**Commissioner Somerville** - (Sue Magee) said that she used to work over time now and then, now it's all the time. Already this indicates stress from over time.

**Representative Keller** – It does seem like the ANILCA Team needs a Federalist attorney like UT. Ogan has a dedicated attorney and that has made a huge difference. Stan, will you work with Ron to rete a proposal 1. For a capitol Budget request and 2. Prepare a white paper for the Governor to find the State on these conflict issues.

**Commissioner Fish** – We are seeing more and more of an attempt to lock up Alaska resources. This diminishes the landscape of Alaska. We have a framework to fight and we need funding. Lawyers are the modern day soldiers.

**Commissioner Olson** – (Distributed a letter to the Commission entitled 'Alaska's Basin-wide adjudication Statute, AS 46.15.165. and discussion.

“CACFA Commission members,

Alaska has a very brief history since statehood, January, 1959, managing navigable waters. Multiple users with countless different uses, winter and summer, create a serious diversity of use compared to other states throughout the Union. In addition to users, managers, both State and Federal agencies plus International Managers create an arena of complexity and government over-site, which, placates and complicates the Alaska life Style on use of waters in Alaska.

Analysis, historical documentation, ownership rights, access, physical size and water volume are just a few of the problems leading to court review and adjudication involving waters. Unlimited dollars are needed as well as invaluable time for generational time periods for resolution of many cases. This is the history of continental United States experiences with water.

Alaska, knowing this history, must strive to economize our process for not only the present generation but future generations.

Consideration for the following recommendations would be appreciated.

1. Distribute 'Briefing on Basin Wide adjudication' to the Trustees, the Legislators.
2. Distribute the same material to the Governor and the departments.
3. Work with the 'owners', the residents of the S.O.A. on the issue.

It makes sense to save money. It makes sense to streamline the process. It makes sense to be efficient on government expenditures.

Warren E. Olson”

**Commissioner Arno** – I think this is wonderful stuff to do but we should pick one. I suggest going forward on Christopher Estes' suggestion on Indian River.

**Representative Keller** – Is that what we want to do with CACFA, to move our focus from access to allocation?

**Commissioner Olson** – Allocation of water or money? Get on board. Looking hopefully at the next 6 years of the current administration, this is going to last for 500 years.

**Representative Keller** – ...distribute the information FYI or with a goal to get action?

**Commissioner Olson** – ...trying to get action. We have been champions for access, seems like a change.

**Leaphart** – Do we want to be an information outlet for Basin Wide adjudication, (read bylaws) or those

federal lands areas we were tasked to do? This issue goes well outside the duties and responsibilities of this Commission.

**Representative Keller** – We need more time to see if this fits.

**Commissioner Somerville** - I have some concerns but the only way to get title to submerged lands is through adjudication.

**Leaphart** – The AG’s office said that Basin-wide adjudication does not resolve title to submerged lands.

**Representative Keller** – Lets table this until the next meeting after we have had time to review Mr. Estes information.

**Commissioner Smith** - Great meeting... I’m proud of the work and the proposals are excellent. It is time to take action. I’d like to see Sue Masica and Bruce Rogers at our next meeting to discuss the Nabesna ORV.

**Senator Menard** – For the next meeting I would like to get serious with someone from the Department of Law. Representative Keller, you and I can start now, I’ll commit to that. For the next newsletter I think we should list 10 success and accomplishments and 10 unresolved issues we are working on. This will show that we are serious and making progress.

**Commissioner Lean** – It is not a bad idea to get the National Park Service in here and get all the feds to understand the “No More” clause. Issues near and dear to me are access with ATV’s and light equipment, remote cabins and navigable water.

**Commissioner Arno** – The perspective is good and knowledge helps. The agenda is too crunched; I’d like to see it moved to two-full days to allow ourselves more time.

All agree to schedule the next meeting for two-full days.

**Next meeting date set for November 8-9, 2012**

Meeting adjourned at 5:01p.

**Meeting Minutes Approved November 28, 2012.**