

MEETING MINUTES
CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS
AUGUST 8, 9, & 10, 2014
LEGISLATIVE INFORMATION OFFICE – TEMPORARY QUARTERS
ANCHORAGE, ALASKA

A full recording of today's proceeding can be found at: <https://vimeo.com/120538757>

Friday, August 8, 2014

Call to Order & Roll Call

Time stamp on the recording at 0:00:00

Commissioners present: Rod Arno, Senator John Coghill, Mark Fish, Teresa Hanson, Charlie Lean, Representative Wes Keller, Kathleen Liska, Warren Olson, Susan Smith

Commissioners excused: Mike Meekin, Ron Somerville, Frank Woods

Approval of the Agenda

Time stamp on the recording at 0:00:00

Representative Keller - The only change to the agenda will be a presentation by BLM on Lands Taken into Trust.

Rod Arno - Motion to approve agenda.

Second [unidentified]

Time stamp on the recording at 0:02:22

Representative Keller – We will feel a gap with the absence of our Director so we are going to stay close to the agenda. Our goal is for the Executive Committee to begin interviews in the first part of October; we have one interested party but we are going to continue to advertise. I encourage you to read the bylaws and to help keep this boat afloat.

Approval of the Minutes from Fairbanks, June 7 & 8, 2014 – Delayed

Time stamp on the recording at 0:06:35

Representative Keller - There are no minutes at this time to approve so we will take those up at another time.

Commissioner Opening Comments

Time stamp on the recording at 0:07:03

Susan Smith – The Communications Subcommittee has had a good start and are optimistic that we will accomplish a lot today.

Rod Arno – Stan Leaphart has left the Commission in really good shape as far as a baseline; and the information we collected at the Federal Overreach Summit is a powerful force. We can look at the bylaws and can strengthen CACFA as the need of the citizenry grows.

Senator Coghill – It's an interesting time in America. It's an interesting time in Alaska and CACFA plays a very important role in Alaska. My office has been doing its homework and challenging the waters of the United States, Native trust lands issues and you'll hear more from Chad later. The homework that we do is hopefully going to assist the next administration, who ever that may be, to attack these issues.

Teresa Hanson – We'll be doing an update on the work of the sub-committee and we've been doing a

lot of work. I have been listening to some of the political debates and I'm really surprised that I'm hearing the term federal overreach being used a lot.

Charlie Lean – With Stan leaving, this give us an opportunity to refocus a little bit and take a look at the program. One of the big topics in western Alaska is shipping through the Bering Straits, concerns about pollution, traffic and economics. So there are going to be some meetings coming up with the shipping industry and the Coast Guard. There is also going to be talk about shipping lanes to handle additional traffic and avoid head-ons.

Mark Fish – I've been sharing a lot of this information with the public and I see a lot of open mouths, surprised at the authority that the federal government is asserting and not following the law. The public can't put a point on the problem or don't know there is a problem. I see it as our job to get this information out there. Help shed light on these problems and help put a point on the important issues. As we get more and more successful, we are going to find more and more opposition. I want to make sure we stand resolute to these important issues.

Kathleen Liska – The sub-committee is beginning to define and redefine our issues and we look forward to sharing our report tomorrow.

Warren Olson – I'd like to personally thank Mr. Leaphart for all his contributions from 1981 to the current date. There are two important points here; one is sequestration, we have a lot of people retiring, leaving positions, people who have come through ANILCA and ANCSA and they are leaving the agencies. We really need to make an effort to get together and encourage more control from the trustees. The driving force here is dollars.

Don Mitchell

Time stamp on the recording at 0:22:51

Briefing and Discussion – Proposed Regulations Taking Land Into Trust. You cannot understand the situation in Alaska unless you understand the situation in the lower-48 100 years ago. There has been a lot of conversation about Indian sovereignty, Indians governing themselves. It came about in the early 1970s. The original Indian policy was to clear the domain by the indigenous people who occupied it. That was accomplished in 1830 when Congress passed a law to move every Native to the west side of the Mississippi river. That solved the Indian problem west of Mississippi but the problem it created was that non-Native people in the west wanted that land, too. After years of conflict, all Indians were moved onto reservations.

Chad Hutchison – Legal Counsel, Senate Majority Leader Senator Coghill

Time stamp on the recording at 2:12:22

The current status from the Department of Law on the Lands Into Trust issue is that the lawsuit is ongoing but there will be no final decision by the 9th District Court. There are no additional hearings scheduled for at least another year or more until the D.C. Court of Appeals has made its decision. That is the briefing I received from the Department of Law. The comment deadline has passed but Congressmen Don Young has requested a round table; whether or not the timing will work out is doubtful.

Senator Coghill - What really needs to be recognized is the definition of "tribal groups" and for legal certainly there is not a unanimous definition. Our office has been digging into that.

Break

Time stamp in the recording at 2:17:37

11:30a.m. Public Comments - NONE

Time stamp on the recording at 2:58:57

Don Mitchell

Time stamp on the recording at 2:29:51

Briefing and Discussion – Proposed Regulations Taking Land into Trust (continued). Commissioner questions and explanation of the Venetie case, that there is no “Indian Country” in Alaska. In 1941, a group of law professors completely rewrote Title 18 and, by 1948, the code was rewritten. We ought to put a modern definition in the US Code so that everyone knows what Indian Country is. It was decided that Indian Country was 3 things:

1. A reservation is Indian Country;
2. Indian Country is allotments;
3. Indian Country includes a “Dependent Indian Community.”

Venetie took this information in the 1990s, that they have governmental authority because we live in Indian Country. The Venetie Council decided to impose a tax on the contractor that was building a new school in the village of Venetie.

Lunch Break

Time stamp on the recording at 3:03:37

Representative Ken Ivory

Time stamp on the recording at 4:39:45

American Lands Council presentation by senator from Utah and founding member of the group.

Representative Keller - The pressure that we are feeling from the federal government, Ken and his State of Utah are also feeling, and he has formed a coalition of Western states.

Time stamp on the recording at 4:41:26

Representative Ivory - The American Lands Council grew from some legislation I helped pass in 2012. Now we have seven states, organizations around the nation, numerous counties association, even school districts have this issue on their platform. The whole point is to secure local control over growing our communities and economies at the local level. The way this came around is that I had County Commissions coming to me saying we are losing ground every day.

Our system is founded and it exists to protect our liberty and in essence the western states are ‘back of the bus’ states. Is there authority for that? We have decisions to make and as states level we swear on the constitution. We are duty bound to the federal government. States are separate and independent sovereigns and the governing power, jurisdiction, health and power belongs to the states,

Lenore Heppler – Eastern Interior Field Manager, Bureau of Land Management

Time stamp on the recording at 6:08:34

Internal Memoranda on Placer Mining Activities. The BLM is creating internal guidance memos for the staff and the miners covering reclamation and bonding. We have noticed that there are inconsistencies in how we are applying our expectations and we hope that this will certainly improve consistency. The first has to do with the expectation prior to the start of the operation, particularly along streams, and also to do with reclamation expectation and when do you know when you get there. The second has to do with bonding. In the event there is a need for reclamation, there is a bond pool. If there is a reclamation estimate that exceeds 1/3 of the state’s bond pool, then the mining operation may need to find an additional source of bond funding. There will be a short course at the AMA in Anchorage and we’re looking into a short course for Fairbanks and for the Fortymile area.

3:30p.m. Public Comments - NONE

Time stamp on the recording at 6:14:30

Break

Time stamp on the recording at: 6:25:00

Terry Marceron – Chugach Forest Supervisor, U.S. Forest Service

Time stamp on the recording at 6:35:43

Brief update of the Forest Service's effort to revise the Chugach Forest Plan. We are operating under a new planning rule, and what is different with the new planning rule is an assessment phase. The assessment phase provides a current condition of resources on the forest. We have been working on the assessment phase for the last year and a half and that will be published on our website in September.

Scott Ogan – Manager, Public Access Assertion and Defense Unit, State of Alaska Department of Natural Resources

Time stamp on the recording at 7:12:38

Some things we are working on you may be interested in:

- Izembek issue, we have submitted FOIA requests and we are combing through these documents and taking into account all possibilities;
- We had some archeologists working on the Ahtna-Klutina road, we've been told that we've done enough and were asked to stop. We filled a motion to compel;
- Mosquito Fork, we filed a Quiet Title for the bed of the river. The Government claims it's non-navigable, it's also a wild and scenic river and the BLM is treating the uplands for its wilderness characteristics. We have a trial date in August 2015;
- Tonsina River, where all the fish wheels are, Ahtna sued us over ownership of the river bed and I'm hopeful we can settle this before we go to trial;
- We are being sued by the Dixon's in the Iditarod trail area. We are preparing the case and deposing witnesses.

Adjourn for the Day

Time stamp on the recording at 7:24:33

A recording of the proceedings from 9am to 2pm can be found at: <https://vimeo.com/120538759>
A recording of the proceedings from after Executive Session to adjournment can be found at:
<https://vimeo.com/121083172>

Saturday, August 9, 2014

Reconvene – Call to Order

Time stamp on the recording at 0:05:23

Roll Call

Commissioners present: Rod Arno, Senator John Coghill, Mark Fish, Teresa Hanson, Charlie Lean, Representative Wes Keller, Kathleen Liska, Warren Olson, Susan Smith
Commissioners excused: Mike Meekin, Ron Somerville, Frank Woods.

Rod Arno – A subcommittee on Access has been established but we have chosen to hold off on any action until a new Executive Director is in place.

Unfinished Business

Time stamp on the recording at 0:09:01

Commission FY 2015 Work Program

Susan Smith, Kathleen Liska, Teresa Hanson - Report from Communications Subcommittee

Time stamp on the recording at 0:09:06

EPA/COE - Proposed Regulations – Definition of “Waters of the United States”

Randy Ruaro – Special Counsel for the Governor

Time stamp on the recording at 1:16:20

This is a big concern for Alaska because I'm not sure there isn't any part of the state that wouldn't apply as wetland and require a federal wetlands permit, maybe even a national permit. It's not just the expanded control, it's the costs. Litigation costs used to be a 1:1 cost ratio and now it could be a factor of 10:1. For example, if there is a disturbance, a critical habitat, endangered species. This is one we are really watching closely.

Chad Hutchison – Legal Counsel, Senate Majority Leader Senator John Coghill

Time stamp on the recording at 1:33:50

I'd like to focus on some of the definitions we have been working on and are suggesting to the EPA. The EPA is dealing with several agencies and not everyone is using consistent definitions of some of these nebulous terms. For example:

- Significant nexus – It's nebulous what qualifies. There must be continuous, significant, underground nexus, or free flowing connection to water quality to a downstream source.
- Shallow subsurface connections – water making up the shallow subsurface connections has to occur in the rooting zone of a wetland area.

These are some of the comments we will be submitting during this comment period.

Break

Time stamp on the recording at 2:01:58

11:30a.m. Public Comments

Time stamp on the recording at 2:30:12

Ray Kreig – I have been affiliated with the Alaska Policy Forum; they are certainly interested in the work that CACFA is doing. I have been following CACFA since before it began and I need to say that I am so proud of the hard work this group has done. Public service groups tend not to get anything done in-between meetings. I appreciate what you do and I think that if Alaskans knew what you were doing they would feel the same. I will do my best to share your message with the groups that I am affiliated with. You keep your perspective, how you stick to your mission.

Sara Taylor – I wanted to introduce myself, say that I am the one interested party in succeeding Stan Leaphart that Representative Keller announced yesterday. I came up to Alaska in 2004 with the Fish and Wildlife Service then I moved to the DNR-ANILCA team until I went to law school. After law school, I returned to DNR to work on project management and federal issues.

Gary Olson – President of the Alaska Moose Federation. Recent developments being provided, a newsletter and the moose salvage program. We are trying our best to let everyone know that a public/private partnership is the best way to make these programs a success. Another recent development is we have salvaged 1,000 moose. We have a team of 12 trucks statewide at State Trooper call-out. We pick up the moose whole and deliver the moose whole to the charitable organization and they can butcher in a safe location. ADF&G gave us \$4,900 to send over 6,000lbs of packaged meat to Galena, including moose heads which are largely discarded. When cow moose are salvaged, orphaned calves are being relocated to the Copper River area. One more thing we are trying to put in motion is to ask the Governor to include a moose abundance fund in their budget to assist communities, like what we did in Galena.

Lunch

Time stamp on the recording at 2:57:18

Return to Business and Convene Executive Session:

Time stamp on the recording at 4:39:32

Conclude Executive Session

Time stamp on the second recording link at 0:00:39

3:30p.m. Public Comments - NONE

Mark Fish – I would like to make a motion to hire Sara Taylor as the new Executive Director.

Charlie Lean - Second

Senator Coghill – I support hiring Sara but I think the Executive Committee should meet at least weekly. We were all so comfortable with Stan that we were a little lax with that.

Representative Keller – I agree completely and whether in person or telephonically, I have already discussed it with my staff and we plan on doing that. Weekly we will have a time specific meetings with the Executive Committee so we maintain good contact.

Warren Olson – Mr. Leaphart retired at the end of July, correct? I would like to see more applicant information. I think we are premature here.

Teresa Hanson – All emails should be cc'd to another member of the Commission so the topics are not dropped.

Representative Keller – Can you call the roll, please?

Smith – No

Arno – Yes

Senator Coghill - Yes

Hanson – No

Lean – Yes

Rep. Keller – Yes

Fish- Yes

Liska – No

Olson – No

5 Ayes, 4 Nos

Motion Carries.

Commissioner Comments

Time stamp on the recording at 0:11:52

Warren Olson – There are some key players that will be making decisions for us.

Kathleen Liska – I am excited about the forward momentum and also the possible Access sub-committee. We will send out emails asking for information between our meetings.

Mark Fish – Congratulations to our new Executive Director. We are now in an area where we can't rely on Stan, we must make our move and have to educate and inform and be the will of the people. If we are going to do that, we have to give them all the information we can and go in that direction.

Representative Keller – We have the CSG-West and a continuation of the American Lands Council, here in this room.

Charlie Lean – I have been very impressed with our communications, very well done. It's incumbent to have a conversation with the new Executive Director to share our strengths and weaknesses to make it work.

Teresa Hanson – I'm very excited with our momentum. We have a good plan.

Senator Coghill – Looking forward to working with the new Executive Director. I'm also excited about interfacing with the University to collect history as advocates for the State and listening to the people in the state. I'm also excited about our discussion about having a summit around an ANILCA review.

Rod Arno - I would like to see more networking with the other agencies and the Legislature. Starting with the Communications sub-committee, was a big niche to fill, access is the same. That's how we can put pressure on our Legislature and mostly the Congressional delegation. I'm optimistic.

Susan Smith – Welcome Sara, we're optimistic to move forward; and Chad you have such a succinct way of communicating difficult topics. The Communications sub-committee is working so well together

and compliment each other strengths, it's a great group. I'm going to be reaching out for those brochures; we really need to get these for the election cycle.

Adjourn for the Day

Time stamp in the recording at 0:31:11

A full recording of today's proceeding can be found at: <https://vimeo.com/120538758>

Sunday, August 10, 2014

Introductions – Representative Keller

Time stamp on the recording at 0:03:30

Representative Becky Lockhart – Utah Speaker of the House

Time stamp on the recording at 0:10:29 (poor recording, no microphone)

Transfer of Public Lands Legislative Summit report/update.

Representative Ken Ivory

Time stamp on the recording at 0:10:49

American Lands Council presentation.

Adjourn

Time stamp on the recording at 2:00:43

An online version of the 8-10-2014 presentation can be found at (please be aware the presentation is 122MB): <https://www.dropbox.com/s/9u5pwscg4ohnrol/HI%20vs%20AK%20Enabling%20Acts%20Slides.pptx?dl=0>

A video recording of the presentation can be at: <https://vimeo.com/120538758>

Additional information provided by American Lands Council:

American Lands Council Website: <http://www.americanlandscouncil.org>

Video – Transfer of Public Lands Presentation “Part

1”: http://www.americanlandscouncil.org/transfer_of_public_land_presentation_part_1

"Part 2":

http://www.americanlandscouncil.org/the_romance_and_reality_of_federal_land?recruiter_id=1435

Video – Transfer of Public Lands:

http://www.americanlandscouncil.org/transfer_of_public_land_webinar

Video – The Basics of the Only Solution Big

Enough: http://www.americanlandscouncil.org/the_basics_of_the_only_solution_big_enough

American Lands Council
859 West South Jordan Parkway
Suite 100
South Jordan, UT 84095
(801) 252-6622