

STATE OF ALASKA
CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS
JUNE 12-13, 2015 | FAIRBANKS, AK
LEGISLATIVE INFORMATION OFFICE | 1292 SADLER WAY, 3RD FLOOR

DRAFT MEETING MINUTES

An audio record of these proceedings is available at <http://www.360north.org/citizens-advisory-commission-on-federal-areas/> (time stamps are reflective of four separate files, a.m. and p.m. each day).

FRIDAY, JUNE 12, 2015

Commissioners Present: Senator John Coghill, Mark Fish, Teresa Hanson, Representative Wes Keller, Charlie Lean, Kathleen Liska, Warren Olson, Gail Phillips, Susan Smith

8:07a.m. – Call to Order; Roll Call

COMMISSIONER OPENING COMMENTS

Time stamp on the recording at 0:00:27

Mark Fish – Contemplating how much land we have here in Alaska while driving up from Big Lake, who is the controlling authority of what I am on right now, changes your perspective. Most of the public sees those vast open spaces as unregulated, undamaged and untouched. Look forward to hearing from those regulators and see if we can do a better job explaining the status of those lands to Alaskans.

Warren Olson – Outstanding outreach materials, make sure the public can and wants to obtain them. Let's get the points together and present to the Governor at our January meeting in Juneau.

Susan Smith – Inspirational week, other meetings this week, presentation by John Howard, excited to see a meeting of the minds of all these people and our advisory group, see if we can manage lands a little better on behalf of all the people of the state.

Kathleen Liska – Wealth of wisdom has been gathered, and those that have gone before us, brings to mind other groups that have gathered in previous decades, dedicated and passionate about protecting Alaska for the use of its people and those that make a living here. Have continued to move the ball down the field since the Federal Overreach Summit, coalitions with other states, a think tank is being formed to look at possible solutions, excited and honored to be part of it.

Teresa Hanson – The fact we put in a resolution to form this group in January and they met on Tuesday, just blows my mind how fast that happened, and decades of wisdom gathered in our advisory group. Hopefully this is the right time and we will hit our goals.

Charlie Lean – Run into some old friends and colleagues this week, heard some good stories. A hunting guide turned around a decision chasing him out of his area; went to court and won. That was encouraging. Former colleague at ADF&G, dealings with a local NPS manager did not go well, which was discouraging. But the residents of Alaska and the state government are finding it more difficult to operate, breakdown in communication, both sides, we need to work on that and we are.

Gail Phillips – Lived all over Alaska, grew up in Nome, lived in Fairbanks, Kenai Peninsula, looking forward to working on this body. Family history is mining on the Seward Peninsula.

Representative Wes Keller – Three members absent today, Frank Woods, Rod Arno and Ron Somerville. Thanks to the Executive Director doing double duty, administrative and director job, and to the LIO for graciously allowing us to use the facilities at all our meetings, and to DNR for providing us administrative help and office space. CACFA in a superb spot, in awe and excited, Alaska State Lands Advisory Group (ASLAG) is a huge hope there, very impressive group of people.

Senator John Coghill – Value of CACFA became more and more apparent to people during budget discussions. Am now chairman of Federal Overreach Committee, it's about lands, education, unsupported mandates, laying out those things and dovetailing with CACFA, take up its recommendations. Will be a policy committee, can take up bills. For the next 300 days, will watch what CACFA comes up with, generate things outside of the lands issue, get the next legislative session revved up on it. Chad Hutchison will continue answering things Stan had done for years and years. Reading Federal Register and answering the things we are interested in here. Senate Majority can work with Executive Director, CACFA, and will take some lead the Commission cannot, both politically and practically. A lot of oxygen was sucked out of the air getting the legislative session closed. Cut near \$800M out of the operating/capital budget, probably was a time when that was the entire budget. This commission is bipartisan, it's about Alaska, Governor is supportive but may not be aware of the issues. Need to make sure he understands the politics and the practicality of it, the highlighting of important but not necessarily dramatic issues. I will make sure message from this commission gets to the Governor.

APPROVAL OF THE AGENDA

Time stamp on the recording at 0:20:10

Charlie Lean – Motion to approve the agenda.

Warren Olson – Second

No Objections

Motion passes

APPROVAL OF MEETING MINUTES

Time stamp on the recording at 0:21:51

Sara Taylor – The minutes were not approved at the last couple meetings because they were not finished. Karrie and I finished the minutes. They are all a little different, varying levels of detail. Bylaws require 30-day turnaround, which I commit to going forward. Beyond just approving the minutes as accurate, I would appreciate feedback on the desired level of detail. The Juneau 2015 minutes are the most detailed I would like to be, just shy of verbatim, and that took 30 hours. I would like to have them be that detailed. Until the infrastructure in our state allows for web streaming capacity, I'd like people to feel like they were there. But that may be a thing I do after the first 30 days. How much detail is important for that initial 30-day turnaround; more detailed for timely concerns.

Representative Wes Keller – I want the Director to have the level of minutes she wants. We have to think about the cost, but as a balancer, I would say the agenda covers it and the audio record. The important thing in the minutes to me is the actual actions that are taken – motions made, seconds, description of the discussion around it. High level of detail can be distracting and may take away from free discussion at the meetings.

Charlie Lean – The Juneau minutes are more hefty and detailed, but my experience with minutes is the person transcribing be aware of the issues and put things into context, otherwise meaning can be lost. Tending toward more detail, risky to paraphrase.

Mark Fish – Support brevity; important to capture fulfillment of agenda and motions, votes with motions and dissent, with discussion leading to motions. Minutes are draft and if misconstrued there is the ability to fix it before the minutes are approved. Not as concerned with description of discussion.

Kathleen Liska – Understand importance of subjects and dialogues, but the extent of detail is intimidating. What is the standard for this in other bodies?

Teresa Hanson – The Juneau minutes, because of the detail, the subcommittee could recapture comments and use that as direction for what we are bringing forth today. In some ways, the detail is very helpful for the future.

Senator John Coghill – You need enough information to give a reason for what the Commission reports out. The discussion should be the salient point to the motion at hand.

Mark Fish – Motion to approve the minutes for June 2014, August 2014, January 2015.

Multiple Seconds

No Objections

Motion passes

EXECUTIVE DIRECTOR REPORT – Sara Taylor

Time stamp on the recording at 0:32:20

- Received correspondence yesterday from Fortymile Miners Association Board requesting our input on an interpretation of ANILCA (that large-scale resource management plans violates the language/intent of ANILCA to draft individual plans for each unit); will be working on that
- Please provide feedback on meeting packet distribution and outreach materials
- Please reserve Old and New Business for tomorrow, very busy day today with speakers

OUTREACH SUBCOMMITTEE REPORT – Susan Smith

Time stamp on the recording at 0:36:06

- Summarized financial issues and activities,
 - o Includes minutes of each weekly teleconference
- Two projects in progress:
 - o Revolution Media (media plan is in packet)
 - o Regeneration Media to digitize commission archives (contract was just finalized)
- A lot of energy spent since January on back and forth with Revolution Media on its proposals
 - o Please provide comments on media plan
 - o Provided them with CACFA videos from video camera and summit
- New outreach materials, being provided to delegation, thinking about bumper stickers, too
- Interviews the past couple months
 - o Mark Wayson and Frank Woods
- Sara Taylor and Kathleen Liska attended meeting with Senator Murkowski's office in D.C. on the transfer of public lands issue with Utah Commissioner Doug Heaton
- Teresa Hanson attended Tanana Chiefs Conference

Questions

Q: Charlie Lean – Great to grab one of these placards during a conversation with someone last night.

A: These are the quick info placards, attention-grabbers, but big fact sheets are still critical when dealing with people who know the issues. Would like different forms of reaching people.

Comment: Warren Olson – We had some meetings last year and distributed the fact sheets. A cheat sheet is important and best delivered by a CACFA member. So many things going on. Picked up a lot of brochures after the event which were not taken home, but I'm going to keep doing it again.

ASLAG REPORT & DISCUSSION – Stan Leaphart, ASLAG Vice-Chair

Time stamp on the recording at 0:46:33

- Inaugural meeting of the group happened on Tuesday; Mead Treadwell elected chair
- People on the committee, depth of experience, truly outstanding and a great foundation
- Idea of the transfer of federal public lands into state ownership or management is something we do not know a whole lot about; all my experiences is about knowing federal lands, which is a different focus than what can we do here and what do we do if we get them
- Controversial and being reviewed by other states, find efficiencies with what has been done but each state is going to have a unique situation
- Next meeting in August, will take a look at the group's charter and consider amendments
- What are the economic issues? Legal constraints?
- Bill Horn's "playbook" put together for Reagan administration on ANILCA implementation
 - o Deadline for group's report is 2017, almost 6 months into new administration
 - o Thinking about a possible report before then, or fast tracking the report
- Chairman Treadwell broke it down into several core areas:
 - o Litigation will be driven by the attorneys in the group
 - o Legislation went to Stan
 - Proposals in other states, Congress, Alaska Legislature
 - o Negotiation went to Bill Satterberg and John Crowther
 - o What would this mean for ANCSA Corporations and tribal interests?
 - Bud Fate and Craig Fleener will work on that issue
 - o Interstate work went to Scott Ogan
- Report/preliminary findings in time for next CACFA meeting; ASLAG can meet the same week
- Sagebrush Rebellion was more about frustration and anger, but this is based in the same idea that states make better stewards and land managers, greater interest in what happens on those lands and have a greater sense of ownership because we live here and use those lands
- Daily News-Miner had a very negative editorial on HB115, which might have had more credibility if they hadn't mentioned that state land selections were done under the National Interest Lands Settlement Act and no mention whatsoever of the Statehood Act; but shows we can anticipate a lot of pushback, but it's worthwhile

Questions

Comment: Representative Wes Keller – Something that was missed a bit, which is looking at the cost of managing the land is only half the picture, because of the revenue projections that are there (which are always wrong); potential income along with cost of management is an element to consider. Context for HB115 is that it is a work in progress. Made it through the House, is in the Senate, may be a challenge for ASLAG to fix, make adjustments, then return to House for concurrence. But look at it and see if there is the potential for changes, coming from the advice of ASLAG

Comment: Mark Fish – Cost estimates that are unreasonably high are a tactical way of killing something, should always include what we want as reasonable management, which could be very limited in some places and intensive in others. If we say we will manage at the same level as the federal government, an easy way to unduly drive up the cost. Agree should include revenue, but also what level of management those lands would need.

Comment: Senator John Coghill – On the legislation, there are two things. Need practical answers but also need to be bold in our assertions. Put one thing in your lens, private availability of lands.

Comment: Warren Olson – We work for the Governor, is he aware of this?

A [Representative Wes Keller]: Many of us have met with him, several limited discussions.

Comment (cont): We should get him here. This will be a big issue in the south 48. We took over the fishery at statehood and increased production several hundred percent. Tragically, since then, our game resources have deteriorated drastically. Management tools we used to take for granted; USFWS did a great job before and just after statehood, into the early 1980s, then it started deteriorating. We have proof from the agencies that they are not going to manage these resources in the way mandated by our constitution. That is sufficient to ask the lands be returned to the State. Why have a staff and people working where you have no resources made available for use and the Alaska lifestyle, and the country is bankrupt. I would like to have something substantial to have when we go to Juneau in January.

Comment: Teresa Hanson – A lot of ASLAG members were not able to attend the presentation yesterday by John Howard, an attorney we brought up from San Diego, but we recorded it. Would like to make sure it is distributed to everyone, as a priority.

Follow-up [Representative Wes Keller]: Would add getting that to our Congressional delegation.

Comment: Kathleen Liska – What Utah has just approved to do constitutional research and precedent it will set is going to be important, but something Mead Treadwell has said many times is that Canada's Northwest Territories have gone through this devolution process, including dealing with Native issues, and Greenland has done the same thing. Precedent and models have been set.

Comment: Stan Leaphart – Read article in the paper about the restoration of Teddy Roosevelt's home, money was allocated in 2008, just about ready to open the doors, done at the bargain basement price of \$10M. I'll bet Alaska could have done it for \$5M and would have taken less time. Something else to consider is the savings at the federal level. Teddy Roosevelt would have had something to say about the cost of that restoration.

PANEL: PLACER MINING REGULATIONS & POLICIES

Time stamp on the recording at 1:12:30

Panelists Deantha Crockett, Executive Director, Alaska Miners Association
 Lenore Heppler, Eastern Interior Field Manager, Bureau of Land Management
 Bill Jeffress, Executive Director, Alaska Minerals Commission

A discussion on the impacts and issues associated with placer mining regulation on federal public lands managed by the Bureau of Land Management, including the increasing application of internal guidance.

Lenore Heppler

- Trying to improve some of the processes and be closer to our regulations, and it has caused some angst but are trying to work through it
- Worked closely with Alaska Miners Association and Fortymile Miners Association
 - o Both State and National directors attended recent meeting in Chicken
 - o Heard concerns and there is a lot of Follow-up for that

Deantha Crockett

- We have a lot of core issues of concerns and frustration, but they are with the agency, the staff has been wonderful, especially with regards to communication

Bill Jeffress

- Here to represent the plight of small miners
- What we look at here is: why are we going to the extent we are with these federal requirements?
- Commission lists issues in its annual report
 - o Noted in 2016 season, a number of requirements of placer miners come into effect, including baseline work for years before applications are submitted
 - o Since 2005, annual placer mining application was a one-stop shop, and then more may be required as things evolved, but we've gone from a little additional information to huge amounts of very expensive information to have a "complete" application
- Alaska has a reclamation act that covers state, private and federal lands; ADEC has primacy over wastewater discharge permitting; ACOE issues a permit for wetlands
- This is a huge, expensive undertaking for the small placer miners; one "notice-level" miner paid over \$40,000 and then BLM did not have staff to finish NEPA so he could work this season, so he purchased another (permitted) operation just so he could mine
- This level of planning is something you'd see for large-scale mines in Nevada, except there a lot of detailed information is deferred to state agencies with primacy
- If you don't get your reclaimed land signed off by the BLM, you have to do the whole plan of operations or wait for the willows to grow so you can mine and stay under 5 acres
- We need communication of information to allow for timely, seasonal info gathering
- 70% of the miners have claims on selected lands, so they have the hope to mine on state lands, but which mom and pop operation do we sacrifice in the meantime

Lenore Heppler

- I do not know what is required in Nevada but there is likely minimal placer mining
- There is the annual placer mining permit, but things in the BLM's requirements are not sufficiently fleshed out in there (we need more information than the State does), so we have the supplements, A through G, which cover other requirements we must implement
- Instructional Memoranda – "IMs" – are guidance to the staff on implementing regulations
 - o Regulation: Reclamation includes, where applicable, rehabilitation, revegetation, etc.
 - o Guidance tells you what those terms mean, provide consistency and standardization
- Everything that is being done is within the regulations
- One thing being done through IM is bonding and another is reclamation, when is it good enough
 - o Fisheries biologists know what you need, outlined for staff and miners in the IMs
 - o Makes it more objective and less subjective
- Helps to know what the stream looked like beforehand to take reclamation measurements, so "before" photos are required, which is one thing you need to do pre-application

Panelist Discussion

Lenore Heppler – Surprised to hear there was no notification of the IMs, because I thought we had sent notification to all miners

Deantha Crockett – Do not believe notification had gone out; very appreciative of workshops done for the Alaska Miners Association Convention. A lot of operators are not aware of data collection they could be doing this season to be ready

Lenore Heppler – That would be a priority then, to make sure notification is provided

Bill Jeffress – A point we have stressed is that ADF&G is the fisheries manager in Alaska, have done a lot of work and manuals on reclamation. DNR has a lot of mine reclamation, riparian habitat, lots of manuals put out on that. I would call these performance standards on fisheries and reclamation, and they are implementable by the State. When you look at what miners are required to do here, seems like it is within the State's purview and is something the normal placer miner does not have instrumentation or expertise to do. Everyone can work cooperatively to have a plan. Placer miners are generally doing well, and BLM has recognized that with a number of awards.

Deantha Crockett – We have had a discussion on what placer miners can afford to do, and they are already authorities on reclamation. One miner who has had reclamation signed off on twice, you can see stable willows, he has been doing the same thing for decades. For the vast majority there are great experiences in the field, and they share with each other.

Lenore Heppler – Reclamation in a placer mining claim is not easy. We have failures a lot. Our new regulations came in place in 2001 and we are slowly implementing them more and more. If you wait a long time, things will stabilize, we will see regrowth, but we are required to hold onto bonds until then. If you want to do it faster, there are ways you can. Good topsoil helps speed things up. As you noted, various entities have excellent track records, including in previously noncompliance areas, but we haven't seen a lot of those steps towards revegetation.

Commissioner Questions

Time stamp on the recording at 1:42:10

Q: Warren Olson – Please explain holding on to the bond.

A [Lenore Heppler]: Miners required to give a bond so, if they walk away, some assurance is provided so the American public does not pay for reclamation. In Alaska is a bond pool, joint federal-state agreement, miners pay a certain amount and can tap into it. When done with reclamation, they tell BLM which sends a team of people to review, sign off, and the acres are released and money returned from the bond pool. If they have 5 acres, mine 4, they need to sign off or else they have only 1 acre to mine.

Q: Mark Fish – How much does litigation and lawsuits factor into regulations, how much is driven by lawsuits or lawsuit avoidance?

A [Lenore Heppler]: It's not forefront, but it's in the back of our minds. *Sierra Club v. Penfold* in the 1980s shut down mining for a year because BLM had not looked at the cumulative impacts of mining under NEPA. Mining was shut down while we did an environmental impact statement. We don't get a lot of lawsuits. What is really driving us is adherence to the regulations and the laws; if we do that, we will get fewer lawsuits or at least prevail.

Q: Charlie Lean – The regulations apply to mineral claims but not patented claims.

A [Lenore Heppler]: Right.

Follow-up Comment: When I worked with ADF&G in Nome, I worked with Matt McClain in Fairbanks, who wrote a number of papers, I did a lot of the field checking. As far as fisheries rehab, a number of streams in the Nome area are bad examples and a number are amazingly good. One area with a suction dredge history, all before regulations existed, tailings piles creating sloughs, reseeded with willow, ground looks humpy bumpy and people comment on how it is not natural, but it is mile-for-mile the most productive salmon stream in the region. Some areas are reseeded with grass, which is not native, and not conducive to production. There is a lot to be learned by looking at places like this, and Mr. McClain was an authority on what he did, look at some of his papers. Our rehab projects worked. Grading is an unnecessary and non-productive requirement.

Response [Lenore Heppler]: Most effective tool working with the miner is photos we have of actual reclamation, and the four major points we are trying to do with reclamation. Regrading, stability and revegetation are paramount. Here are some good examples and here are some areas where reclamation

is not working. Some things to work through (e.g., are you connected to a flood plain, can the velocity be reduced so it is not retrenching). I'm sure our fisheries biologists have read those papers, they've looked at everything they can find.

Follow-up Comment: It is an excellent piece of work but one thing that is missed is the riparian secondary overflow schematics. You talk about the winding, meandering stream, but you miss the point that there is a secondary broad channel that should be relatively straight and, when the stream does flood, it provides an overflow mechanism so that the newly recreated habitat doesn't blow away. There are good schematics in Mr. McClain's materials and others, and it's simple for one person to construct.

Response [Lenore Heppler]: I will look into that; also want to mention it is not just our fisheries biologists that are looking into this but also our hydrologists.

Q: Gail Phillips – Echoing Charlie's comments, my family mined in the Opher and it is a beautiful area. Coming back to the testimony that there are all these new requirements but no BLM staff in the region could help the miners with this, what happened?

A [Lenore Heppler]: Do not know what happened specifically there, but there is a timeframe to keep in mind. This often happens – someone comes in May and says "I want to mine this summer." We need to get an interdisciplinary staff on site to do the NEPA, need to get people out in the field. Right now, all my staff are out doing NEPA work right now. If someone comes in right now, I cannot pull them out of the field. We need to look at the expectation that is there, for time. Perhaps we could make things faster or make them more efficient, but it is not something that will happen very quickly. The process that is required takes time.

Comment: Bill Jeffress – I agree with what Lenore is saying but it particularly points out the problem. Applicant goes out and puts together his plan, application, and then BLM has to go to the field to look at it. If they do that, he misses another season. It becomes two years to permit a property instead of one. If I'm a window washer, wanting to wash my glass door, I get my supplies and do it; but, if I want to wash a window 40 stories up, there's more to it, more precautions. Some of these small miners, mom and pop, are washing their glass door. Does it require all this? Particularly when the State has biologists, strategies, standards. BLM has missed a lot of opportunities for habitat enhancement. Fort Knox, we worked with Habitat, Matt McClain, a lot, and we cleaned up the area that had been rather ravaged. It wasn't BLM that made us, that was the State. On the North Slope, made mined-out gravel pits into viable fish habitat. Prescriptive, what did it look like pre-mining, nature doesn't stand still. Another issue – when do you have stability? One winter you can get off-ice, and that spring, you have a new channel. If BLM was holding the bond on the Dalton Highway, it's been there how many years, and this year it washed out. Performance standard met and, in a realistic period of time, placer miners should be able to walk away.

Q1: Representative Wes Keller – When you presented, you mentioned the IM is not a regulation. I'm thinking of the small placer miner out there, with a list of things they have to do, and that same list is used to determine whether or not they get there – the standard that is used to make them do these things and there is a consequence. If it talks like a duck, that is a regulation.

A [Lenore Heppler]: It is based in regulation. If you read the IM, it restates what the regulation is and adds a little more nuance to it.

Q2: If it is an expansion, and that is what we are being told, is there more money coming from Congress to follow-through with this? It's a complicated plan, the [Eastern Interior] plan, with the good oversight we already have, should we be doing this?

A [Lenore Heppler]: One of the things the bonding IM talks about is a reclamation cost estimate. People say that is new but the regulation requires it. In the past, we have accepted broad interpretations of that which looks at what the state bond pool costs (\$750/acre), so that is what the reclamation cost estimate is. When you look at what it takes, that is woefully underestimated. So, in this IM, for high-

risk claims (working within or adjacent to a stream channel, slopes greater than 30%, remote, winter-access area) that amount is not a good representation of what it will cost.

Follow-up Q: Well it could also cost nothing and turn out with something better, with natural processes. What about the help coming from Congress?

A [Lenore Heppler]: We have gotten more resources in the past couple years in light of all this coming on. Not from Congress but from BLM that shifted money to Alaska to allow us to hire more staff.

Q: Teresa Hanson – How sustainable is this? Complicated plans in place and need more people to carry this out. Federal government is broke, which is where BLM gets its money, how many people will be put out of business because you cut down on staff?

A [Lenore Heppler]: I see from Washington they recognize we are not where we need to be and they prioritized money for Alaska. This is our requirement to do this, we have to find the means to do it.

Comment [Deantha Crockett]: Something that came from the meeting in Chicken, I pointed out to National BLM Director Neil Kornze, the decider of regulation, who had come to Alaska and was in someplace as special as Chicken, that he has the ability to make regulations work for Alaska. I agree and sympathize with Lenore that she has to follow regulations, but he can make them unique. There's an example in the reclamation book that won a national reclamation award. They were never given any instruction by BLM, but they knew their area and knew what to do, and there are a lot of operations like that. Now we have an IM that stipulates how it needs to be done. Moving over to the bond pool IM, it is a minimal amount to get into the state bond pool – \$150/acre – and a miner will never pay more than \$750/acre into the bond pool. Total amount in the bond pool is about \$1.4M right now. It is easy to assume that, if everything goes wrong, BLM will have \$330K or so to reclaim, which is not a lot. Strictly by regulation, BLM is faced with a pickle. But, the way it exists now, these reclamation cost estimates, where every miner has to modify an operation or a new miner that comes in with every intention and capability of doing it right, by default – because of the new regulation – we have to assume the most expensive reclamation scenario. A million dollar price tag gets attached to something that we have resolved in the past. We have neighbors that regulate and help each other, help from the AMA, and BLM can take those areas out of noncompliance. But the black and white of the regulations will disqualify good actors from the bond pool, and there are no other realistic opportunities for them.

Q: Mark Fish – Timeline for permitting, is there a day I can submit a fully acceptable plan to be done for the next mining season?

A [Lenore Heppler]: No, because it depends on how many of these we have. Key thing to keep in mind is our timeline, people on the ground and the analysis. It takes a long time to do that.

Follow-up Q: Days, months or years, some timeline?

A [Lenore Heppler]: If you come in January, we cannot get out there until May or June. If you come in June, with a new plan of operations, we have to make sure it is complete and then get out on the ground, depends on what else is in the queue. We have to visit the mines twice a year in certain drainages. There are things that back us up, like getting out on the ground, so we could be idle for a few months, even, waiting for certain steps in the process.

Comment [Lenore Heppler]: We've daylighted a lot of problems here today and not much about what we are doing to resolve that. We are looking at a lot of different avenues, different methods, to try and make these regulations work for placer miners in Alaska.

BREAK

Time stamp on the recording at 2:12:45

Reconvene

Time stamp on the recording at 2:25:23

PANEL: TRAPPING CABIN POLICY

Time stamp on the recording at 2:25:36

Panelists Dave Mushovic, Supervisory Realty Specialist, Bureau of Land Management
Randy Zarnke, President, Alaska Trappers Association

A discussion on the effectiveness and relative accessibility of cabins permitted under the Bureau of Land Management's Alaska-specific policy on winter-use only trapping cabins.

Randy Zarnke

- With Alaska Trappers Association for over 35 years; second stint as President
- Purpose today is to report on long-running problems with trapping cabins; made a similar presentation a couple years ago
- Many members trap on federal lands and some of them need cabins for safety and efficiency of their operations; process to permit those cabins has never been easy
 - o 1987 requirement 25% of annual income had to come from trapping to qualify for permit
 - o Very hard to satisfy, many variables came into play, population cycles, fur prices up and down, opportunity for lucrative summer jobs
- Two trappers had cabins south of Bettles and could not meet income requirements; in 2005, BLM told them to remove doors, roof and windows from cabins and the permits were not extended/cancelled; one did that and the other stopped using his cabin
- In 2010, association asked for change from BLM, lots of support from Stan Leaphart, Tina Cunning and Brad Palach, and BLM reconsidered the income requirement
 - o BLM said at one point they received no new trapping cabin permit applications from 1985 up until that time, evidence to us people could not meet that and didn't bother
- The issue of how to revise the policy was assigned to a subcommittee of the RAC, which came back with altered parameters (numbers of traps, numbers of days spent) and that policy was adopted by the full RAC and it was adopted by the BLM, started taking applications in 2012
- Fee structure that had perhaps always been on the books but had not been an issue before, the application process is now more costly than it was before
 - o Trappers from Bettles reapplied and are happy to be back in their cabins, even though it is more expensive now; one of them was charged \$200/year for each year he wasn't there, the other sought a permit for a smaller cabin and was quoted a \$4000 fee for that
- Six months ago, received a call from a trapper in Tok who flies out to his trapline, cannot always make it back, was quoted \$5000 for a permit, which would include an environmental assessment
 - o Called CACFA and director is trying to break down the regulations and policies into a simplified document to understand what is required for a permit
- Policy revision has not gone as smoothly as we like; it's not policy that keeps them out, it's cost
- From our perspective, trapping is not "commercial" and we'd like to avoid the use of that term but have been advised by BLM not to push that because permits can only be issued for commercial use, which means we could end up with a situation where no one gets a permit
 - o Would hope there is some way to work around that

Dave Mushovic

- Acting Chief of Realty at the State Office; with BLM for over 30 years
- FLMPA is what governs our management, regulations further refine that
 - o Regulations require cost recovery, there is a fee schedule
 - o Requires fair market value for use of the public lands
 - o Notes authorization for commercial and subsistence
 - Backs us into a corner with "commercial" trapping cabins

- RAC helped us refine issue of “commercial” trapping, and we did away with the 25% income and came up with an agreed-on set of criteria
- When you apply for an authorization to use the public lands, you have to show a need; show what you want to do is necessary for the operation of your business

Commissioner Questions

Time stamp on the recording at 2:39:28

Q: Mark Fish – The term “fair market value” was used, how is that assessed?

A [Dave Mushovic]: By appraisal of land, which can be expensive. We have a minimum rental schedule for remote parcels, one that was done in 2008 based on a market survey by an appraiser (Office of Valuation Services, at the time). We just had a new minimal rental schedule done by that office (now the Appraisal Office) with valuations based on agricultural land valuation system used nationwide and tweaked for Alaska. Some values went up and some went down a little. Based on restricted use being authorized on the public land, approved by BLM and we are working on finalizing it, putting it in an IM.

Follow-up Comment: Usually appraisals are based on similar properties, and cabins in Alaska as similar to a farmhouse in Nebraska might raise some issues. These are unique structures.

Response [Dave Mushovic]: Values are established for Alaska, more indicative of what remote land goes for in Alaska, based on the boroughs and census area zones (for consistency). Anytime an applicant comes in, they have the option of asking for an appraisal and paying for it. The minimum schedule helps keep those overhead costs down.

Q: Warren Olson – What is the participation with the State? Fees for facilities?

A [Randy Zarnke]: Not as up to speed as I should be but I think it is \$100 for a permit on state lands. Not sure about other fees, can I ask Sara Taylor?

A [Sara Taylor]: Going back a few years for me, I think there is a lease aspect to it, a land use fee, but even if there is it isn't more than a couple hundred bucks.

Follow-up Comment [Representative Wes Keller]: That begs the question of whether or not the fair market value should be fair market value for a trapper operation versus selling land; could be specifically lower and justifiable if it was qualified that way.

Comment: Susan Smith – With respect to the 25% income requirement, my husband has been a trapper for decades, with about 100 miles of traplines, he is very aggressive, and he's never produced that much. Fur prices come into bear, as do the cyclical fluctuations of animal populations. I cannot imagine that is realistic for most trappers. I cannot imagine my husband could work any harder.

A [Randy Zarnke]: That requirement has fortunately been removed.

Q: Charlie Lean – Very glad to hear that 25% requirement is gone, it would be a rare thing to make that much. These cabins have always been the ace in the hole when experiencing a crisis out in the field. Trapping back in the 1970s, visited trapping cabin from the early 60s (which BLM reduced to firewood) which had testimonials on the cabin from folks who had used it as an emergency shelter, know a number of cabins used in a similar way. BLM spends hundreds of thousands to build cabins on the Iditarod Trail. Feel like one of the offsets of trapping cabins would be to consider them public use cabins during the offseason and consider that as part of the lease arrangement. In Yukon Territory, people own trapline routes and territorial government limits resources by assigning them. In your leasing, do you consider trapping density and whether there is another cabin in close proximity?

A [Dave Mushovic]: Concerns about BLM removing cabins, we have removed a lot of them over the years, some because we could not find any claiming ownership and some removed because they could not qualify, were a private recreational cabin or a hunting cabin, which we cannot authorize. Most of the land BLM is managing is selected, and State requires us to resolve unauthorized use prior to taking

title to the land. State prioritizes it for conveyance and we have to go out and resolve these issues. As to density, we have considered that in the past – how close do you need cabins to be before you have one every mile or so – and in some cases there was a heavy density of cabins (not necessarily trapping cabins), e.g., Alphabet Hills. Have also wrestled with a more comprehensive cabin policy, some of this trapping policy came from that. We never got to an agreement stage on that but did come to an agreement on the trapping cabin issue. Look at density on a case-by-case basis, do you need it here or can you share with someone out there. Hard issues to define, subjective, no study on acceptable density. We do have to do an analysis under NEPA with an environmental assessment on each site, and that analysis includes alternatives to building the cabin, that is how we address it typically. If applications were concentrated in an area, we could do a programmatic environmental assessment, but trappers usually want to be away from other trappers, so I cannot imagine density is a big issue.

Follow-up Comment [Representative Wes Keller]: The density issue certainly plays in there, but the suggestion I heard was that BLM could initiate permitting options that include use and safety. If we let it go, I know everyone here could tell you about a night in a cabin, seems like Alaska is a unique opportunity for permitting options that incorporate safety.

Comment: Sara Taylor – Just to address the earlier question, the permit fee for a trapping cabin on state land is \$100, good for 10 years, up to three cabins, renewal is \$100.

Comment: Charlie Lean – The issue of shelter cabins is a big deal, we have all heard stories about often-used cabins being destroyed. The Nulato Hills is a site where, on my GPS at home, I have every habitable cabin because I have been to them. Many are in trespass. But that is my ace in the hole. I have walked home twice from airplane incidents. It is a big deal, even in the summer.

Comment: Representative Wes Keller – I would like to maybe see CACFA ask the BLM to explore the safety aspect for Alaska, and the language in ANILCA.

Response [Dave Mushovic]: We have taken that into account in some places, if we can find someone willing to manage the cabin to our engineers' and attorneys' standards. We have issued some organizations, Native Corporations, permits to maintain emergency shelters. Some may require some major policy changes to go further, and some buy-off from much further up, but we have tried to take that into account. When we issue a permit there is an understanding it is available for emergencies, no one is ever going to argue that. But we have to have documentation as to the cabin being there and who is responsible for it. Recreation-wise, the BLM has public use cabins in areas where we set up programs to do that, they are consolidated enough to manage. Landscape in Alaska makes that hard to do, the logistics get difficult and how much use might not justify the effort, specifically for recreation. But to have private recreation cabins would take major changes in the law.

Comment: Mark Fish – I spent a night in a cabin at the mouth of the Susitna/Tyonek with a cold and wet eight-year-old boy and I considered the liability if that cabin was *not* there. When assessing those liabilities, ask if it improves the existing situation. A shack that holds out a little water is a perfect standard compared to no shack at all, and could be a life or death difference.

Comment: Representative Wes Keller – I think it affords us an opportunity to do things different. I remember one night in a cabin I could barely get above freezing and it was heaven in there because it was so bad outside. Very much life or death.

Comment: Susan Smith – By saying that you do not object to emergency use, by removing the cabins, you do. If it is because of a state selection, perhaps they would not want the encumbrance of the use, but would they object to the cabin being there? I would rather see you stop destroying cabins and with a “use at your own risk” sign on the door.

Response [Dave Mushovic]: I may be going out on a limb, but I doubt we would object to giving the State land with a cabin on it, and we have offered, very seldom do they agree.

Comment: Representative Wes Keller – Let us know about that, maybe we can help.

Representative Wes Keller – Please keep in touch with Director Taylor on this issue.

RAPID ECOREGIONAL ASSESSMENTS – Jamie Trammell, Landscape Ecologist, University of Alaska
Time stamp on the recording at 3:07:00

- Landscape-level planning effort funded by the BLM, cooperative agreement with them, working with field offices, National Office and State Office
- Broad team representing diverse skill set, collaborative project with a robust review team (Assessment Management Team) representing federal and state land management agencies
 - o Lots of stakeholder input to make sure science meets management needs in the area
 - o Merging science and management needs, what science finds interesting not always as interesting on the ground
- Rapid Ecoregional Assessments (REAs) are the very first step to a landscape approach to management, it is a baseline of the landscape conditions to fit any way it might be considered, develop strategy, mitigation, and monitoring framework and then repeat the assessment
- Try and determine ecological values and trends across ecoregions (areas with similar environmental characteristics), changes that might not be as apparent at smaller scales, gauge potential impacts to species and habitats by change agents
- REA is intersection of conservation elements and change agents/landscape drivers *and* socioeconomic conditions (which is unique to Alaska REAs in the national program)
 - o Assess current, near term and long term status in a trend model for context
 - o Work with land managers to ground truth the models
- All of this is informed by management questions developed by the assessment management team
- Most of the lower 48 REAs have been completed, there are four in Alaska
 - o Seward Peninsula (complete)
 - o Yukon Kuskokwim (complete)
 - o North Slope (almost complete, final in next couple weeks)
 - o Central Yukon (halfway to two-thirds complete)
- Unique that BLM is funding this but is not the major land manager in these regions
- Looking for key species and key habitats as conservation elements
 - o Could and can be species of concern
 - o management questions help to identify those benchmark species
 - o key functional groups, regionally important features, functions and services
- Suite of change agents
 - o some part of nationwide program (fire, invasive species, climate change, and anthropogenic uses)
 - o in Alaska, we added permafrost
- Put this all together into an integrated analyses, which allows assessment of status and say where things are and get at how well they are doing at a broad scale, forecast basic trends, identify forward looking management strategies and identify data gaps (logistical and conceptual)
- REAs just provide information and tools, do not make decisions, not geared toward any land management agency in particular (no deference for ownership mosaic)
- Main outcomes are baseline data synthesis, data sets, distribution models, digital mapping

11:30a.m. Public Participation

Time stamp on the recording at 3:24:43

No one on the phone or in the room

Returned to Rapid Ecoregional Assessments Presentation

Q: Charlie Lean – Referring back to your map on various ecosystems, seemed to be shading that they overlap somewhat. As climate changes, the ecosystems could shift due to changing temperatures and permafrost changes. How does the analysis take sliding ecosystems into account?

A: A great segue into the next section of the presentation. While these are independent assessments, they will become seamless once complete and cover two-thirds of the state.

Jamie Trammel (cont)

- Terrestrial habitats are not just landcover types but are functional units that mean a lot to the region; same as with terrestrial species, go from small prey species to major carnivores and everything in between, including important subsistence resources
- Amass occurrence points, each documented sighting of a species, becomes part of the final REA data portal, which is publically available
- Try to anticipate where densities are going to change based on change agents
- Hardest thing to quantify is the human footprint, due to any number of things, array of data sets that have been compiled to put those features together
 - o Landscape condition models weight those features and you get a relative impact and infer things about habitats in the near term and long term to provide an overall status
- Geospatial framework can substantially help answer very creative management questions, integrative products (e.g., where climate change is in relation to key species)

Public Testimony – Charles McKey

Time stamp on the recording at 3:35:25

Calling in reference to the land use withdrawals and other matters. Will fax in more information on 1983 right to contract disagreement with State of Alaska. In favor of retaining the land that the federal government wants to restrict and withdraw from our access, in favor of Alaska in that respect but they have never been a friend to me. Cost of money was forced on us in 1933 by HJR 192. Federal legal decision of us as prosecutors to have a duty to learn the law, funding is skewed, though. Took away our rights to contract and gave it to the Securities and Exchange Commission which increases our productivity and brings us into a deficit in perpetuity, driving us at break neck speed to develop resources, the race to beat the rental charge money and the interest charge on it. Focused on the fact, in 1933, they broke apart the national trusts, but I have the right of the original treasury to represent this country, which was buried but it is still our duty to find out that information. This is a felony on the American people. HJR 192 forced us to give over control of the treasury to get into the commodities market without a license, leading to big deficits; loss of our rights at a constitutional level, loss of our right to inherit, to contract. Can read more on my website – www.new-pi.com. This all ties in to the presentation being made here, on putting pressure on the land and becoming a commodity.

Returned to Rapid Ecoregional Assessments Presentation

Time stamp on the recording at 3:44:50

- American beaver provided insight into how climate change will impact area, shift ecosystems
 - o Looked at temperature thresholds for suitable habitats and found habitat would improve by three-fold in the long-term, and more beavers could additionally alter the ecosystem
- Cumulative impacts are also assessed, irrespective of management boundaries
 - o How much change could occur over time
 - o See quite a few significant changes even in the near term
- Hope these tools provide a landscape context which managers can use as a regional issue
- All the information will be publically available through BLM and hosted by the Alaska Natural Heritage Program on its website
- Data portal (already up and running), reports and videos

Questions

Q: Teresa Hanson – Can we get a copy of this powerpoint if we email you?

A: Yes

Comment [Representative Wes Keller]: And Director Taylor says she can get one for you, as well.

Comment: Sara Taylor – Just want to beg the BLM to have these repeated.

Comment: Jamie Trammell – And we would happily do it.

LUNCH

Reconvene

Time stamp on the recording at 0:00:22

PANEL: RS 2477s, 17(B) EASEMENTS, NAVIGABILITY & QUIET TITLE

Time stamp on the recording at 0:03:37

Panelists Dave Mushovic, Supervisory Realty Specialist, Bureau of Land Management
Michael Schechter, Assistant Attorney General, Alaska Department of Law
Kevin Sorensen, Public Access Assertion and Defense Unit, Alaska Department of Natural Resources

A discussion of land and water access and ownership issues related to state and federal public lands.

Dave Mushovic

- Fairly short presentation to cover a variety of topics for general backgrounds
- 17(b) Easements
 - o Reserved pursuant to ANCSA, only on ANCSA-conveyed lands
 - A lot of them overlap with RS 2477s and existing routes
 - Get across Native lands to other lands and waters, not use along the way
 - o BLM is responsible for record keeping, identification, reservation and termination regardless of who the administrating entity might be
 - o Work very closely with the public, directly with Native Corporations and the State
 - Find middle ground acceptable to everybody, which can be difficult to do
 - o Can transfer administration and management to landowner whose land is accessed and our policy is to do that whenever possible; have not transferred many to the State
 - o Easement is the right to use the land for a particular purpose but not a right to exclude, very strong feelings about this with landowners
 - Must be reasonable and as little a burden on the landowner as the use could allow
 - Landowner cannot interfere with use
 - o Federal government cannot take legal action against a user that wandered off unless they are interfering with the right of public access; sensitive topic with Native Corporations
 - o About 10% of easements are or were signed at one time
 - o Our focus is on easements BLM administered, some of which are heavily used

Q: Representative Wes Keller – Do you have maps?

A: I have links to maps, which I have at the end.

Q: Gail Phillips – You said you had gotten rid of or denied several easements, for what purpose?

A: I need to correct myself if I gave that impression, what I said was only the BLM can terminate an easement. We are hesitant to do so, regulations say we cannot do it if it is the only way to get to an isolated tract. We have done a few, I have no figures on that, but it is very rare. One exception was a

lawsuit prior to our current regulations. We had reserved a lot along coastlines and needed to do a mass termination to conform the easements to the regulations.

Q: Warren Olson – What are the physical dimensions of easements, is it a footpath up to transport, and can they change from footpaths to mechanized?

A: Three categories of easements under the regulations: standard 25' trail easements to cover trail surface which can hold 3000lb ATVs to dog sleds, 50' easement which allows additional uses per types of vehicles that go along that, and 65' road easement which is almost unlimited in vehicle type. Also 1-acre site easements with 24 hour camping use or can park for as long as you are using the easements. Some are winter-use only, mostly because of swamplands. We can reduce uses but not increase.

Q1: Charlie Lean – I saw you administered across other federal agency lands, is that right?

A: Those easements are transferred to those agencies automatically, we have MOUs in place. There is a paper process to transfer the records to them, and that hasn't been done in all instances. Easements outside CSUs with the only purpose being access to the CSUs, they need a good reason to disagree but the transfer is not automatic. This is done when the land is conveyed.

Q2: And those agencies comment on this?

A: There is a public process and the agencies weigh in on it. Decision is appealable. Anyone can nominate an easement.

Dave Mushovic (cont)

- Submerged Lands: Recordable Disclaimers of Interest (RDIs) & Quiet Title
 - o Goes to statehood compact, title to unreserved public lands underneath navigable waters at statehood automatically revert to the states
 - o BLM determines navigability, language is subject to interpretation, Secretary decides and then federal courts decide when there is a dispute
 - o RDIs is a cost-effective administrative tool equivalent to bringing a Quiet Title Action to summary judgment
 - State prioritizes which ones we work on, pretty active program, we have around 15 active ones right now in some stage of the RDI process

Q: Warren Olson – Are you familiar with the McCarron Act, or basin-wide adjudication?

A: I am not a navigability specialist, I don't work with these processes directly.

Follow-up Comment: Each state creates a statute and determines the use on that water. I carry around a picture of the use of ice in Lake Clark in July. If that were pressed, the use of that ice would determine that Lake Clark was navigable. We have been a state for 55 years, you're talking about 15 rivers, we are never going to get to the end of this. Basinwide adjudication is where parties go to state court and present their case, does not reflect on decisions by the state court stopping elevation to federal court, but can be more efficient. This was an active area in the mid 1990s. BLM and the State did a lot of work. The State has not created an aggressive enough program for the BLM to participate.

Response: I remember some discussions but, to my knowledge, nothing has ever come of it. We do have only 15 RDI processes going now, but it's usually more along the lines of when we have a dispute we are trying to resolve. Several are going to court and I cannot comment on them. A lot of the time we do not have disputes about navigability; problems come when we say it is not navigable.

Q: Gail Phillips – Of the roughly 1500 navigable waterways, how many have BLM classified as navigable v. non-navigable.

A: I do not know, perhaps we could get that answer.

Q1: Charlie Lean – Out on the Seward Peninsula are some strange navigable waters. American River has some odd, flat boats on the bank, drug boats like a sled through the water to get to mining area. Some other strange apparatus I have seen used pre-statehood. Would those be considered part of the standard for navigability?

A: The boats is the type of information that would go into making the determination. I can't say the fact whether they are there or not, you have to look at everything.

Q2: There are other places where the trail going to the mining district made use of streams with off-ice on them, freighted stuff by dog sled and cat train, and in the summer you can jump across them. Is that a trail or navigability?

A: My understanding is it has to be in a flowing state when used, but I am not 100% sure of that. Talks about customary modes of travel "on water." I am not the attorney that interprets this.

Dave Mushovic (cont)

- RS 2477s
 - o Mining Act of 1886, repealed by FLPMA but reserved any valid at that date
 - o Ability to accept an RS2477 in Alaska likely ended in 1968 when lands were withdrawn by PLO; likely because it depends on the circumstances
 - o Federal government does not acknowledge an RS 2477 unless acknowledged by a federal court; Washington office has precluded us from using the RDI process for RS2477s

Q: Charlie Lean – The PLOs effectively in most cases shut down the opportunity for the State to reclassify RS2477s, so if they have not made a claim by then . . .

A: This is commonly referred to as the Udall Land Freeze to sort out ANCSA and State entitlement

Comment [Mike Schechter]: They could be identified as having been created prior to that date, but that was the date they could not be made after; this is our current litigation.

Kevin Sorensen

- Budget has reduced our staff to four, we will work diligently on maximizing our resources, what we do we will do well and what we cannot do we will not do (we will never run out of things that we could do) and use our resources prudently
- RS2477s and navigability, each have a unique quality which is that they are both conveyance without a conventional conveyance document, rely on facts, and that becomes most of our work, to research those facts and see whether the State has a claim
- Colleague Jim Walker has a saying for RS2477s: they are like attorneys, everyone hates them until they need one
 - o Example: NPS needed an RS2477 to have access into the park, came to the State to help us get a strong case so they could have access
 - o Example: 10th Circuit case out of Utah, Quiet Title Action where NGO was trying to intervene, judge noted the NGO's membership used an RS2477 to access a wilderness experience they were endeavoring to preserve
- Federal government does not recognize until recognized by court of competent jurisdiction
 - o When the State is claiming, BLM has someone making a claim against its property, and their policy is to not say that it is and not say that it isn't; we have no recourse if we cannot get jurisdiction in court, so how do we finalize this claim?
 - o Hope to build good case law to support the implementation of these programs
- Navigable waterbodies own the land beneath it, not like an RS2477 right to use, and that carries a lot of implications; biggest contention we have right now
 - o Important to know during conveyances to know what needs to be charged against someone's entitlement and what to convey

- Even in a wild and scenic river corridor, the state can own the river and the federal government owns the corridor, which brings about a whole other suite of issues

Q: Gail Phillips – If that is the case, then why wasn't that the ruling decision of the Sturgeon case? Why was the overwhelming decision that the federal government had the right to stop him?

A: In our unit, we do not handle those issues. We work on who owns it. I defer to Mike on that.

Comment: Susan Smith – Didn't we just see in the last couple days that a federal action gave them jurisdiction and the federal agencies declared they have the right on state waters?

Response [Stan Leaphart] – The National Park Service in the mid-1990s passed a regulation asserting jurisdiction over waters within park boundaries regardless of ownership. It was challenged by the Alaska State Legislature, tossed for lack of standing. Knowles administration did not challenge.

Response [Dick Bishop] – The underlying proposition was that, as a result of one of the *Katie John* cases, the federal district court in Alaska said all waters in Alaska were under federal control. The decision was overturned in the 9th Circuit which said only reserved waters in or adjacent to conservation system units were under federal control. At the same time, the Alaska Supreme Court ruled the federal government had no authority over navigable waters in the state. This is a lousy decision and it begs legislative action to clear up the dispute about navigable waters. Result was federal agencies then presumed to enforce regulations like the one prohibiting John Sturgeon's use of a hovercraft on the Nation River.

Response [Warren Olson] – John Sturgeon is appealing his case to the U.S. Supreme Court.

Kevin Sorensen (cont)

- I think there was a word in the BLM Powerpoint about submerged lands "reverting" to the State, but it was actually a conveyance, there was no reversion
- Quiet Title and RDI program, we have done a lot of work with BLM and gotten positive results, but the real drawback is there is no administrative means to move it along
 - BLM may have 15 submittals but there are around 60 or 70 or so waterbodies there
 - Most recent ones we have gotten back took around 15 years to get through; if we didn't submit anything for another decade, they would still be working on some submittals
 - Even when IBLA remanded the King case, the State would like the BLM to act on it but we have no means to make them do it, we'll be pushing five years here soon
 - Only fix might be through Congressional delegation
- RDI is different from a Quiet Title Action
 - Federal government records that it disclaims its interest in an RDI
 - There have been waterbodies BLM rejected to disclaim, and that is an unresolved dispute, whereas a Quiet Title Action has a resolution and can create case law
 - There are court deadlines in a Quiet Title Action, and the court does not care if you have personnel to do it or not, you meet it
- Doing RDIs as a priority would be odd since there are plenty in the hopper, not moving fast
- The hope is to get case law with more efficient mechanisms to make our case
- 17(b) easements, we used to review them as conveyances came through, but that has really slowed down and we have not had as much reviewing to do
 - A lot of them have been fairly benign
 - Responsibility we had there will probably be handled by Realty now

Comment: Senator John Coghill – One thing CACFA has done is appeal to Congress for clarification on statutory issues. The next generation cannot wait. We need to appeal for clarity on a process that works better. I do not want to leave that alone, and giving us verbiage, or a template, would be nice.

Mike Schechter

- This is separate from my Department of Law presentation after this segment
- Senator Coghill's question goes to the heart of what I have been thinking about lately, with respect to our budget issues, this meeting specifically, what our future looks like: we have had the best situation until now, lots of money and resources, it was the University of Washington Med Center and now it's more like a MASH unit, we have to do triage and place resources in most effective areas; verbiage for Congress would be "More money for BLM Alaska."
- State Office here is great, easy gives for both sides results in easy cooperation, and they have competing resources, too, and are a far outpost from where the purse strings are
 - o RDI Program has no Outside prerogative to move quickly, but without pressure to make a decision on that RDI, staff time is reallocated
 - o More avenues for cooperation but the Department of the Interior may need prodding

Comment: Warren Olson – We had a case in 1981, section in the original ANILCA bill that put a seven-year statute of limitations on determining water on the 44 million acres within ANCSA, and in the same paragraph said if anyone objected to the statute of limitations we had one year to file a case. Sam McDowell joined with Governor Hammond and John Katz and we fought the *Gulkana* case, won that decision in 1986 which, at the time, newspapers said we had won ownership of 10s of 1000s of miles of waters in Alaska. Because of that suit, ANILCA was changed in 1989 and we had an infinite amount of time to determine navigability, including on those 44 million acres. If you're out of money, they are out of money, and we have a better method – basinwide adjudication – we should put thought into that as a tool to seek common ground with the BLM. Recent case settled on Snake River, went for 25 years, had countless users involved but was settled on the basinwide adjudication process. At the time it was opposed by the administration, this has to be investigated.

A: I will take that back, and please send me resources you think would be helpful. As we look at rivers as a whole, even in Alaska, should be susceptible to an easier process.

Response [Chad Hutchison]: We have provided a number of resources to Department of Law on basinwide adjudication; happy to share those with Mike and work with him on it.

Comment: Warren Olson – State statute is void of use during ice and snow periods, but that is one of our busiest times. John Sturgeon's hovercraft was registered for 17 years, and then set aside.

Response [Kevin Sorensen]: The question of whether or not the State owns it is a federal question. Once we own it, we can say what applies.

BREAK

Time stamp on the recording at 1:11:30

Reconvene

Time stamp on the recording at 1:11:40

AGENCY UPDATE: ALASKA DEPARTMENT OF LAW – Michael Schechter, Assistant Attorney General

Time stamp on the recording at 1:12:00

- Statehood Defense Attorney in Natural Resource Section
- There are a lot of things awaiting decisions or pending trial, and there will be no or little update

Cases Awaiting Trial/Resolution

- *Akiachak* case; Lands Into Trust issue
 - o D.C. Circuit decision that federal government is allowed to create Indian Country in the United States and take lands into trust in Alaska
 - o AG asked for six-month stay to understand issues and decide on a direction

- Brief before D.C. Circuit is due July 24; administration still mulling its options and trying to understand the issues as well as it can before deciding next steps
- 1002 Exploration case
 - Still waiting for decision from Judge Gleason (about 5 months next week)
 - State believes there is still the ability to do limited exploration in the coastal plain
 - Summary judgment on an administrative appeal; her decision will control pending appeal but will be a final resolution at the trial court level
- *Dickson* case; Iditarod Trail/RS2477 blockage case
 - Set for trial in January
 - Kent Sullivan and Cheryl Brooking working on that case
- Chicken RS2477 cases
 - Appeal was just heard a couple weeks ago, decision possibly in a few months
 - Trial court dismissed on a motion, decided it cannot hear State's case based on jurisdictional issues and that is now pending before the 9th Circuit
 - Certain ways land is transferred where the court has no jurisdiction because the federal government has not waived its sovereignty, no ability to quiet title; we think it was granted one way and opponents/court think it was granted the other way
 - Other issue is whether the State can condemn the land under eminent domain, which makes it an extra complicated issue
 - If there was conveyance as to some areas, but not others, if there is no jurisdiction to define where the trail goes, how do you determine just compensation?
 - Dave Wilkinson in the Fairbanks office working on that case
- Klutina Lake Road RS2477/17(b) easement issue
 - Lots of interesting questions about how we can and do use things
 - Scheduled for trial in 2017
 - May be some motion practice before then, some related issues, but regardless it will still need a trial without some agreement beforehand
 - Parties want a lot of the same things and there are opportunities for cooperation
- Mosquito Fork litigation
 - Working with DNR, excellent experts
 - Trial starts August 17 in front of Judge Gleason
 - Interesting trial, especially if you like history and science
 - Like the *Gulkana* case, should create excellent case law for the State and hopefully create a similar flurry of activity in its aftermath
 - Jessie Alloway working on that case; I was added to the trial team a couple months ago

Issues Awaiting Resolution

- ANWR Boundary issue
 - State believes the northwestern boundary identified by the federal government is one river too far over, requested the BLM convey the area we originally selected
 - Still waiting to hear back, no real update since we last spoke
 - Offshore boundary is wound up into that, and State has finalized leases on disputed area
- Izembek King Cove Road issue
 - We are doing things, working on some stuff, things are much closer to being something we can talk about in some detail at the next meeting

Opportunities for Cooperation

- Establishing Ownership Boundaries
 - Offshore lands, submerged lands, they became ours at statehood – *not* conveyed
 - Everyone wants to know what the boundaries are, budgetary, personnel, sovereignty

- Offshore boundary moves, can we just agree to what the boundary is, doesn't matter where lands accrete or erode
- Finalize it, put it before US Supreme Court to sign off, agreed decree
- If the line keeps moving, it makes it harder for both sides to manage the resources and do what they need to do on each side of the line
- Been working on it, tied up a bit in the survey weeds
- Management problems go away with certainty
- Survey Issues
 - BLM wants to change how surveying is done in conveyance of statehood grants
 - A marked departure in technique and density of data
 - Science and technology are not there yet
 - Budgetary issue to survey to required standard in Alaska (expensive Outside, too, but *really* expensive here)
 - If we convey it and people do not know their property lines, creates a lot of problems
 - All that is happening is the financial burden is passed on to us
 - Maybe they could compensate us, and in ways other than money, too
- HJR24
 - As BLM acknowledged in 2006, it withdrew a bunch of land in the 1970s and they are all still sitting on the books, along with others that have long served their purpose
 - We do not have that much selection left, but we would like to get it from productive and useful land as was intended in the Statehood Act
 - Pressure for BLM to lift withdrawals not serving a purpose anymore
 - ANCSA ones are easy to point to and are large, but there are others (e.g., unbuilt military areas)

Considerations for the Commission

- Where we find our allies and how we think about our issues in a big way
- Reframe arguments to not be at odds with environmentalists and liberals to say we are against other energy producing states as competitors
 - Once supply is limited, price is higher
- Like shopping for things, those are made with petroleum and minerals not mined in America under our standards, our labor standards
- Alaska is big enough for resource extraction, hunting, parks, fishing
- A cooperative posture might be more beneficial, we want to mine here under federal standards
- Opportunities for us to think about where we can find help to move towards our goals – a health economy, a healthy environment, and an environment that contributes to our economy in a sustainable way where we are not at the beck and call of someone else's appropriations

3:30p.m. Public Participation

Time stamp on the recording at 1:42:18

No one on the phone; one person in the room interested in presentation will testify at the end
Returned to Department of Law Presentation

Questions

Comment: Warren Olson – We went through our apprenticeship about 35 years ago and we got shanghaied by our own administrators. I am very cautious. We had people with the (d)(2) passage that did not want competition from Alaska. Personalizing my experience with CACFA, we have an enormous constituency that is concerned about access. If you've never lived the Alaska lifestyle, you want to, and that's the driving force. We own this land and this water, the State does not, the BLM does

not, as described by Governor Hickel. The Alaska legislators are the trustees of this land, the Governor is not named once in Article 8 of our constitution. We expect those trustees to be aggressive. December 2, 1980, we had more parks in Alaska than existed nationwide on December 1. That's huge.

Comment: Mark Fish – Been here throughout this process and many Alaskans, including myself, were outraged at ANILCA. The only thing that soothed us were the guarantees. So much was taken and so few guarantees, and now the guarantees are under assault. I want to see some compromise, not just do the compromise, I don't want to see those compromises roll over into another generation. They need to realize what Alaskans have given up, and the public domain, and our equal footing, I even have issues with State Park managers remembering this is the people's resource, not the government's resource.

Q: Gail Phillips – Klutina Lake Road is an easement case the State is pursuing, can you elaborate?

A: Runs from Richardson Highway about 31 miles to Klutina Lake, through Ahtna Inc. land and Native allotments, Ahtna enrollees or connected to Ahtna. Some of the road is in great shape, up to about Mile 21. There is definitely a 17(b) easement that was reserved, everyone agrees. The right of the easement is 50', limited to transportation, and one or two 1-acre site easements. The State believes there is an RS 2477, which are 100' wide and with more flexibility for relocating the road, traveling along, more camping opportunities. Main body of the road and a number of spurs that are all part and parcel of the RS 2477. The litigation began when Ahtna had placed a pay station and something indicating you needed to pay to use the road, within the RS2477 right of way. DOT removed it and this lawsuit started with Ahtna trying to Quiet Title outside the 17(b) and the State cross-claiming the RS2477. Right now we are in discovery, field work last summer and this summer, then depositions after and trial prep.

Follow-up Q: Was 17(b) the question on the Chickaloon Village Road and has that been settled?

A: I don't know.

Q: Kathleen Liska – Can you give us an update on the *Sturgeon* case?

A: Mr. Sturgeon filed his petition for certiorari and the State filed an amicus brief.

Follow-up Q [Representative Wes Keller] – How long we will wait for that to be taken up?

A: They will decide at some point, if you don't hear very soon we will likely hear after the summer.

Comment: Warren Olson – A number of amicus briefs will be filed there.

Public Testimony – Dick Bishop

Time stamp on the recording at 1:56:22

Have been following a number of these issues for a while, came today to get caught up and not prepared to speak. Commission is a vital element for both getting public input and conveying a concern where one is warranted; you give serious thought to what you hear and do not take things lightly. With this rainbow of issues, more to talk about than there is time. The most pressing issue for the State of Alaska is fee lands into trust for tribal entities in Alaska, potential for the most dramatic effects on Alaska as a whole, to function effectively, management of fish and game, regulation of other matters. Tribes become more independent of state regulation and law and will impact things strongly. If you have 200+ sovereign tribes with authority to manage fish and game on their lands, try and imagine the management by the State, issues we have with federal agencies would be compounded immensely.

This morning, the BLM repeated that they need to comply with the regulations. But those regulations may have not been designed for Alaska. Reminds me of *Men Are From Mars, Women Are From Venus*. I don't know how they can do it, but they are stuck with making the regulations work. Easier to say oh well and do it. Fortunately sounds like a lot of the people here do not take that attitude. Knowing the local people working at the various federal agencies, I wonder what the opportunity is to challenge those regulations. Do they have the latitude to constructively criticize the regulations in place? If they do not have that, and the regulations are still being made somewhere else, it will not improve very much or very soon. They should have the ability to advocate for improvements.

With regard to navigability, the 9th Circuit gave a federal agency authority to manage on reserved waters, where the agency had no right to manage. An impasse that has been around over a decade that demands legislative action, from the unwillingness of Governor Knowles to appeal one version of the *Katie John* case. Example of one of the results of this. The State examined and asked BLM for recognition of the navigability of the Kantishna River and Lake Minchumina, where I spend a lot of time and lived for a while. DNR did a lot of background work, BLM put together a draft recommendation that came out seven years ago recommending navigability finding. Tracked down person in BLM assigned to follow through, said it got stuck because of some dispute because river changed, near Denali National Park. No one is pushing BLM for these to be addressed, really important State pursue it.

On RS2477, 20 some years ago, the Alaska Outdoor Council compiled documentation on approximately 500 RS2477s, proof of past use to qualify it under the terms. That was turned over to the BLM, so I was pleased to hear the BLM is responsible for keeping records, because they have a pile of them. About a year after that, hundreds were put into state statute as being recognized RS2477s. Of course the BLM can recognize them outside of court. If the federal law constrains them, it should be changed, and the State should be encouraging the delegation to change it. This delay is nonsense, and is a true injustice to the State, to the people of the State, with no discernable benefits to the lower 48.

Comment: Warren Olson – Unique experience last night talking to Mike Dalton, and he said much of what you said. It would behoove CACFA to gather this RS2477 documentation up. I also heard there were aerial photos taken 30-some years ago that documented RS2477s and they are buried in the bowels of some agency between here and D.C.

Response: I don't think we included photos. Our concern was it would disappear if/when the administration of the state became unfriendly to the idea, for whatever reason.

COMMISSIONER COMMENTS/REFLECTIONS ON THE DAY

Time stamp on the recording at 2:11:20

Gail Phillips – This is my first meeting, wanted to say, after listening to Mr. Bishop, it is a real slap in the face to Alaskans that 25 years ago we were working on these issues and they have not been resolved to Alaska's benefit yet. The federal agencies can tell us we do not have the money or resources, but that is too long to wait for simple decisions like transfer of roads and trails. I look forward to the rest of these meetings but it makes my heart sore we are not advancing.

Mark Fish – Hearing the records Mr. Bishop was talking about, maybe we could incorporate them into our digitization effort. I do not want anyone to start from ground zero with a historical context. If you have anything to preserve, we would like to add to our archive.

Charlie Lean – Stepping back to Mike's final statement, we have heard from a couple lawyers over the last few days that this is a huge undertaking and, if we are successful in the federal transfer of lands to the states, it is huge and difficult. I think Alaska is unique amongst the western states, and the park units have done us huge disfavor, it was a grab of our sovereignty. That said, this group is going to be asked to triage what is important to us, where can compromises be made, because I believe we will not get everything and will be lucky to get some. I will be stewing on this for months, what would be most effective for us to get and what am I most willing to give up. Mike, in his way, made me think a bit.

Representative Wes Keller – Enjoy the evening and rest up, big day tomorrow.

4:15p.m. – Adjourn for the Day

SATURDAY, JUNE 13, 2015

Commissioners Present: Senator John Coghill, Mark Fish, Teresa Hanson, Representative Wes Keller, Charlie Lean, Kathleen Liska, Warren Olson, Gail Phillips, Susan Smith

8:45a.m. – Call to Order

UNFINISHED BUSINESS

Time stamp on the recording at 0:00:25

- Thanks to Lesli Ellis-Wouters from BLM for going above and beyond to help put this together, and to Serena Sweet, Lenore Heppler, Tim Lamar, Dave Mushovic and Bud Cribley, for embracing this and making this meeting possible, meaningful and productive

Outreach Subcommittee Proposal: Media Advisory Plan – Kathleen Liska

- Media Advisory Plan has been received, after minor delay in pre-payment by State
- Some big concerns
 - o Way the packages were put together (pp. 9 and 11)
 - Ongoing monthly fees as “campaigns”
 - Costs mount very quickly and outreach budget is stretched
- We have a playbook, the Federal Overreach Summit Recommendations
 - o We developed a communications strategy from it, which CACFA approved
 - o Took first four topics in that as “projects” (not “campaigns”) to get into social media, using video clips from the Summit
 - Statehood Compact & Sovereignty
 - Navigable Waters & Submerged Lands
 - Access
 - Fish & Wildlife
- Revolution Media will proceed by project and will be finite (not ongoing)
- Will include a logo/branding/tag lines to be used across all the media
- Will set up 5 social media set-ups (Twitter, Instagram, Google+, YouTube, Facebook) and will provide database to connect them together, with training
- Will receive 5 minutes of video on projects and a 30-second video on “This is CACFA”
- Deadline to have it all in place by end of July
- Commission approved \$10,000 in January, spent \$1200 on the plan, contract by next week to be signed to move forward on this
- Have these prioritized topics have longer videos 3-5 minutes to show at future summits, post any videos across social media
- Content on social media will be driven by fact sheets, everything has to be approved by Director, who has ultimate say on anything going live
- Feel more comfortable with greater understanding by Revolution Media, which seems very amenable to conform to our needs
- Congressional delegation, state legislators, others have social media posts that can be fed into our social media platforms

Questions

Q: Mark Fish – Promising but confused on monthly rate schedule. Allocated \$10,000, how many months does that buy us?

A [Susan Smith]: Original plan set up with two parts to it, a product part (produce video) and a service part (maintain sites on a monthly basis). We looked at mid-range prices and that was \$5500/month per campaign, separate campaigns per topic, so five different campaigns to brand CACFA and so forth. Running one campaign means the other topics do not get addressed. We want one campaign that gets all our topics out there. Instead of month-by-month, we asked for set-ups for \$5000 with no monthly pricing. Then we could reevaluate after the set-up, so if we do want to produce a short-style documentary or something like that in the future, we would have the money. If we get to a point where it is too much for us, we can change the set-up, they are very flexible.

Q: Gail Phillips – I thought the report was very good, my only concern on public relations is “CACFA” is not a catchy phrase. When I looked at page 21, the rebranding or renaming things, those are way better. How are those going to be considered?

A [Kathleen Liska]: We will explore that as part of the rebranding, working that out. We would present emails to the group. And all through the subjects yesterday, we’d look at each other “That’s a good tag line” or “That’s a good bumper sticker!” The \$5000 is a one-time, not ongoing. Because we are not paying Revolution Media to do the monthly maintenance, it will be on the subcommittee to do that, so training is important, and working with Sara. We will evaluate this with the commission.

Q: Senator John Coghill – I am pleased with this, but not prepared to talk dollars and cents of it, but need to think about information flowing rapidly in some periods, then lag, timing is as important as anything. Resolutions last year the legislature produced because of one thing after another coming from federal leadership, which generated a lot of interest, need to be ready to go when those times occur. Need the information ready and someone ready to act. Have you thought about that style of action?

A [Kathleen Liska]: It’s beginning to dawn on us and we will be looking for help! We will be drawing on staff to remind us or prod us to do a post. This is a learning process. Anything we do in the future, especially with ASLAG, it will be really important.

Follow-up Comment: Because it is information-based, you want to pick some natural allies, who will have to use this information – a state group, a federal group, advocacy group, legislative office, the delegation – making sure that information is easy to get and easy to pass on. We get inundated with information from all medias, so nice to have a “click and share” that has valuable information to pass on. Collect contact info of people that would see this as valuable. Legislature will be working with other groups wanting to do political advocacy and this information will be important for them to have, a credible voice. This can be a baseline information, research.

Comment: Charlie Lean – Not concerned about content, happy you have worked this deal so you are the masters of the information. I’m a bit of a dinosaur on computers, I would really want coaching or someone to hold my hand on the mechanics of getting things on this media. I would anticipate you would keep these guys on retainer so that, if you hit a technical snag, you could keep moving. Important, especially at the beginning.

Response [Susan Smith]: Revolution Media said this project is very important to them and they are looking forward to a long-term relationship. We can always purchase the \$1000/month service contract, and we can set it out, see how it goes, and they will be there for us if we need them.

Q1: Gail Phillips – Where are these people located?

A [multiple]: California

Q2: So they are available by phone?

A [Kathleen Liska]: That was one of our concerns, because we are very pro-Alaska. They did agree they would use Alaska talent where they could. They have the expertise for these types of campaigns that we can rely on but agreed to use local talent for video and such, which pleased us. I am after measurable results. One of the things down the road, we plan on being able to track and better

understand our users, we can do some by sight but they have tools available. We want to be effective for the money we are spending, and tracking would be useful.

Comment: Charlie Lean – We have multiple audiences and some of them will have distinct differences in how they access information (e.g., Fortymile miners v. urban hunters) and they have diverse interests, too, there will be overlap but differences, too. Need to think about our audience, figure out who is accessing which mediums.

Comment: Teresa Hanson – We have been meeting since the Federal Overreach Summit, and as we sit here, we hear someone is doing something and I highly recommend we all keep the recommendations with us to mark off the things that are on there and being done or contemplated. Use it as a means to check in on what we are doing.

Comment: Representative Wes Keller – I'm pleased because Revolution Media said at the outset they would tailor their services to our needs. That the subcommittee took time to define that, and that they responded, looks like we made a good choice. This training for the subcommittee and Sara, consider making that available for the commission, even listen-only. Am I right the \$5000 has already been authorized as part of the \$10,000 in the original? For the record, Director holds the checkbook and writes authorizations as we go. The commission's comfort is important as we go, and the Director is our check and balance on the spending process.

Alaska State Lands Advisory Group Funding – Sara Taylor

Time stamp on the recording at 0:31:50

- We authorized \$10,000 and had the first meeting this last Tuesday
 - o It cost us between \$3000 and \$4000 to have that meeting based on what I estimated
- Mead Treadwell was elected chair and indicated possibly doing six meetings per year, some may be teleconferences (in-person seemed favored)
- Alternating meetings between Fairbanks and Anchorage, membership is roughly split there
- Something in the order of \$25,000 for meeting costs would more than cover that amount of meetings and even more if they do teleconferences
 - o Teleconference costs
 - o Travel costs for in-person
 - o Public Notice costs (\$500-\$700 per), add maybe \$5000
- Proposals that they come up with at the meetings for further expenditures than they can bring them to us for discussion and approval at our meetings, so \$30,000 should last for the life of ASLAG (just under two years), not including studies, contractors (attorneys), reviews

Questions

Q: Susan Smith – What if the meetings were held around the same time as CACFA meetings, would we save money on the publication costs?

A: Savings are negligible because of the increased size of the public notice; time savings for me is not negligible, it is easier to prepare for a week of events, rather than constantly preparing for meetings

Q: Charlie Lean – Does this come out of operating or project funds?

A: I make the call based on where we have money, and so I took it out of the operating budget this time because we had definitely enough to do that; we had reduced staff and increased economic efficiency and that's where that extra money came from. But if we do not have money in the operating fund, it will come from the project fund, it entirely comports with the purpose of that fund.

Comment: Representative Wes Keller – Suggest the commissioners individually contemplate a motion this afternoon under New Business for two things. We have developed a trust and appreciation with the subcommittee, with Sara, with ASLAG. We should have an expansive budget so we don't have to interact, place ourselves at mercy of Sara and subcommittee, but it will increase our efficiency. I was thinking \$50,000 for ASLAG and another \$10,000 for the subcommittee. Be thinking of a number.

HJR 24: RELEASING 17(D)(1) WITHDRAWALS – Sara Taylor
Time stamp on the recording at 0:40:26

Introduction: Representative Wes Keller – HJR 24 was an interesting resolution. HB 115 on transferring lands to the states came up, and I saw people in DNR, and I saw Sara, thinking it was pretty outside of the box. HJR 24 takes the orthodox legal situation we are in, and Sara got the language drafted up and I don't think I changed a thing, sent to legal department, zoomed through every committee, and passed. What we have is a very good reference/outline for the withdrawal history. I would encourage the commission to really look at it closely, the terminology, the sequence, a great structure to build information.

Sara Taylor – This is one of the first things I worked on when I started at DNR. I read ANILCA for about a week and, after that, had a number of conversations with my supervisor, a great Alaskan, Bruce Talbot, and we talked about state land issues. My cubicle was next to realty services and municipal entitlements, I kept hearing about conveyances and selections. Very naively, I asked why we had all this land we haven't gotten yet, what's the hold-up. He said we've selected a lot of land but we're not pushing for them to give it to us because we want the good stuff. We really want this corridor, this area because of its mineral or access or community building potential, or for contiguous blocks instead of isolated parcels, that's what we want but we can't get it until the selections are in place.

A few months after that, the letter in your packet went out, based on a 2006 report. In 2004, a statute passed to evaluate withdrawals. Withdrawals take uses off the table, remove applicability of the public land laws, no settlement, sale, transfer, by Executive Order or Public Land Order. All withdrawals have a purpose, that is in FLMPA. Most large-scale withdrawals – someone referred to it as the Udall Land Freeze – almost 160M acres are still withdrawn based on mostly ANCSA. Let's finish Native claims, let them get their land, then figure out (d)(2) – that is most of the withdrawals. Native claims and designating CSUs was settled long ago. When the 2004 statute came out, the BLM issued this 2006 report that recommended lifting almost all withdrawals, 152M acres, hold onto 7M, because the purpose had expired. And no one ever acted on it. Not the Secretary, not the delegation. For all these years, we've all been saying these withdrawals need to go away.

Q: Representative Wes Keller – The report said 152M acres could be released, if FLMPA declares there must be a purpose for the withdrawals, is there anything in FLMPA or ANCSA that says all the withdrawals we have an interest in, could we make a case for getting the land? We have 5M acres coming, can we make an argument to gain title to more than 5M acres because the purpose was the land was withdrawn with the intent to go to state land?

A: I'm not sure what you mean.

Follow-up Q [Kathleen Liska]: If the withdrawals were lifted, who is responsible for the 152M acres?

A: Withdrawals are not about ownership, it's about what can be done with the property. Those lands are owned by the federal government. DNR is interested in getting the 5M acres, but there are many other interests involved in getting those withdrawals lifted. Remember, those withdrawals take uses off the table for 160M acres of public land in Alaska. If we could have an opportunity to be more flexible, even BLM is interested in doing it, too, because they don't get to operate making land use decisions.

Follow-up Comment [Representative Wes Keller]: Very glad BLM is here listening to this, we want them to keep managing these lands for multiple use. That's a real concern.

Response: These lands are closed to mineral entry. That is a really big deal. My impetus was not just to get the 5M acres, which is really helpful, but it was also about Alaskans being able to use the land again. It has been frozen longer than I have been alive.

Q1: Kathleen Liska – Is access included in the withdrawal, is it hindered also?

A: These are all different withdrawals, though many can be under the same Public Land Order (PLO). I did my own little project, created my own index of PLOs.

Q2: Is that in here?

A: No, that's huge, an Excel spreadsheet with over 1000 PLOs on it, and I only went through 1981. The indexes for PLOs are terrible. I went to each individual PLO in Alaska from 1971 to 1981 to find out which other PLO it related to, changed, replaced, etc., and built this index. The one for PLO 5150 was like 85 PLOs that impacted that one PLO. Some are similar but all are different. You have a legal description of the area, some have a purpose. Hard to say they all withdraw the same thing.

Q: Warren Olson – This was directed to the Secretary in 2006? Why does the resolution say we are pushing on this hard, but withholds taking action through the Attorney General until 2017?

A: To give them time? The thing about resolutions, for me, I'm very practical about everything, putting my time and energy into something. When Wes said let's have a resolution, I said, you know, sure.

Response [Representative Wes Keller]: Nature of a resolution is information, doesn't make anyone do anything, the intent is to put another arbitrary line on the ground, we have no "or else." It is pretty hollow, and many that would agree, or be very offended by what I am saying, but resolutions have limited impact. This lays it out there so we can understand it. They can get a short course.

A: That is how I made it practical. We cannot force the Secretary of the Interior to do anything.

Follow-up Comment: Maybe CACFA should direct this to our delegation. Have an inquiry, whether the resolution is being taken seriously and considered.

Response [Representative Wes Keller]: That was one of my goals with this resolution. I wanted it to be a short course. I hear a lot of information about 17(d)(1)s and it varies, not just depending on who you talk to. I did get help writing this. I wanted it to sum up history, be a factual representation of the problem and what we could do to solve it which is get the Secretary to adopt the recommendations from the 2006 report.

Comment: Mark Fish – To comment on 2017, we are in 2015 now, the middle of it so requesting anything be done this year is out of the question. And 2016 is an election year, that is the focus, no one taking big leaps. So 2017 works for me. Fresh faces being put into the system, probably the most reasonable deadline, if you could have one, get this stuff on the table with the new government.

Comment: Senator John Coghill – Thanks to Representative Keller and the Executive Director for bringing this forward. There are several things very valuable about a resolution such as this. We had a number of new legislators with little understanding of the land-based problems they live within. They usually come with specific ideas in mind and they need to know the land conundrum of Alaska, and this is an important tool. Second, reports with recommendations can get forgotten unless someone brings it up. This did land on the Secretary's desk, and it came from the legislature, and that has value. Third, this gives someone like me the opportunity to sit in the Attorney General's office and ask "what are you going to do about it," which I intend to do. Whether it is the land right next to ANWR, or a CSU beginning to expand with buffer zones, or if it's Endangered Species Act, things are coming in waves. The 2017 gives us a chance to bring a new state administration up to speed and stand for Alaska.

Q: Warren Olson – Historically, the majority of withdrawals were created in what year?

A: Most were created in 1972. It's going back a while, but I'm pretty sure.

Follow-up Comment: How many of our legislation sessions have come up with resolutions since 1972. Let's move forward.

Comment: Kathleen Liska – On the Federal Overreach Summit Playbook, under Section 5, it says ANCSA 17(d)(1) withdrawals, here is the action needed: Governor appeals to Secretary, Attorney General considers litigation, cites *Egan v. Morton*. I appreciate Senator Coghill being willing to speak to the Attorney General. We need to follow up on actions in this roadmap.

Comment: Lenore Heppler – As Sara mentioned, there are various kinds of withdrawals, some withdrawals have very discrete purposes, there is a military withdrawal across the street, but you must review the language of the withdrawal, a wide variety of what can and cannot happen. There are withdrawals from mineral entry, only existing claims are valid, or from the land laws, where they cannot be selected. Key to note is that the [2006] report said lifting of withdrawals would be addressed in the resource management planning process. Lifting withdrawals is a major federal action; very public NEPA process. Withdrawals are evaluated in the plans, and we have recommended lifting in the 1980s plans. BLM cannot typically withdraw, we recommend. Some withdrawals have been lifted.

PANEL: STATE PARTICIPATION IN BLM PLANNING

Time stamp on the recording at 1:08:10

Panelists Sue Magee, Statewide ANILCA Coordinator, State of Alaska

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

A discussion of how the State and the BLM work together on land use planning and ANILCA issues.

Sue Magee

- State coordinator for BLM planning is Samantha Carroll, who could not be here, but I have a role coordinating ANILCA issues and passing them on to Samantha. I review within a review.
- I am lead coordinator on Park Service, Fish & Wildlife Service and some Forest Service plans.

Planning Coordination and Context

- Coordination process, there are cooperating agency MOUs the State has signed for the three resource management planning processes going on
 - o We attend meetings, provide comments, BLM has the final say
 - o We have periodic internal reviews to identify and resolve issues early on
- The State has two appeal processes: a protest after the final issues and the Governor's Consistency Review to identify issues with consistency with state policies, plans or programs
- Planning 2.0 is changing the nature of how plans are reviewed; more public review opportunities
 - o Though not finalized, this is being incorporated into Bering Sea-Western Interior (BSWI)
 - o Cannot see what the overall goal is without a policy to reference
 - o We were providing less formal comments that now go into formal comment letters, which is a lot more work, harder to pull together and talk about
 - o In BSWI, we have already submitted three sets of comments, and it is in the scoping phase, and BLM has to analyze all those comments, as well
- When I first started with the State, Gulkana River Plan was being finished and held up as a model of cooperation and successful plan, even though there were still plenty of issues
 - o Helped that jurisdiction was clear, Gulkana was owned by the State
 - o Different than resource management plans, just a river management plan
 - o User survey done at the onset established some buy-in on adaptive management approach
- Delta River Management Plan also started with a user survey, and we were optimistic before things went a bit south and we lodged a protest
 - o New policy as a recreational tool: Benefits Based Management

- National policy that did not take ANILCA into concern, including subsistence
- Plan was loaded with access restrictions we were unable to resolve
- Delta protest came from the Department of Law, within 30 days after plan is finalized
 - Outstanding protest when Governor Consistency Review came up, found it inconsistent
 - Had to appeal protest response and we did lose but gained some important concessions
 - taking some access restrictions off the table
 - BLM acknowledged it would follow the Department of the Interior ANILCA Title XI regulations, including closure process
 - Consistent with the other agencies implementing subsistence restrictions
- Three current plans, Eastern Interior, Central Yukon and BSWI, have ANILCA designated units
- There are a lot of revisions to policies and the plans impact a large area of the state

Some Planning Issues

- Plans are inherently complex, large areas include a mosaic of ownership and designations
 - Compare Park Service and Fish & Wildlife Service plans, which look at individual CSUs
- Layers of extra designations – e.g., Areas of Critical Environmental Concerns (ACEC), Riparian Conservation Areas, Research Natural Areas, CSUs, and all with associated management prescriptions and possibly withdrawals
- Difficult to fully conceptualize how uses on the ground will be impacted
- Hard to know where mineral potential works into the decision, appears that conservation is considered separate from the uses
- Travel management decisions deferred to step-down plans, but some plans propose restrictions
 - Step down plans allow for a closer look
 - Decisions being made in the umbrella plans which may impact the step down plans
 - Interim decisions will stay in place pending step down plans, which may take a while
- State has concerns about withdrawals, size and justification for ACECs

Some ANILCA Issues

- Would like to see the plans recognize ANILCA provisions that apply, not just to CSUs but also to all BLM lands (e.g., subsistence access, which allows for ATV use in certain situations)
- Access for both subsistence and special access shall be allowed subject to reasonable regulation
 - Title XI regulations apply to all three federal land management agencies and have an Alaska-specific closure process
 - Needs to be justification of a demonstrated need
 - Park Service and Fish & Wildlife Service have subsistence regulations, BLM does not
 - Higher bar for closing than special access, slightly different criteria, public process intended to reach out to rural residents
 - Closure processes are separate from the plan
 - Overarching intent was to decrease burden to users and avoid closures, including permits
 - Process needs to apply to interim travel management prescriptions, also
- Wilderness Characteristics, Inventory and Management
 - Secretarial Wildlands Order came out in 2010, fairly controversial, still in place
 - Manuals that implemented the order are what changed following continuing resolution from Congress that BLM could not spend money designating wildlands
 - Still required to inventory and manage to protect wilderness character
 - Under ANILCA, wilderness is a CSU, ANILCA protections in wilderness do not apply since the lands being protected for wilderness character are not CSUs
 - Do not want BLM lands managed more restrictively than designated wilderness
 - ANILCA gave BLM the ability to do continuing wilderness reviews but cannot manage recommended areas to the non-impairment standard, have to manage in accordance with

- land management plans, which are now incorporating wilderness protections, so are we sidestepping the limitations on managing to the non-impairment standard
- Section 1326(b) prohibits reviews for the single purpose of establishing a CSU or related purpose
 - o State position is Wild & Scenic River reviews violate this
 - o BLM's position is that studies within resource management plans are not reviews for the single purpose of establishing CSUs
- ACECs are administrative designations authorized in FLPMA, with management prescriptions
 - o In our view, and I think BLM agrees with us, the closure process needs to be used for restrictions on ANILCA protected access
 - o Withdrawals associated with an ACEC, it is subject to the section of ANILCA in 1326(a) with Congressional approval for over 5000 acres or they terminate in one year
 - Existing withdrawals, if they do not get lifted that process does not get triggered
- We requested a comprehensive ANILCA guidance that applies statewide
 - o Lenore is working on something for Eastern Interior, but we would like consistent guidance applicable to all the planning process
 - Identifies ANILCA provisions we would like to see recognized
 - Identifies how subsistence access will be addressed
 - Something in writing people can refer to over time

Lenore Heppler

- Our goal is to have plan that meets the needs of the American public, follows all laws, regulations, policies, and the State is quick to remind us of those obligations
- Quite a learning curve; I took the ANILCA Training twice and learned about provisions in the law that highlighted its complexity, State has really helped me with that
- State points out having to train people in each planning process and BLM is going to work on internal education, that is where a spreadsheet comes in pointing to ANILCA sections *and* places where the BLM has guidance, including where other agencies have guidance, regulations
 - o Draft plan for Eastern Interior, hard to see where ANILCA fits in, so have section in the beginning that talks about it and provides access
 - o Sent to State for review, that will probably be the basis for the Instructional Memorandum that we are working on
- Working on ways to better incorporate ANILCA into the plans, you have to have a comprehensive understanding of the law, which has a lot of nuance
- BLM is not trying to put restrictions on state, other agency, or private lands in the planning area; only applies to BLM-managed and selected lands (does not affect ability to convey, other than looking at lifting withdrawals)
- BLM is a multiple-use, sustained-yield agency
 - o We look at all the high-value resources that need to be protected, but we also look at potential, then the great game begins to figure out where that balance begins
 - o The balance is what makes BLM's mission so interesting
- How we are going to manage trails, access, ORVs, that is where things get specific
 - o In the past we have done it in the resource management plan
 - o Planning 2.0 makes those plans more like umbrella plans with resource allocations, then doing more details in step down plans
 - o But provisions in ANILCA apply in all of those, as well, and committed to following the processes, including for subsistence
- Deferring travel management and need to manage in the interim
 - o Will follow ANILCA processes, will have notice and hearing
- Will follow process similar to Park Service and Fish & Wildlife for Section 811

- Wilderness characteristics we look at three levels: not manage, manage, mitigate impacts; the last two will be used in the resource management plans
 - o Mitigate impacts: manage for one thing but mitigate impacts to wilderness character
 - o If you can do it in a wilderness area, we are not going to say you cannot do it in an area designated as having wilderness character
 - o Not trying to be more restrictive than areas in designated wilderness
- State is afforded more reviews, an early look, as are other cooperating agencies and tribes

Questions

Comment: Charlie Lean – A year ago we were talking about ACECs in Unalakleet, trying to wrap my head around it, still do not understand completely. I am a 50% owner of a mining claim on Ungalik draining on the edge of an ACEC, but I lived in Nome so was not aware of the plan outside of CACFA. A year ago, I asked what ACECs were, existing and proposed in Nulato Hills, and I looked at it further and see that it's a contiguous swath, a huge block of land is multiple, consolidated ACECs. It was not apparent that it was all continuous in the last comment period, but the extent of it is amazing. What makes each one of those unique and not the same; look forward to that being answered today.

Q: Kathleen Liska – Sue said Rapid Ecoregional Assessments will affect new plans, how?

A [Lenore Heppler]: They give us data, models, what is out there and what we can expect to happen, so they inform the decisions. Comprehensive view of everything and that information is used.

Follow-up Q: Yesterday when we heard from Jamie Trammell who said they were the first step in a landscape approach, what are the following steps? It feels like a layer on a layer, Sara says the science is good, but I want to know where this is leading.

Response [Representative Wes Keller]: Serena will be coming up to talk about that

Q: Representative Wes Keller – You said you manage for other uses but you mitigate for wilderness characteristics, I'm not sure where to go with that. Multiple-use in Alaska is sustained yield, abundance, how do you mitigate for wilderness character?

A: Someone comes in with a proposal, they want a right-of-way, a cell tower, hunting guide, etc. When we get those activities, we do an environmental assessment and look at the resources that might be affected and how to mitigate. This is a public process. If that is an important caribou calving area, we will mitigate the effects to those caribou. Paint a structure to mitigate. It will not be “you can't” – that was the third level (do not manage) which we are not doing. Make it more compatible with other uses.

Q: Gail Phillips – If you have laws, regulations or policies internally in BLM in conflict with ANILCA how do you resolve that?

A: Law trumps regulations which trump policy. For when our laws might conflict, we talk to the solicitors. Try to mitigate the conflict. Like wild and scenic rivers, need to protect free flow, water quality and outstanding remarkable values, but also protect other uses, like people's right to mine.

Q: Representative Wes Keller – The ANILCA policy you're working on, when it becomes non-internal, I would ask you include CACFA. The further ahead we can be on it, we can avoid being reactive. How many employees are dedicated to this planning process, in the region, state, D.C.?

A: We have a planner, one person deals with wildlife, another with fisheries, some in the state office, we tap into the minerals shop, folks review drafts in D.C., we take major decisions to D.C. for buy-off.

Follow-up Q: Statewide, all plans, how many people?

A: Hard to quantify, entire field offices and various people in state office can be involved at some point.

Follow-up Q [Teresa Hanson]: Are these the same people reviewing mining plans?

A: Some of them are. In our shop, mining folks are not as involved in the plan, more state office staff. Fisheries, hydrologists, they do both duties. We are not working on the plan 24/7.

BREAK

Time stamp on the recording at 2:05:30

Reconvene

Time stamp on the recording at 2:17:25

LANDSCAPE LEVEL PLANNING – Serena Sweet

Time stamp on the recording at 2:17:40

- Lead Planner for BLM Alaska; born and raised in Alaska
- Planning area boundaries recently changed, more consistent with landscape level planning, consistent ecological resources to look at in those plans
- Planning 2.0 handout from the last meeting, I am running the handbook team for that in Alaska
- Handing out a map of current ACECs in Alaska
- Trying to determine how we can plan better across ecological landscapes
 - o Data collection and REAs are a component
 - o Just hired a landscape coordinator, starting July 15 (Jason Taylor)
- This came out of Secretarial Order 3330 (2010) recognizing public lands, regardless of management authority, are experiencing more complex environmental issues than in the past
 - o Resources do not recognize management boundaries
 - o BLM trying to better understand the challenges and support balanced stewardship across the entire landscape
- Landscape = large connected geographical region with similar environmental characteristics
- Rapid Ecoregional Assessments help us determine high and low values and potential, make sure we are not overlapping or discounting
- Next step is field implementation of the REA, includes looking at existing land use plans and deciding if we need amendments or potential mitigation measures and performing monitoring
- Want to start being more proactive in adaptive management; Assessment Inventory Monitoring (AIM) standardizes data collection processes so data are comparable and easy to update
- Pull these all together and put into our land use planning process
- Planning 2.0 started two years ago now, dynamic and efficient (not so much “faster” as better) with enhanced opportunities for input and collaboration, planning across landscapes and time
- Serena is lead for the handbook team, they wanted someone from Alaska to make sure the process works for Alaska, recognition that 1/3rd of BLM-managed land is in Alaska
- Timeline for Planning 2.0 is outdated, more near Christmas time for draft handbook, working with public on getting feedback – though feedback is always welcome, even right now

Q: Kathleen Liska – When we saw this in January, my first comment is on an addendum for Alaska, because there is no mention of Alaska at all in this

A: It is a suggestion I have included, and other regions need to be taken into consideration, my suggestion is regional guidance by state (sage grouse region is a good example); any support we could get for that would be helpful

Follow-up Q: Would it help to make comments, how can we help

A: Any comments you provide to the website goes to the overall lead, I am just one part of the team, there are multiple teams, put those comments into the website

Q: Susan Smith – You said there are certain factors that brought about need for change

A: One thing they saw in the planning process was the edge effect, two plans next to each other without matching decisions across boundaries, trying to take that break away and think landscape, not bubbles

- On the handout, there is a generalized diagram on the current planning process. We have noticed a tendency for specialists who think more in a vacuum, want to think big picture goals and not just for specific resources or program; want to integrate goals and objectives across landscape
- Third page of handout talks about revised process for planning, this is only conceptual, but some steps are being added. We do scoping but usually just ask “What do you think” and feedback is minimal. We want to tell more of a story to get more feedback.
- Instead of scoping, writing, draft, we want a better way to work with the public on alternatives
- For Planning 2.0, not required yet, but we are incorporating concepts into the two RMPs being developed now (Bering Sea-Western Interior and Central Yukon)
- Land Use Plans are umbrella documents, keep it front and center and handle proposals by looking at the plan to see if it is consistent with the plan’s goals and objectives; want them to be at a higher, 30,000-ft level with both guidance and flexibility
- Very rarely do we deny requests for projects, but we do require mitigation and conditions

Questions

Q: Charlie Lean – Reminds me of when we established game management units to help with moose, also worked well with caribou, but then came muskox and it would have made more sense to have unit boundaries on the river bottom. The plan seems to mimic the ecosystem boundaries we heard about yesterday, but it subdivides key geologic areas. Are these a shift away from mineral resources to biological resources?

A: Planning boundaries are a hold-over from how the field office boundaries were set up, there was a shift in the Nulato Hills area moving it into another planning area to try and keep that region together, and that was based more on biological resources. We can look across our planning boundaries but we try and be cognizant of where different resources are, that is something we could use help with, so it would be great if you had suggestions.

Follow-up Q: Nulato Hills is the St. Michael mining area, gold deposits at Christmas Mountain, on the coast, and your line cuts it in half. That was why I wondered.

A: The old planning boundary broke the Nulato Hills into three separate areas, so this measure here was an attempt to get it into two areas rather than three.

Q: Kathleen Liska – Landscape approach, the first step was a Rapid Ecoregional Assessment then a Land Use Plan?

A: We are working on Rapid Ecoregional Assessments to give us a foundation for more informed resource based decisions, and then we figure out how to use that information, integrate data into the planning process, then the next step is initiating the Land Use Planning process to develop the Land Use Plan. We also have a plan evaluation process, every five years or so, and we can amend if necessary.

Follow-up Q: In our meeting packets, there is a lot of information about ACECs, is there a cheat sheet of that process and the different steps?

A: I have some cheat sheets of the whole process overall, but it is changing with Planning 2.0, with the use of the Rapid Ecoregional Assessments, so there isn’t one good resource.

Follow-up Q: BOEM has started the Integrated Arctic Management Plan, their map is almost all of Alaska, are you aware if that will be implemented through BLM or cooperative agencies?

A: That is outside the land use planning process. Our land use planning decisions only apply to BLM managed lands, including selected lands until conveyed, but we do coordinate with other landscape level planning efforts. Jason Taylor will be helping to coordinate work on the Arctic.

Q: Gail Phillips – As far as the planning areas, when they abut Native Corporation lands, how do you work with them, do you have representatives on planning teams?

A: We coordinate with Tribal entities, Corporations and others, we invite government-to-government consultation, sometimes they take us up on that. Village Corporations have been cooperating agencies. It is a lot of work and there is no compensation, so we try and coordinate as much as they are interested.

Q: Representative Wes Keller – Would you describe your interaction with state agencies as different than that? Describe how you get the preplanning information from the State.

A: We have one fabulous state representative, Samantha Carroll, she is our go-to person and coordinates reviews into one letter for us. Our expectation is that she is coordinating with the Governor's Office, with Sue Magee, helps to get one consistent set of comments as a whole. She does a fabulous job, and participates in a lot of our trainings, outreach efforts, that is how we have been doing it for the last few years I have been in this position.

Follow-up Q: How do we keep track of the NGOs that want into the process – pro-hunting groups, environmental groups, whichever – in the pre-planning process?

A: Actual cooperating agencies are governments, not organizations.

Q: Mark Fish – You talk about the 30,000-ft level, but it gives implied guidance instead of explicit commands, and I think local regionals would have more control over policies in their region under this Planning 2.0, is that a safe assumption?

A: We would like plans to think across the larger landscape when we come to decision points.

Follow-up Q: I see “Landscape Goals,” where would development be?

A: Those goals help us determine the range of alternatives.

Q: Susan Smith – Do you write the plans or are they contracted out?

A: Depends on the plan, typically in-house by our specialists, and that is not their only job. We write most of or all of the plans with paid BLM employees.

Q: Teresa Hanson – In the pre-planning process, are the public invited and does it have to go through Samantha Carroll?

A: The pre-planning process, we want public involvement, it does not have to come through the State. I do want to add that we are keeping websites on the BLM homepage up to date, we have a link to sign up for updates on the planning process or get on the newsletter mailing list, I would recommend that. It's under “Planning” on the BLM Alaska homepage.

11:30a.m. Public Participation

Time stamp on the recording at 2:53:00

Public Testimony – Scott Ogan

As a private citizen with my own personal views, do not reflect the agency I used to work for (DNR) and does not reflect my service in ASLAG. I would like to give praise to people I have worked with, Sue Magee does amazing job with the resources she has. Do the math, 45-50 people in the BLM planning Alaska's future. I would rather have a root canal than look at these plans, digging through these documents – even for our natural resource professionals – is arduous; citizens just cannot get it, know how to respond to some of these things, terribly overwhelming. You guys stand in that gap and I appreciate your willingness to do that. Any kind of a skirmish, I don't mean in a militaristic way, but this is a battle of philosophies and the battles with the most operative usually win, we are outgunned. Recommendations for CACFA:

- Instruct Executive Director to contact the delegation and freeze planning funding for two years; there was a budget rider for RS 2477 determinations a number of years ago. I doubt there are 60 votes in the Senate to do this, but I still think it should be brought to their attention.
- Request DNR to participate as a cooperating agency pre-scoping, pre-planning stage. I went to a training when I was with DNR, with the River Management Society. It is mostly federal managers, manage wild and scenic rivers, we thought it was good to develop personal relationships with our federal counterparts. I went to a wonderful course on effective commenting on FLPMA by a Utah professor. I want to bring her up to train Alaska employees. She said get involved in the pre-planning process, this is how the NGOs do it. The State is dropping the ball not being involved. I told Samantha and she got it, she's engaging now, more so and is excited about the dialogue she is now having with these folks. But the State needs to move in that direction more, be more pro-active.
- Executive Director has a lot on her plate, but there are additional staff you have funding for, suggest you at least have the discussion with her to direct that staff's position, maybe rewrite the position description, to be involved in the pre-planning process. The State is responding after the fact, late in the process, to comments, and the train has left the station.
- FOIA request all people involved in the pre-planning process. Shell game goes on, we look at plans with alternatives, and then the agency prefers one of them, so we all comment on the alternatives, and think about them as a whole – we like this alternative, don't like these. Then the alternatives morph and, all of a sudden, the alternative that comes out is different than the others. The cumulative effect is different than the ones we comment on. We ask for another public process, and the answer is, that we already were able to comment. But the outcome is totally different. I think the NGOs wrote the plan – and I hope this is not true, I get paranoid – they know what it will look like, and there is potential to cherry-pick and the NGO plan wins.

Comment: Kathleen Liska – In (d)(2) Part 2 it describes this tactic. After the land freeze, the environmentalists wrote the bill that finally passed. It is all in that book, it has happened before.

Comment: Mark Fish – The basis of all conflict can be broken down in military terms. We should be involved in the pre-planning process, it's an excellent idea, conditioning the battlefield. You have to fight in your own camp. Typical human behavior plays into the NGO strategies. People make observations, filter those observations, make a decision and act on that decision. If we insert ourselves early, the decisions will be based on our orientations as opposed to somebody else's. Act not react. Learn from NGOs in achieving their goals. I appreciate you bringing that up.

Response [Scott Ogan]: I always wanted to be pro-active but people would look at me and say that is not what we do. We need to play by the same rules, put our plan on the table and then, if we do disagree, or feel like BLM violated the law, we have a better case to exhaust our administrative options and take it to court. Then we have a solid case to tell the judge we put a reasonable alternative on the table and they arbitrarily and capriciously ignored it, then we have a case.

Comment: Susan Smith – I like the idea of freezing the planning. All the money they spend on that, there are better ways to spend that money. I would like to see a freeze on the wilderness studies, too.

Response [Scott Ogan]: I concur, BLM solicitors are good lawyers and they can push the envelope up to the no more clause. They create a new "value" and our lands are systematically being planned into conservation system units without putting a label on it. We don't call it that but we manage it that way. If I was an attorney, I would be advising them how far to push the line and stay out of trouble.

Comment: Warren Olson – How does the AG office operate? I heard a number of over 400 attorneys with a lot of specialties. Every time we get in conversations with the AG's office, they say it's very

expensive. I say we pay them 8 to 5, 5 days a week, why is it more expensive when we get into an area of law versus the time they collect their paychecks? Why do they jump to that argument?

A [Chad Hutchison]: I don't know how the Executive Branch operates, but you have to have a lot of people who may not be state employees and you have to bring them in. Costs with travel. And there are the opportunity costs for other potential cases with a higher probability of success. Discovery, depositions, witnesses, trial costs, and then the opportunity costs.

A [Senator John Coghill]: Manpower and information flow. Once you put something on the table you are also at the beck and call of those you are challenging and of the court.

A [Scott Ogan]: I managed a number of cases prosecuting, in one case alone we had a terabyte of discovery. There is a lot of paper and you get discovery requests in and everyone has to go through all their files and find stuff, by law, and we hire expert witnesses, and it is more work than people can do so you have to contract it out. We had two major outside firms that were expert witnesses and they are very complicated, natural resource cases. Natural Resource Section lawyers are up at 1am preparing briefs. Court deadlines are horrendous and without wiggle room. It is a tough arena to operate in.

Follow-up Q: As this evolves, do they have to go back to the folks for additional funds, or estimates of costs, and get the money from our legislators?

A [Scott Ogan]: Our RDI program got shelved because we were focused on litigation, you reprioritize. But if you get good case law, it may expedite clearing up title.

LUNCH

Reconvene

Time stamp on the recording at 00:05

RESOURCE MANAGEMENT PLANNING – Serena Sweet & Lenore Heppler

Time stamp on the recording at 00:28

- Lots of information available on the websites, always open to suggestions on the website
- Three current plans: Eastern Interior (hoping to complete in next year), Bering Sea-Western Interior and Central Yukon kicked off in 2013, working on alternatives development for both
- Since 2007 completed five land use plans: East Alaska, Ring of Fire, Kobuk Seward and Bay
- NPR-A, which is not a Resource Management Plan, is an Integrated Activity Plan, certain aspects of FLPMA do not apply to the NPR-A but it is similar but for the name

Q: Gail Phillips – Do you plan on having management plans for all areas of Alaska except for the white areas on this map

A [Serena Sweet]: Yes, once they are all completed, that will be a full planning cycle. The white areas are large tracts without BLM lands, Denali National Park, ANWR and northern preserves.

Serena Sweet & Lenore Heppler (cont.)

- General issues we deal with include ANCSA withdrawals, ANILCA provisions, subsistence, wilderness characteristics, special management (ACECs, which we will talk about next), try and weigh and balance these broad issues and more nuanced ones, as well
- Eastern Interior is 6.5M acres of BLM-managed lands, including several ANILCA units, looking at a number of ACECs mostly regarding caribou and Dall sheep habitat, Mosquito Flats is a very unusual wetland, looked at a range of management prescriptions, some closed to mineral entry
- There has never been a plan done north of the Fortymile subunit

Q: Susan Smith – have there been incidents of problems in the areas proposed for ACECs or is this in anticipation of problems?

A [Lenore Heppler]: A little of both. Most of these areas are closed to mineral entry. What we looked at here was a long-term effort to rebuild the Fortymile Caribou Herd, population was 500,000 in the 1920s, crashed to about 6000 in the 1970s, and we want to rebuild it to a larger population for subsistence and recreational use and to expand their range to where it was historically. Why the population crashed, they are cyclical to begin with, I heard about things in the 1940s with military using them as targets, who knows why they crashed. When you talk with biologists, the critical time is calving, most susceptible to disturbance, so we looked at calving and post-calving area protections. Mosquito Flats is an unusual wetland. A few years ago, someone took a big SUV across it and it left big tracks, which highlighted the fragility of that area.

Follow-up Q: I look at this map and see how many there are, is there a reason or place you found damage and problems?

A [Lenore Heppler]: It depends on what restriction you are looking at. These areas have been closed to new mineral entry for 40 years.

Comment: Gail Phillips – Have you considered closing these to entry for tourism, transportation, military, commercial fishing, hunting, timber? Just highlighting mineral entry, you should look at the scope of things that could affect caribou.

A [Lenore Heppler]: Yes, we did, maybe we focus on that too much. Are we going to have timber sales? We have no commercial fishing. What do we need to do to protect it? We have mitigation measures lined out in the plan, we have things in permits to protect caribou, and it's not just mining.

Follow-up Comment: There is a prejudice against mining and there are a lot of other things that impact caribou. I spoke with a North Slope driller and he told me they closed down the drill because a mother caribou gave birth to a calf at the base of the drill shaft. It wasn't dangerous, the workers just wanted to watch. I think you are looking at it with a closed mind. This statement targets mining.

Response [Lenore Heppler]: Mining is different than all the other resources. It is not discretionary for BLM if an area is open to mining. That is very different than timber or oil and gas, where we have lease sales, mining is open and someone can go in and get that mineral.

Follow-up Q: Would you mitigate that or is it just closed?

A [Lenore Heppler]: It depends on at which point. When they come with a plan of operations, we can mitigate. When we look at protection for caribou, the key period is May 15 to August 15, can we tell a miner they can't mine during that area? Protect it short of a withdrawal? A withdrawal is a high bar. They have a right to mine, it's not like an oil and gas lease where BLM has more ability to restrict it.

Q: Mark Fish – These ACECs are being developed to create a bubble, and if you squeeze it, it pops out somewhere else. Are there any military training areas, or is the military using these areas? There is no federal land available, military operate over state lands and the Nelchina Herd.

A [Lenore Heppler]: We do not make planning decisions based on the military, we comment on their plans, but we do not say the military cannot fly here.

Follow-up Q: Who is the final authority on that activity? As a hunter, it has an impact on harvest.

A [Lenore Heppler]: We only comment on it, it is not our decision.

Serena Sweet & Lenore Heppler (cont.)

- Central Yukon Resource Management Plan: 16M acres, with 5.3M state-selected, 0.7M Native-selected; Central Arctic Management Area, Dalton Highway corridor, gas pipeline, Ambler Road, top-filing along the Dalton corridor, invasive species introduction; 15 tribes we have coordinated with, government-to-government consultation; State and the U.S. Fish and Wildlife Service are cooperating agencies
- Bering Sea-Western Interior Resource Management Plan: 10.6M acres, 2.6M state-selected, 0.2M Native-selected; Donlin pipeline, Yukon-Kuskokwim energy projects; 66 Tribes, State and U.S. Fish and Wildlife Service are cooperating agencies

Comment: Charlie Lean – Many of my friends do not peruse the BLM website, and then we find out there is a plan, and we just heard about getting in on the ground floor. The system is becoming more complex and more layered, and really that favors NGOs and agencies as far as having comments. In a way, this blizzard of paper is taking the management away from the citizen and I think that is a failing in modern society, not just the federal government. Alaskans are on the ground users, we bear the burden of conservation and of regulation, and it is easy to comment on Central Park in New York City, but not about my backyard. Encouraged by involving local people, meetings in towns are really important. Please make a greater effort to involve those affected.

Response [Serena Sweet]: We heard that several times. Part of the Planning 2.0 effort is to pull us back out of the weeds and be at that higher level, can be digested by people who are not getting paid to sit around and read them. Adding public participation components. Jorjena Daly is the manager for Bering Sea-Western Interior, and they have more gatherings than “presentations” and it is a new concept and a valuable part of the process. We are trying to be better about that, find better ways to communicate. With all the things going on, it can be hard to prioritize when to engage.

Follow-up Comment: A lot of the problem is plain language. It would be better to say “We are talking about these watersheds, conservation, mineral entry, etc.” so the user group that is interested hears it.

Q: Kathleen Liska – You mentioned Integrated Activity Plan, is that related to the Integrated Arctic Management Plan?

A [Serena Sweet]: The Act that created the NPR-A prohibits Resource Management Planning, but we still have to go through a planning process, so the Integrated Activity Plan is the process we use. The Integrated Arctic Management Plan is not something we run, though we do participate in it.

AREAS OF CRITICAL ENVIRONMENTAL CONCERN – Serena Sweet & Lenore Heppler

Time stamp on the recording at 0:29:57

- Heightened interest in this topic; presentation will be on what they are and what they mean, why they exist, why they are proposed, what designation actually accomplishes
- Federal Land Management Policy Act requires Resource Management Plans, and ACEC designations are made through the land use planning process

Q: Gail Phillips – Why is ANILCA not included in the list of laws?

A [Serena Sweet]: We are directed to do land use plans, resource management plans, under FLPMA.

Follow-up Q: So you do not take ANILCA into consideration?

A [Serena Sweet]: We absolutely do, there are lots of laws we consider that are not listed here.

Follow-up Comment: It might be good to list all the laws that are relevant to your process.

A [Serena Sweet]: Absolutely, I can get you a list of those.

Serena Sweet & Lenore Heppler (cont.)

- An ACEC is somewhere where we focus special management attention, usually to protect an area or prevent future harm in an area
- Highlighting special management attention where we see irreparable damage to resources, systems, processes and to protect human life and safety in the natural environment
- An ACEC is an administrative designation made by the BLM through the land use planning process containing truly unique values; unique to the BLM as a form of designation
- Private lands can be within ACEC boundary but are not subject to management prescriptions
- Example of an ACEC, Toolik Lake, where extensive research activities and facilities occur
- An ACEC does not imply restrictions, the designation is just a line on the map and we determine appropriate management prescriptions, which is different from other potential designations

- Example of an ACEC, Sukakpak Mountain, a limestone wall that glows in the afternoon sun, designated to protect scenic and geologic characteristics
- Map of existing ACECs within Alaska, clusters in Central Yukon planning area and Bering Sea-Western Interior planning area, these are in place, many from the 1980s, and proposed

Q: Representative Wes Keller – Is designation a permissive process (BLM “may” designate ACECs)? If those were done in the 1980s, part of the original job description for BLM, what has changed lately that has seemingly driven more ACECs? Money designated from Congress?

A [Serena Sweet]: ACECs in place from the 1980s were done the last time we planned for those areas. We have two plans in place in the central part of the state where they were originally designated. We do not get more money in our budget to plan for ACECs, it is a planning requirement.

Follow-up Q: Where does the impetus come to designate, is it from local Alaskans?

A [Serena Sweet]: We get nominations from a number of places, sometimes from Native villages, tribes, NGOs, local users, other stakeholders, and several from different places.

Follow-up Q: Do you have a comprehensive list of those?

A [Serena Sweet]: On the webpage for Bering Sea-Western Interior is an extensive document that lists ACECs under consideration and where the nominations came from; for Central Yukon it is under development, and for Eastern Interior I will let Lenore answer.

A [Lenore Heppler]: We received two nominations, the upper Black River country from the Village of Chalkyitsik, and we received more support for that, and the Mosquito Flats was nominated by an individual. Nomination does not mean it gets designated, there are criteria that must be met. The Black River nomination was very large, like 2 million acres, and our staff reviewed the nomination using the criteria and found only around 620,000 acres met the criteria but the rest did not.

Comment: Charlie Lean – This is what I was getting to in my earlier comments, the big grey blob there on the boundaries of the Central Yukon and Nome office. That is a big block of ACECs, contiguous, I have flown extensive surveys over that area. It is unique, I bought a mining claim there, recreation, I agree it is a neat place. On the other hand, it is pretty homogenous. The rivers are similar, the resources are similar and they share resources, mining claims are in a strike zone line right across that. When the plans came out a year ago, they showed proposed ones but not existing ones, which seemed disingenuous to not show how big a block that would create. I understand it is one of the most contiguous blocks of land BLM owns. I will be looking at the website trying to figure that out, what this does to my opportunity in that area, I am concerned, I and friends have invested in that area. Frustrated with the process, not aware of it soon enough.

Response [Serena Sweet]: Our planning process is not when we add new ACECs, it is also when we re-evaluate. Now may be a time to expand, shrink or remove an ACEC depending on the new criteria. It is not too late to provide input. We had a nomination and reconsideration process last year, a six-month process where we accepted comments, but we are still accepting comments. That area you are referencing is something we have identified as problematic and we will look at it closely to determine where the appropriate boundaries are. I encourage you to send in your feedback.

Q: Kathleen Liska – In ACECs, are you integrating the REA datasets?

A [Serena Sweet]: We will be taking the data from REAs into consideration, but we are not far along enough with the REAs to do it everywhere.

Q: Senator John Coghill – I appreciate the planning process. I would look at management and levels of criteria. You have one designation here of wilderness, another here, sometimes you are in charge and sometimes someone else is, impacts are coming further inshore with other federal authorities being brought to bear. I have to look at all these layers and it becomes difficult to know what we can do.

Have you looked at where you are at, what others are planning, and impacts to your planning? Because that is what we have to look at. It is a designation, not necessarily a restriction, but still meaningful.

A [Serena Sweet]: We are, the consideration fits quite well into our landscape level approach, thinking broader scale. We want to be compatible, not an arbitrary line where rules change, we would like to get away from those things. If you have thoughts on how to do that, I would love to hear that.

Follow-up Comment: I appreciate that, because the NPS and USFWS have a different view than you. Also, with the water regulations, we can hit a dead end at the end of your land. I will ask the delegation that BLM could be a good focus as the better land manager, the others can be more preservation vs. management, BLM is actively managing, look to BLM as the facilitator place. For Alaska, sometimes we feel damned if we do, damned if we don't, getting your agreement but then hitting a brick wall. I will look at your process and see if there is a better way to plug in other places. Harder for those of us that live here to find a way to work with you. We cannot review the 14 layers fast enough, let enough navigate them for uses. ANILCA is one of our biggest tools, and maybe your tool of management planning is something we can bring up. Come up with something as we go. The designation with you is for planning purposes, but for other people, when they see those words, it means something different.

Comment [Representative Wes Keller]: We want access. There may be nothing said that implies restriction, but the terms of these different areas can get frustrating.

Q: Gail Phillips – In your view, for as long as you have worked for BLM, is it the long-range philosophy to create ACECs to cover resource management area plans so that 100 years from now every part will be covered?

A [Serena Sweet]: Not at all, we review whether designation is still warranted as we revise plans.

A [Lenore Heppler]: That is not in our mission, we would not be meeting our mandate under FLPMA.

Q: Susan Smith – Have you identified any ACECs that no longer warrant designation?

A [Lenore Heppler]: In Eastern Interior, we did not. We had some small ones in existing plans, Mt. Prindle, Big Windy, Serpentine Slides, etc., and we retained all of those. Not sure about the other plans.

Follow-up Q: How many are proposed and how many are in place?

A [Serena Sweet]: Just to follow up on the first question, there may be some ACECs, especially in Central Yukon. There was one for Peregrin Falcon when it was an endangered species, which it is not anymore, so we are looking to see if that one is still appropriate. Until the record of decision for those plans is completed, no final decisions are made. This map just indicates the ACECs under consideration for Eastern Interior and the ones in grey are in existence. The map was made before nominations for Bering Sea-Western Interior and Central Yukon.

Follow-up Q: So there will be a new map with a bunch of additional ACECs?

A [Serena Sweet]: Yes, new maps will be prepared and I'd be happy to come back.

Serena Sweet & Lenore Heppler (cont.)

- Relevance criteria we look at first, must meet at least one of the four criteria to become an ACEC; more detailed information on this is in the ACEC Manual
- There is a process to update the ACEC Manual, not sure where that process is but it is with our Washington office, happy to follow-up with you if you are interested

Q: Mark Fish – I'm looking at this one criteria for scenic value. Flying across the state at 2000 feet, I can tell you, it's all scenic value. Is it significant scenic value?

A [Serena Sweet]: This is the first level, then we get to the importance criteria, which requires substantial significance or value. It is an extensive process and takes a while to look through them, get reports together.

Q: Senator John Coghill – That is the criteria for getting a street in downtown Anchorage. It is a tough job you got to whittle them down to what that special worth is. As a national interest issue, let's say we have 700,000 people and you have 800,000 people comment from the US, we get buried. Do you take national interest comments into that special worth category?

A [Serena Sweet]: We take all unique comments with equal value, it is not a voting process.

Q: Gail Phillips – In the Eastern Interior, you have five ACECs. You say there are 36 more proposed and how many more other than that? Maybe it covers 1/10th of that area, then 36 more, and you are saying you do not have a plan to cover the entire area with ACECs?

A [Serena Sweet]: Those are in the Central Yukon. We had a few small ACECs in Eastern Interior. There are about 36 in Central Yukon currently, which is a combination of several planning documents, and we are considering all of those and looking at new ones.

Follow-up Q: Do you know how many new ones were nominated?

A [Serena Sweet]: Do not know how many will be considered, maybe somewhere in the 30-40 range have been received. Not all the ones received for nomination go forward for analysis.

Q: Representative Wes Keller – To satisfy role as manager of multi-use land, you compare areas against areas. One open to mineral entry may justify closing another area to mineral entry. Do you have criteria to make sure there is no reduced access? Is it one for one, or whatever makes sense?

A [Lenore Heppler]: We are looking for a good balance, and that varies if left to people to decide, so we look at policies, the stakeholders, concerned folks, and we try and find that balance.

Follow-up Comment: Anything reducing access further is not a balance, and you have people that want to close all access, which makes us shout louder.

Response [Lenore Heppler]: You want to look at management prescriptions for each ACEC, not all the same, because the effect varies widely. There is one thing an ACEC brings, and only one, everything else is added: for mining claims you cannot do notice level, you must do plan level.

Response [Serena Sweet]: ACECs do not automatically imply access and infrastructure are not allowed. That all comes in later when we determine if there needs to be a restriction.

Follow-up Q: What is an example of a “natural hazard?”

A [Lenore Heppler]: There is a naturally occurring asbestos deposit in one place, I believe. I do not think there are any in Alaska, designated or considered.

Serena Sweet & Lenore Heppler (cont.)

- All the ANILCA provisions that apply to BLM-managed lands apply in ACECs.

Q: Kathleen Liska – If so, then in the hierarchy of law, regulation and policy, you have said several times that none of these concerns are automatically taken off the table – but, in terms of the hierarchy, if ANILCA still applies, is that considered in the final decision?

A [Lenore Heppler]: We cannot trump ANILCA in the planning document, we don't want to. It will be lined out, the provisions of ANILCA that apply.

Q: Sara Taylor – The revision to the BLM Manual, the ACEC Manual at 1610, will that have a public process or come directly from policy makers?

A [Serena Sweet]: I do not know, I will find out the status of that, no one on the team from Alaska.

Follow-up Q: The fact ACECs were created as a tool in 1976, and the statutory language has not changed much since, and you had very few tools in 1976 but you have enormous wealth of tools today, including from ANILCA. When I look at FLPMA allowing ACECs, I see a tool where you had no tools, and now it seems like you have every tool. Will the revisions to the BLM Manual address the fact you have tools to do the limitations without designation?

A [Serena Sweet]: I will look into the process, but I will say we went through possible designations as part of Planning 2.0 and found a lot of them. We are looking at those other tools to see where we can wrap them into our planning process. We are thinking on it but far from having something settled.

Comment: Warren Olson – I asked a question earlier on what makes things from the Attorney General’s office so expensive, it seems like we are digging our own hole and establishing standing here, tremendously, and we hear judges are famous for taking advice of managers, skilled people, professionals, they do not wrangle with these decisions. I am getting a handle on the difficulty the Attorney General’s office has, and to expect the public to get in and remove areas that impact their interests, does not seem possible.

Q: Charlie Lean – Some red flags when I read about the Unalakleet ACEC. There are three different proposals for different sized ACECs. There was the existing ACEC predicated on the wild and scenic river, then an NGO wanted the whole watershed on the wildlife (songbirds) and fisheries basis, then the Native community was worried about the riparian bottom, emphasis on hunting and fishing opportunity and sustained yield. I know that the federal government manages subsistence on conservation system units, like the wild and scenic river, but it seems the justification for two of those proposals were an effort for federal fish and wildlife management to take over from the state. Is that a sound rationale, that federal management would take precedent over state management in an ACEC?

A [Serena Sweet]: Just to confirm, no decisions have been made in the Bering Sea-Western Interior. As far as the assumption there would be a trumping of management, I would say that is not the case, the lands are still managed by BLM under our management prescriptions. But none has been completed until we sign a record of decision for that planning area.

Follow-up Q: The ACECs are not a federal conservation unit in terms of federal subsistence law?

A [Serena Sweet]: No, they are not.

A [Lenore Heppler]: These are administrative decisions, not Congressional, they are open to change and we do that through the planning process.

Comment: Mark Fish – I see the criteria for the areas, and it could all be replaced by one word: “Alaska.” I would like to see a narrowing and a better definition of those criteria, for the public to know what we are talking about. I could apply all this to downtown Anchorage. I would like to see something more specific about the special needs of that area.

BREAK

Time stamp on the recording at 1:21:25

Reconvene

Time stamp on the recording at 1:21:45

NEW BUSINESS

Time stamp on the recording at 1:22:17

Sara Taylor – Propose a concept. My favorite of the recommendations from the summit was a title survey of ANILCA. I think it is critical. The last one I have is from 1986, that may tell us when the interest started to wane off, that is the last report from the Government Accountability Office. A title survey does so much more than see what is going on and what has been accomplished. It can describe the statute in a way where we are not just making broad assumptions, and it captures the institutional memory to this date. And we have the people with the institutional memory to help do it, and they will not be around forever. The time has long passed for another title survey. I would like to put it out for a

Request for Proposals, which is why it is conceptual, I cannot tell you how much it will cost. I can tell you it will cost more than \$10,000, I don't think much more, but I have to request proposals.

A title survey is a team of people looking at the provisions of ANILCA, as amended, and see what has been done. As an example, Title X has the AMRAP program, they were supposed to be doing assessments every year. Well those reports stopped several years ago. A title survey would tell you that. What regulation is attached when it says "subject to reasonable regulation." It is like an annotated ANILCA but tells you more than just what part of the U.S. Code is attached to that provision.

Mark Fish – Motion to approve Executive Director create an RFP for a title survey of ANILCA.

Representative Wes Keller – Object for the purpose of discussion.

Discussion

Kathleen Liska – Going right to our playbook, the recommendations from the Federal Overreach Summit, it says right here to conduct a title review as an action item for CACFA. So I second.

Q: Gail Phillips – The Institute of the North has done a lot of work, have they done a title survey?

A: They actually asked for money from the legislature to do one and did not receive any.

Q: Warren Olson – Electronically, we cannot just push the button and get an up-to-date copy?

A: There is no existing copy of ANILCA that is up-to-date. The most up-to-date copy of ANILCA has Tina Cuning's handwritten annotations, that is the latest and greatest version.

Follow-up Q: Can we sell our work when we get done? [laughter]

A: I would object, if I had any say in it. The government gave us that money to do things like this, provide something meaningful for the public. I do not look at this as fundraising experiment, I look at this as consciousness raising experiment.

Brief at ease

Stan Leaphart – Tina Cuning has compiled over the years amendments to ANILCA and other statutes that have passed, and she presents that at the ANILCA Training. As for someone who has gone through each section, no one has done that. BLM did it in the mid-80s but it is way out of date. I even ran across something Tina had never heard of, which is amazing as she has been tracking that. Sara's point, the AMRAP, went from a well-funded, well-managed program to non-existent, just fell off the map. I just wanted to provide a little of that background.

Q: Senator John Coghill – I like this, it was really part of what came from the summit. There has to be an annotation to the case law, would that be a part of it?

A: Absolutely. Case law has changed ANILCA. I have somewhat been working on an annotated ANILCA for six years, and it is electronic. I have "track changes" inserted amendments, in my spare time (when I had spare time) and it would take me two months to do one title. I have five titles, doing it opportunistically for six years, and I probably do not have everything, just what someone else found.

Q: Kathleen Liska – Who would need to be brought in.

A: I would send it to three entities, there are about three I would trust, though I may send it to a couple of law firms (which we probably cannot afford): HDR, ION and possibly SRK. They could give me a real proposal, they would know what I am asking, and they would have capacity to do a good job. It would be meaningful to get different perspectives for how each would approach it.

Warren Olson – Second.

Representative Wes Keller – Withdraw my objection.

Q: Warren Olson – Would this include annotation with explanations?

A: We could and should ask for those types of things. I would like to send you the 1986 survey and you will see what it looks like. A review of major provisions and explanations of what happened. It was able to be shorter, but this will be very long. But I think explanations about the circumstances surrounding what happened would be really good for significant alterations of ANILCA.

Q: Kathleen Liska – This is listed under CACFA’s action items, makes sense we be the one to do it, but getting it printed would be another cost. I think the history is really important, but in the mechanism of doing the research, part of the proposal could be that it is a living document, so a mechanism where it can not take another twenty years and as much money, add changes more easily over time?

A: Great idea, instantaneous updates, add things over time, as we go. I know the money will be more than \$10,000 because there is so much start-up, maintaining may be quite easy, negligible.

Q: Representative Wes Keller – There is no cost now, we would go on discussing?

A: I see two options, develop a Request for Proposals and present it in the next meeting, and we don’t get an amount until the proposals come in. Or I could write it, distribute it and come to the Anchorage meeting with the proposals. I would circulate the draft request electronically, but it might be better for comments, not approval, because we would not be on the record.

Q: Mark Fish – For our next meeting, we would have the proposals available?

A: I would try to make that happen.

No Objections

Motion passes

Susan Smith [1:38:20] – The Outreach Subcommittee has three proposals:

1. Amend mission statement for the subcommittee.

Point of Order: Warren Olson – We have public testimony scheduled for 3:30pm. I know we have participants here, maybe we start a couple minutes early.

3:30p.m. Public Participation

Time stamp on the recording at 1:39:36

Wayne Heimer – I appreciate what you do and I know you’re working hard. I know you had some excitement with funding in the last session, but you are here, and I hope that happens in the future. I have a tiny complaint that, they said the world is run by those who show up and I am fatigued at always showing up. Something that happened to me this week, Pat, someone with Scott Ogan, and I was chatting with him. He asked me what Alaska can do and I have been thinking about what I should have said. The answer I gave him was not good because I did not deal with the division over federal overreach in Alaska. There are people like me who think it is unconstitutional and immoral, and there are those that love it, usually who stand to have some benefit from that overreach. I appreciated the Commission’s invitations at the summit to those ANILCA warhorses, and the second invitation which included many of the Native interests, who did not come except one woman from Bristol Bay. I think we can fix this in a very short time, but not until Alaska is united. Until we all get together, we are

stuck. My encouragement to you is keep doing what you are doing, get some accommodation and participation from Alaska Native interests who prefer federal way to the state way.

Comment: Representative Wes Keller – I am sure Pat is still around and he may consider a re-take.

Comment: Warren Olson – Wayne, you and I go way back, and I am a real believer in having toes in the fire to yell get out of the way. I know your background with Tina Cuning, direct work on ANILCA and as a biologist for the State. I made a comment here day before yesterday that the rural community will one day ask the National Park Service to leave. They are out of phase with people who put food on their table. They want you on the bleachers but not on the floor. We have white papers on the management scheme of the preserve areas around the core park that are devastating and it is not going to work coming from the direction of the National Park Service. Do we have to do aggressive predator control, transplants, habitat manipulation? We were doing all that before ANILCA and the new operators, enhancing resources and following the State constitution. Do you have a comment on that?

Response: The State's mandate through the duties of the ADF&G Commissioner is to manage, maintain, protect, enhance and expand in the best interest of the well being of the state. What we have seen over time with operators, social movements, and evolution of language, is the corruption of what management is. I have offered a definition as intervening in any system to produce a pre-defined benefit and that does not resonate anymore. Federal agencies plan, administer and make regulations. The intervention you would see from them is for a pre-defined benefit they define, which would mean no state management.

Comment: Kathleen Liska – We created an advisory group, that had their first meeting on Tuesday, and Bud Fate and Craig Fleener have been tasked with bringing the Native community in. I hope that encourages you some.

Karrie Improte [1:48:35] – I am here to tender my resignation as the Commission Assistant, effective two weeks from today. As a college-educated professional, I feel I have made a generous contribution to this Commission. In my current capacity, I am unable to provide the personal attention you need consistent with your level of volunteerism, which I have always highly respected. I have enjoyed serving you and the State, if you recall my contribution please provide a character reference for my personal file, I would be grateful. I remain on medical leave and will not be returning to my position. I hope you will all remember me in the best of times. I would like to verbally request an administrative termination. The benefits of that would be that I could be terminated immediately and that would allow you to rehire my position expeditiously, but that is something for you and the administration to discuss. Good luck to everyone.

Comment: Representative Wes Keller – Thank you for the work you have done. As far as the administrative termination goes, we will leave that to Director Taylor to figure out after she discusses it.

Response: I am just verbally requesting it because I think it would be advantageous.

Comment: Mark Fish – I would like to thank you for your service to this Commission, you have always been friendly even in high times of stress. I appreciate your tolerance of my missteps, as well.

Response: I never, ever thought it was a burden. That never occurred to me.

Karrie Improte (cont.) – Warren, you are a pain in the behind. I have come to know your family, visited your house, bestowed upon a great friendship with your wife. Susan, I have visited your house, you welcomed me, let my son ride the snowmachine, who flipped it over. And even your rock hard husband, he was a gem, I enjoyed that very much. Senator Coghill, you have always called me young

lady, and I have enjoyed that, good luck to you, thank you for your support. Thank you, Kathleen, it has been nice to get to know you and your family, all the things you have done for our state.

Response [Kathleen Liska]: You got us through the Federal Overreach Summit, which added so much to your plate. Thank you for all your efforts since I have come on board, all the things that were added, we really appreciate all your efforts.

Response [Karrie Improte]: Well I hope you remember me in that light.

Karrie Improte (cont.) – Teresa, I have been to your house, met your family, you’ve been to my house, you have been a great friend.

Response [Teresa Hanson]: I want to thank you, too, you welcomed me in when I was the newest commissioner, showed me the ins and outs, working with us on the subcommittee, I really appreciate it.

Karrie Improte (cont.) – Charlie, I posted your muskox story on Facebook and got 30 likes.

Response [Charlie Lean]: That story gets better every time.

Response [Karrie Improte]: Thank you for your candor and company and knowledge.

Karrie Improte (cont.) – Ms. Phillips, you are new, congratulations for being on this commission.

Response [Gail Phillips]: I am sorry we did not have a chance to work together, I wish you well.

Karrie Improte (cont.) – Wes, thank you for your guidance.

Response [Representative Wes Keller]: Thank you, and how is your son?

Response [Karrie Improte]: He is incredible, 5’3”, 160 pounds, 9 and a half years old, amazing, when we were in Florida he took tennis lessons and he is a champion.

Karrie Improte (cont.) – It was a great pleasure to come here and have this opportunity, I wanted to address the entire commission and come here to do it.

Response [Susan Smith]: You are always welcome at my house.

Response [Warren Olson]: Make sure Evan calls me, I will teach him the ways.

NEW BUSINESS (cont.)

Time stamp on the recording at 1:57:28

Representative Wes Keller – In the limited amount of time we have, as briefly as you can, describe the Outreach Subcommittee’s three proposals.

Susan Smith – I will just read the two new additions we wanted to add to our mission statement.

Motion Susan Smith [1:57:52] – To amend the mission statement of the Outreach Subcommittee to include build relationships with other states as they explore strategies regarding their public land issues and establish a direct working relationship with ASLAG and chair to support their research and effort.

Mark Fish – second

No objections

Motion passes

Motion Teresa Hanson [1:58:25] – To approve \$10,000 for the Outreach Subcommittee to conduct outreach meetings with local user groups in communities throughout the state that are on the road system. Whenever possible, meetings will be held in conjunction with CACFA and ASLAG meetings.

Comment: Teresa Hanson – We have been talking about regional meetings and we figured \$10,000 would allow the three of us to travel on the road system and do approximately five meetings. One we thought of was one area where we could hit four communities. We feel like we need to step it up and get out there, start talking to people, may need to go further with the media thing to make short clips for user groups.

Motion is restated

Mark Fish – second

Comment: Charlie Lean – I have been involved in a fisheries issue that required a bunch of meetings in Norton Sound communities, and five is a good number or else you can lose your spontaneity and enthusiasm. I agree it is overdue.

Comment: Mark Fish – There is a beautiful meeting place in downtown Big Lake.

Q: Representative Wes Keller – This is under the assumption that the \$10,000 will be spent incrementally under the direction of our Director?

A: Yes.

No objections

Motion passes

Motion Kathleen Liska [2:01:16] – To approve the Outreach Subcommittee to begin research on the next summit, setting a date in conjunction with the next CACFA and ASLAG meeting.

Mark Fish – Second.

Comment: Kathleen Liska – At the ASLAG meeting, JP Tangen really brought to the surface again the need to reach out to the younger population, which has been part of our social media efforts to reach out to and engage younger generations to carry the baton from us. And in that, he suggested that the next ASLAG meeting (the October one) be held at a university because it would be combined with possibly a credit or a portion of a credit on state issues. We could hit three birds with one stone by having CACFA, ASLAG and a summit at the same time. Save airfare, and push out the planning, gives us an extra month. The Commission would pick the subject. The three topics from the last few meetings were access, wetlands and subsistence.

No objections

Motion passes

Kathleen Liska – The next question, then, would be what do you as a Commission feel would be the topic for the next summit?

Susan Smith – Do we want to include the transfer of public lands as an option in there, too? Although it may not have the same precedence as some of these.

Representative Wes Keller – That may be a disservice to the commissioners who are absent, so maybe get proposals and take an email vote or something. The magic of this commission is that everyone feels ownership, and I would like Commissioner Woods, Somerville and Arno to brainstorm in that.

Senator John Coghill – I agree. In a planning process, the expertise that is around the table, in conjunction with a conversation with the universities, I don't think it would be a bad idea to have a speaker preliminary. Get, say, a discussion on where we are going in Alaska. Many of us can speak well to that, so a speaker series that may lead up to that might be a good idea.

Mark Fish – There are clubs and organizations that are sponsored by the University that might be a good forum for those speakers. Provides extra access that we can't get without being sponsored by a club. Young Americans for Liberty, Student Government, come to mind.

Kathleen Liska – Then expect emails requesting your presence as a speaker at this series.

Mark Fish – On topics, I think that there are obviously divisive ones to Alaskans, and I think access is one that is near to my heart. Not only is there misunderstanding among federal regulators, but state employees and the public in general. We all need an education on our rights and responsibilities on the public domain. I would add that to the top of the list.

Senator John Coghill – I was thinking of speaking prior to the conference, not at the conference. All of us have unique circumstances. As a politician, people may view me in different ways then, say, people who have been a fisheries biologist. And yet each one of us brings that unique place, it could be in conjunction with work on this commission, which is appropriate and should be part of the directive. It is also true the need for the reason for education is as important as the education itself. You stir up a reason to even show up.

Susan Smith – By that time, we should have our social media sites in full swing and pumping the information out there to get the word out.

SET NEXT MEETING DATE

Time stamp on the recording at 2:08:28

Sara Taylor – October 23 and 24. Second to last weekend in October.

Senator John Coghill – I like those dates but I did meet with the Governor and he has not hardened up the dates but the last part of October, early part of November for a possible special session. It could be a snag for us. I would give the Executive Director authority if we have to move it up a week. I don't have enough information to say this is a bad date, but may be a question.

Kathleen Liska – The 16 and 17 are probably not good dates, it's AFN.

Senator John Coghill – If there is a special session, and it is Juneau, could we consider meeting there? Something to consider. At one point, there was talk of three special sessions this year, and he is heading towards late October, early November for a 30-day special session.

Susan Smith – My concern about Juneau would be the expense.

Q: Mark Fish [to Director Taylor] – How much lead time do you need to lock down a date?

A: I invite speakers no later than 6 weeks out. I can hurriedly throw something together, but I am not talking about the summit, just the meeting. It is a matter of being conscious of others' schedules. I need 34-days notice to get it in the paper.

Follow-up Comment: I suggest we go with these dates.

Response [Senator John Coghill]: I agree.

Kathleen Liska – That would make ASLAG meeting on Thursday, October 22, and we could host the summit on Monday and Tuesday, or Tuesday and Wednesday before that.

Follow-up Comment [Sara Taylor]: Or we could roll over into the following week.

Response: I will be out of town.

COMMISSIONER CLOSING COMMENTS

Time stamp on the recording at 2:13:43

Mark Fish – A friend sent me a link to a 1960 campaign speech by John F. Kennedy at the Palmer Fairgrounds. One minute of that he talks about roads, bridges, infrastructure, and developing our natural resources. The democratic nominee in 1960, where did things go so far south from where we can do, that next year will be better than last year. My generation, we turned we can into you can't. That took a generation to do, we can turn it around in a generation if we start now. I see college kids so saturated with propaganda they become great cynics, and they dig for the truth, which benefits us all.

Warren Olson – Thanks to the Chairman for an efficient meeting. It always bothers me to sit through these meetings and our constitution is gathering dust, probably in the archives of the LIO or wherever it hangs out. One of the greatest pieces of work, I traveled all over this country talking to people who cannot believe the priorities we have for the individual mandated by the constitution and upheld time after time. We have to get the administration and our agencies to prioritize this and get it back on the main street. I heard a couple people testify about compromising, insinuating it, they also have cautioned us about going after parcels of property. The momentum of the user will put us into the next decade.

Susan Smith – Want to thank Sara very much for all your handouts, love the panel idea, it was great having full seats at the table to discuss the issues. Also, I am excited about the steps forward we have taken this week. We have a media plan established, we had John Howard and his inspirational talk giving us ways to think outside the box, change the mindset, he got us as excited as he did in Utah. And we have ASLAG now, and their first meeting happened and there is a plan in place. Thank you for approving our motions and help the subcommittee kick it in to gear. Washington D.C. is asking for our handouts to pass around there. The title survey is a very exciting idea. Happy to be a part of this.

Senator John Coghill – For those that have stood up and are operating ASLAG, my hats off to you. For Lenore being here and giving us the insights, I am really grateful to her and the people she gets to work with. Alaska is in a new economy. It will change the way we do business. But that brings with it opportunities to talk about things that could be better, if things are not going to be the same. America is going through the same problem, we are wandering into an unsustainable debt, have to rethink things. The Presidential and Congressional elections will bring some of that out. Either we begin to be a productive nation, as we preserve and conserve where we should, and if we don't produce, in Alaska or America, we are bound to be servants to someone else. The new economy will be a part of that. The benefit to Alaska and Alaskans and this Commission is that we are seeing more as an international state than many other states. Maybe Hawai'i, maybe California. We have a unique view in a unique place. The land managers and managing operatives are the nuts and bolts of this discussion. ASLAG could be wonderful to bring us into that conversation. Things that I have been doing as a legislator we could all do. I have mooched my way into land use and management meetings. Quarterly meetings to see what Native Corporations think, what are we doing good and poorly regarding managing their lands. Split estate concerns, too. The federal government and DNR have to do that, but we need to hear, I have personally committed to doing that where I can. The federal government will come in with the lands into trust rule, which will change the land use landscape in Alaska, it will change 21st Century use of Native lands. We need to be aware of it and part of the discussion, the Commission is well suited to do

that, we should talk about it. Options will be given them and taken away. Discretion once again leaves the tribal groups and goes back to Washington D.C. I tell people to go with caution. The land management question in tribal groups on legal self-determination, they want the land base desperately. The new economy is bringing this to us. Even though the ANILCA review is totally important, because it is a baseline document, we need to think through all these changes. We know Alaska is beautiful, we have economic advantages in this, invite people to enjoy that beauty. this should be to our benefit and theirs. The 700,000 of us that live and work here view land use so differently. Be a part of this discussion all along the way, as people. CACFA will be one of those nice places where the conversation can happen outside of politics. You speak and we are your megaphone. Here is what we know, what do you think? Very important to do that, not tell them, to invite them to tell us.

Kathleen Liska – I want to thank Stan for coming out of retirement and bringing his expertise to ASLAG, so grateful for that. Thank you to Sara, the layout of the binder and panels was fantastic. I love that we had BLM here, thanks to Lenore. I love what Serena said, she's a lifetime Alaskan, and Lenore has been here 30+ years, we are Alaskans. This is my second full-cycle year on the Commission and I am starting to grapple with the details regarding ANILCA. As we have been looking at ASLAG, and with the constitutional attorney being here, as I look through our recommendations playbook to see how much we are dealing with that would be resolved by either the transfer of ownership or management of public lands. Caring for the environment would not be eliminated in any way, but we have two entities at the table to deal with these issues, and it makes me want to delve into devolution and how they did it in the Northwest Territories, bringing federal employees into province pay so nothing was dropped. I loved Teresa's idea of having our playbook at every meeting, we referenced it several times. Like HJR 24, that was on there, we were supposed to do that. We've got the title review of ANILCA proposal going forward. I think that is good and I am looking forward to whatever dates we end up with. Our media plan, our upcoming summit, have a media blitz. I love Senator Coghill's idea of having talks so we do have a turnout, educate this coming generation. The first time I heard you all was January 2013 wondering if this was something I would be interested in and, to a person, each commissioner expressed frustration with how things were working and that we needed to do something. And out of the summit came our playbook. I am so proud of this commission, we are moving the ball down the field, and that feels good. I am not a person who could sit here and not do something. We may not always get it right, but we are at least doing something.

Teresa Hanson – Ditto to everything that has been said. The only thing I can add is that, when I landed here, was at the Federal Overreach Summit. And it lit a stick of dynamite under me. And there is no way I could come to meetings and listen to people and not think of something we need to do about it. I am thrilled to be in a team of like-minded people, forward-thinking with real ideas that can move mountains. Everyone has their different level here, and on this smaller team, we put these ideas forward and you just run with it. I am thankful for you all, and for what we do. I am an eternal optimist. Sitting through two days of dredge, I just think we have to get going and do something else now. That is where we are at and I just love it.

Charlie Lean – I don't disagree with anything that has been said. My perspective is that many Alaskan industries are being limited unnecessarily, things like mom-and-pop gold mines and commercial fisheries, which has a multiplying effect. The gold miner does one thing, brings his product back, and it turns over several times in the state's economy. The jeweler creates something, the fish goes to the plant and then to the supermarket. And I'm a little prejudiced against tourism, it goes to people in the lower-48 too often. I don't want to see Alaska become a Natural History exhibit, off limits to residents. Mr. Howard brought lots of food for thought. I am so glad for ASLAG and would suggest we have something like 5M acres due us yet in our statehood compact, and a huge amount of federal holdings in the state, ten times or more that, would be interesting to hear from ASLAG what our chances are of

going beyond our statehood compact and how we might balance national concerns with our concerns and getting the most we can put back into production. I like fisheries, I am an avid hunter, I like mom-and-pop gold mines, that is all the Alaska lifestyle. My family from the lower-48 just marvel at the Alaska experience, all the options we have, that is part of our attraction, makes all of us have diversity in opportunity to make a living. These are interesting times and we need to investigate our options.

Gail Phillips – I want to start by giving an anecdote, following up on Mark’s comment about President Kennedy. I will never forget the comment he made, in his very New England brogue, that he was so happy to be in “Palmah, Alasker” and that has stuck with me all of my life. I thank all of you very much for making me feel very welcome in my first meeting. Appreciative of the information we were presented with, I am glad we had both sides of the picture, that always helps with the dialogue. This is a good working group and I look forward to continuing action on it. I have had a sign in my office for the last 35-40 years, and that sign reads, I look at it every day: “Without production, there is no wealth, and without wealth, civilizations fail.” And I think that should be the sub-motto for Alaska.

Representative Wes Keller – Thank you to the commissioners and director. The thanks is not what you think right off, not just thanks for being here. Thanks for being gracious and for your tolerance. We work close together, working hard. There is bound to be frustrations. Seeing the character of the commissioners in working those things out. I believe the issues we are dealing with are hugely significant, for our kids, grandkids, but even more than that, it is so fundamental to the values of the U.S. Constitution. I am thinking of the pursuit of happiness. It has to do with owning property and protecting property. That is what they thought then and I really relate to it. Reminded of one of the closing statements in the Declaration of Independence: “with firm reliance on the protection of divine Providence.” I would encourage you to analyze those words and think about them, what they were saying, an acknowledgement of a plan bigger than them, and we are part of a plan bigger than us. I am fascinated in the huge positive impact we are having and will have in the future.

Sara Taylor – I did not prepare anything. I want to thank BLM again, people that work incredibly hard every day for Alaskans. Those that work for federal agencies, they are from here, and they love this place. I love working with Lenore, you’re my favorite, just so you know. I think it took coming to Alaska to change the way I look at everything. But, most especially, I remember, coming to Alaska to work for the Fish and Wildlife Service, flying over Cook Inlet and thinking, what a strikingly beautiful place. And seeing oil rigs and thinking, oh cool. Not everybody thinks that, right? But now, I look at oil rigs, after having lived here for these years, and I see a future for my children. I probably shouldn’t say this at the Berkeley Alumni breakfast, or anything, but I look at oil rigs and I see a future for my children. Not like we are going to live there someday, but I see warmth for my home, I see job opportunities, and not job opportunities at the Princess Lodge but like real job opportunities in engineering or even just anything that can generate real wealth for our communities. But more than that I see oil being taken out of the ground by Alaskan standards, being taken out of the ground in a place that loves nature, that loves how beautiful this place is. Living here all this time hasn’t made seeing Denali take away my breath any less, as many times as I have seen it. And I know people like me are the ones calling the shots, making the decisions. So I see a place where oil is burnt that is taken out of the ground responsibly. And I would like to see Alaska be that kind of laboratory for investment and figuring out how to do that better, because Alaskans want to protect what they’ve got, more than anything. This is our home, so I want those people to be deciding how to create smart phones, how to build kayaks, all those things petroleum and mining does for this society. I want Alaskans to be deciding how to do that because that is a real future for my children. So I get mad when I see that future in jeopardy. Something Bob Shavelson said, the director of Cookinlet Keeper, an NGO in the Cook Inlet area, this is his ultimate unifying statement, whenever he sees someone who fundamentally disagrees with his views, he says “We all love our children.” Someday I will say that to him, because

I'm not sure he knows what I mean yet when I say "You're right. I love my children." Thank you all. Karrie was right, your volunteerism is amazing, every day. I think about how hard it is to come here, just to come here, but then to sit through a meeting, and then to work outside of those meetings, and always doing stuff, paying attention, being passionate, sending me emails, putting up with me sending you emails at three in the morning. For all your work, and your dedication, we are lucky to have you.

Stan Leaphart – I have an anecdote to share, about the Commission. Commissioner Phillips' comment regarding the acronym CACFA as not very pleasant sounding. In the early days of the Commission, Senator Bettie Fahrenkamp, our creator, was the Chairman. We had a meeting and the Governor's office was there, and they kept referring to CACFA. She stopped and said "What the hell is CACFA?" They said "Well, it's the acronym we . . ." and she looked at me and said "Stan, I don't like that." So from that point forward, I never used the acronym until the last couple years. She looked at me in that displeased teacher look, and that is all she had to say. I look at the work the Outreach Subcommittee has done and I think, when they get together, you should contact the National Weather Service to issue a tornado alert, they are a force to be reckoned with.

4:34p.m. – Adjourn

4:48p.m. – *Back on the record to briefly address one item of unfinished business.*

Motion To authorize the expenditure of up to \$50,000 from the Project Funds to support ASLAG as it continues to meet and develop a report and recommendations to the Commission.

No objections

Motion passes