

**DRAFT MEETING MINUTES**  
CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS  
NOVEMBER 28 & 29, 2012  
LEGISLATIVE INFORMATION OFFICE  
716 WEST 4<sup>TH</sup> AVENUE, SUITE 220  
ANCHORAGE, ALASKA

**Wednesday, November 28, 2012**

**9:02 a.m. CALL TO ORDER**

Chairman Keller called to meeting to order at 9:02 a.m.

**9:02 a.m. ROLL CALL**

Leaphart called the roll at 9:02 a.m. with the following members present: Rod Arno, Mark Fish, Representative Wes Keller, Senator Menard, Mike Meekin, Warren Olson, Susan Smith, and Franks Woods. Charlie Lean, Colleen Richards, Alex Tarnai, and Ron Somerville were unable to attend.

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

**9:03 a.m. COMMISSION MEMBER OPENING COMMENTS**

**Commissioner Olson** – The last couple of meeting we have put considerable time into the Navigable water issue. In the newspaper the other the day there was a tax valuation of the pipeline, contested between the State and the pipeline. In the article in the newspaper contesting the value of the pipeline there was a list of contested navigable water conflicts between the state and the federal government. We have made an effort as a committee to research some of this activity and be informed by some of the agencies of their involvement. We've seen alternative means and methods of corralling some of this issue between the state and the federal government. The last meeting we brought Mr. Christopher Estes in and in my estimation he is one of the premier water experts as far as I'm concerned around the world. We've made an effort the review the material and to get someone on board who has a handle on this and within the minutes from the last meting I made a proposal that I apologize that I possibly brought it in too late on the schedule. So, this time around I'd like to have that proposal reconsidered and some discussion on it.

**Representative Keller** – I jumped right ahead in to the agenda, is there a motion to approve the agenda?

**9:15 a.m. APPROVAL of AGENDA**

Motion to accept the agenda Commission Olson; second Commissioner Arno; agenda approved at 9:10 a.m.

**9:18 a.m. APPROVAL of MINUTES**

Motion to approve the minutes as written, Commissioner Olson, second Commissioner Meekin; minutes from May 31 & June 1, 2012 meeting approved at 9:18 a.m.

### **COMMISSIONER OPENING COMMENTS Continued**

**Commissioner Smith** – We talked about the Department of Law getting involved to discuss some of the issues that we can't do much more about. I'm interested to see if we pursuing this avenue? And, I'm also interested in what the next four years look like after the election. Would really like to hear from Linda and Wes about the changes to the Legislature and what the impacts will be. I hesitate to think of all the Federal encroachment that will be coming down in the next four years.

**Commissioner Woods** – I have been absent and it's good to be back. From my region the inholders on Federal lands have a lot of issues and that is why I sit on this board. As busy as we are, the heavy hand of the government and living under dual management, there isn't enough people involved in the process. My job anyways is to educate and get as many people in the process on all the different federal systems not just the Marine mammals Act, you've got ANILCA and you've got the portions of ANCSA...we have at least in rural Alaska, we have a huge disparity between the people who subsist off the land and live a comfortable life and the people who can't afford to go out and subsist after awhile. When you have a refuge or a park or a federal designated wilderness land issues, inholders really suffer because they don't know the process, they don't understand the system. There are enforcement issues, there's... Right now we are trying to put together a proposal between the Board of Game and the Subsistence (inaudible) and it just can't happen, it's impossible. The way things are in Alaska. The only saving grace is that Native Corporation lands are prime subsistence ground. That is the only saving grace. That said we need more people, we need twice as many people dealing with all the federal processes in this whole arena. The State of Alaska takes care of it's own on a regular basis, it's consistent. Like the Board of Game and the Board of Fish, I can write a proposal on a federal level there is a legislative fix for all these unguided and unfunded I sat there and listened to people talking about a federal regulations for 10 years, the same issue, saying we can't fix this, the only thing we can do is legislative. Prime example, there is a migratory bird Pacific Flyway Treaty that mandates duck stamps in the State of Alaska. We already have our duck stamp, and then you go to Federal land you have to have a Federal duck Stamp. That's for Federal wildlife conservation; let's put it this way, the duck stamp was for wildlife conservation. We've got some much wetlands and this places the (financial) burden on the people who use the resource, and that's wrong. Enforcement is always an issue. Sit down with the people in power and educate them on better communication. We all live here; it isn't rural vs. urban, native vs. non-native, we all live here. We are all trying to co-exist in a system that's set up and it gets confusing.

**Commissioner Meekin** - I'd like a lawyer, so of this stuff is a no-brainer but some of this (inaudible)... a lawyer could take care of this in a few minutes. I'm still learning.

**Representative Keller** - In the May 31<sup>st</sup> meeting or right after it was the deadline for filing for political office. It's been a busy summer campaigning, and during this time I had a Republican opponent who accused me of not getting anything done. I found that I relied and leaned on you guys and describe the work of CACFA and it refreshed in my mind how important this Commission is because it has to do with access to our natural resources and

even though our jurisdiction is small we don't have a huge bank account, we don't have judicial power but its our job to be in their face whether to fight stupid laws like you pointed out... I personally think I'm reenergized by that process and, like Susan pointed out, the next four years could be very interesting. We have to challenge ahead and

**Commissioner Arno** – Is it appropriate to, before every meeting, like the Board of Game, to have the AG discuss current lawsuits and discuss the follow through. I'd like to make a formal suggestion to have that happen. It is really reflected in the minutes from the last meeting and that is the Commission and the Executive Director has done everything they can

**Commissioner Fish** – I hear common themes and I believe there is a white paper source, this is promoted through the UN and a sign of the 90's, it's called Agenda 21. It's not a conspiracy or anything; it's a source of white papers. Every federal, state and local regulator relies on it to build a case for their agenda's How do we counter what is this monumental force opposing our access and our liberties. One of the things we suggest that we have to find a way of unifying the state effort. There are a lot of interests that have been guided in other direction. We need to find a way of presenting a unifying force. It failed in Arizona, but I want to point out that they had a proposition 120. It said that eh State of Arizona is taking title to all of its rightful lands and waters. It sent a shock wave through the environmental community. It stirred a whole lot of debate and got people thinking what is the proper roll of this federal government? If we could find a way to suggest that their claim of authority over us and doing that in a unified manner, the entire state, the whole mechanism behind us saying, this is our state, it belongs to us. If we can contest it on those terms they have to address it on those terms. And how they address those terms is going to change public perception which could help us in rolling back some of this monumental force that is posed against us. When we are considering what we do here, consider the facts on the ground and how we can adjust public perception. How can we assist to change the public perception of the authority of the federal government in general?

**Representative Keller** - Thank you. I think this is the first time we have opened with Commissioner Comments and it gives us chance to see each other and what is in our heads and in our minds and invaluable suggestions.

**9:23 a.m. COMMUNICATIONS and REPORTS from the Executive Director –**

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

In a letter dated June 15, 2012 to r. Bud Cribley, Alaska State Director of the BLM offering comments on the National Petroleum Reserve - Alaska Integrated Activity Plan and Environmental Impact Statement. We thought the Plan would be out by now, maybe it will be released by early February. The difference with this plan, it's not the same process as the Delta River because it is an Integrated Activity Plan. There is no administrative Appeal and no Governor's Review. The only challenge to this Plan can be made in court. Also the process was different I that 60 days after the close of Public Comment the agency came up with a new alternative. This seems to be becoming a trend. It was very frustrating how this played out. You'll see in unfinished business there is a news release, a letter form the Governor to the Secretary withdrawing as a cooperator. The State was involved during the development of the Draft plan and in talking with some of the State folks who

were involved; they were very frustrated how this has played out in the selection of the new preferred alternative. In the packet under unfinished business there is a copy of the news release from Secretary from the Governor's office urging the Secretary to start over on the whole plan. We've never seen an agency, 60 days after the close of the comment period, in a plan of this complexity, come up with a new preferred alternative. I've never seen it happen. This is the third or fourth instance where we have seen another alternative different than any that were different than in the draft plan. We saw it at Nabesna, the Denali Vehicle Management Plan and now this. I'm not a NEPA expert but it's my understanding if all of those issues were addressed as part of the draft then it extends the scope of their authority to come up with another alternative. It's troubling because you think you are commenting on a particular proposal and then come to find out they come up with another alternative.

**Commissioner Arno** – I have thought about that, I think what we can do is just keep bolstering our position with the State. So they are continuing to maintain a record of our stance on these issues. When they change the alternative the public's ability to participate in the process has been diluted. I think it would be appropriate for the Commission to consider another letter to the Governor.

**Commissioner Fish** - This bait and switch operation seem to be coming from somewhere. If we can point out to the public that they (agencies) are doing things that are arbitrary to their own procedures, their own well established way of doing business, we need to highlight that somehow.

**Leaphart** - Comments on the Bell Island Geothermal Leases Draft Supplemental Environmental Impact Statement dated July 2, 2012, addressed to Forrest Cole, Forest Supervisor on the Tongass National Forest. The comments reiterated the energy needs for rural Alaska and a show of support for the Forest to develop alternative means of energy for rural Alaska. The one issue that did come up was that this site is located in the roadless area on the forest. The decision was made last year to exempt Alaska from the roadless rule which states that you can't develop anything in these inventoried roadless areas. That was changed, now the roadless rule that were adopted during the Clinton administration does apply. That state is in court challenging that and I don't know the status of that. I think Montana recently challenged the federal government and lost their appeal in the 10<sup>th</sup> circuit.

Comment letter addressed to Lt. General Steve Hoog, Commander, Alaska Command dated July 9, 2012 on the Joint Pacific Alaska Range Complex Modernization and Enhancement Draft Environmental Impact Statement. The comments address the importance of the military in Alaska. We met with the military several times and my understanding that this EIS process is on track and a final will be released next year. With respect the expanded MOA, the FAA still controls the air space. When the MOA is turned on the FAA turns over control to the military. In order to expand these areas there will be a whole other process with the FAA to determine whether these MOA's will be enlarged. The same thing applies to the UAV (unmanned aerial vehicles) corridors. There was concern because those are in the Fairbanks area.

Our letter, dated July 30, 2012, to Paul Anderson of the National Park Service on the Denali Park Road Final Vehicle Management Plan and EIS where the Commission shared its concern about the development of a new alternative after the public comment period had closed. While the new alternative was a combination of two alternatives in the draft, the new alternative included two

components that we considered significant changes and more than a simple refinement. The two new components were a 160 vehicle limit within any 24 hour period and a proposal to require concession contracts for those Kantishna businesses conducting day trips.

**Commissioner Woods** – Last year we heard from the Park Service, in holder from that area we heard that this plan has a lot of issues. How long, how far out does this plan go?

**Leaphart** – the one thing they did confirm was that the number of trips allocated to the in holders in Kantishna will not be reduced. There is about a 150 trips per season cushion that they don't use. This is a long term plan. I think the last plan was in place for 20-25 years.

**Commissioner Woods** - It's disappointing that it's so long term. Doesn't it kind of make it hard to adjust and react to change that far out. I just want to revert back to my comments that we support in holders and it looks like your doing a good job there Stan, thanks a lot.

**Leaphart** - It is unstated in the plan is a policy on the part of the Park Service is to acquire as many of those in holdings as they can. In other words, when they come available, the Park Service will acquire them with the goal being trying to keep a cap on the development that is already there and not have any new development on these in holdings. It's a well known but rarely talked about formal policy. It is a well known fact that they are trying to reduce inholdings in the Park.

The next item is our comments to Bud Rice of the National Park Service in Anchorage on the Hunting Guide Concession EA for Katmai National Preserve. Our primary concern is that this is the first time they did an EA for this type of decision. Even though they were trying to reconfigure the two hunting guide areas to make it more equitable that this was driven by pressure from anti hunting groups from outside the area who didn't feel it was appropriate even though hunting is statutorily recognized and authorized in ANILCA. There are still people who don't want hunting to take place and there are people who are trying to make the argument. I spent a lot of time researching the legislative history on Katmai and the boundaries were changed several times with the intent of protecting the existing guiding operations, protection for critical habitat. That is one of the reasons they came up with Preserve designation in Alaska to allow sport hunting. They have issued a final decision on this; they have designated two areas and redid the allocation for the hunts. In your packet CD there is a copy of the Prospectus for Hunting Guides.

Next is our Freedom of Information Act request for a copy of a report prepared by a private contractor for the Tongass National Forest. The proposed report was to assess the cabin program and suggest a financially sustainable program.

In a comment letter to Forrest Cole, a Forest Supervisor on the Tongass National Forest dated November 13, 2012, the Commission offered insight on the his scoping letter released on August 12, 2012. The Tongass National Forest is proposing to close 9 public recreation cabins and convert 3 to emergency shelters due to declining budgets and staffing and increased maintenance costs. Originally, the decision on the proposed action was to be made under a consolidated categorical exclusion following a 30-day public comment period but it was latter decided to prepare an Environmental Assessment, the Commission's primary concern is the deficiencies in the public process. There will be no further opportunity to comment on the proposed actions after the initial

comment period. Furthermore, the scoping letter revealed limited information on the cabins to be removed and there was a referenced report which is not available to the public. The letter goes on to request specific information on each cabin in order to clarify the proposed action. Of particular note, we also mentioned that any cabin to be removed from areas with a wilderness designation would require an additional analysis prior to removal to comply with ANILCA and the Region 10 Supplement to the Forest Service Manual. We have always looked at these cabins as a resource, there is a lot of undocumented use, emergency use and we have always encouraged them to keep as many as possible especially as many of them have been there prior to the forest.

In a November 19, 2012 letter to Ms. Susan Boudreaux, Superintendent of Glacier Bay National Park the Commission offered comments on the Huna Tribal House project in Bartlett Cove. The proposed construction is a fine example of the Park Service working with local native organization to help visitor interpret the traditional Tlingit culture through this exhibit.

A letter from Mr. Bud Cribley received October 1, 2012, the Commission was thanked for its assistance in revising the BLM policy on authorizing permanent structures on Public Lands for commercial trapping activities. The BLM utilized their Resource Advisory Council who suggesting this new policy after taking it up several times. There is no income requirement and after being reviewed by interior trappers, they said they could live with this. These are standards that the trapping community and the RAC can live with. The initial cost is pretty steep at \$750 but there is no income requirement, you have to show that you engaged in trapping activities for 60 days, have 20 or more traps, provide some receipt for your trapping activities and some proof of barter or sale of furs.

**10:10 a.m. Break for a fire alarm; return to order at 10:40 a.m. (estimate time)**

#### **REPORTS from the Executive Director –**

**Leaphart** reviewed the Reports section of the packet beginning with an appeal decision from the Regional Forester upholding the decision made by the Forest Supervisor to replace the bathhouse at White Sulphur Springs. The decision to replace the bathhouse was appealed by Wilderness Watch, who didn't want to see the bathhouse rebuilt because it is in wilderness. I think this is a good example of the forest service working with appellants to withdraw their appeals pending further consideration by the Forest Service, preparing a new EA. One of the things that was done, and we helped with this was to distribute a survey in order to gather information on usage from a health and safety standpoint. They asked people from the region and they got 82 responses on how they use it, when and why and the weather. I was happy to see the Forest Service reference the special provisions in ANILCA that reflect some of the comments that we submitted. A number of people who thought that Wilderness watch would litigate but they didn't.

The contract is going out and they hope to rebuild it this summer. The cabin has been rebuilt and I understand it's really nice.

#### **11:00 a.m. Bering Land Bridge NPP, Serpentine Hot Springs Area Master Plan**

**Leaphart** – The first item under Agency Reports is a newsletter from the Serpentine Hot Springs discussing their master plan and Environmental Assessment for the area. We are handing out a letter written by Charlie Lean who lives in that area and is very familiar with the Hot Springs. He submitted comments on his own behalf not on behalf of the Commission. They will be very

useful to the Park Service and to introduce Zach Babb from the National Park Service.

**Mr. Zach Babb** – Thank you for having me. I grew up in Fairbanks and after going outside for college I wanted to return to Alaska. I come back to Anchorage where I have worked on many interesting projects for the National Park Service. We have been developing a master plan for the Serpentine Hot Springs area of Bering Land Bridge National Preserve. This plan will provide direction for managing the hot springs area and what actions the preserve should take regarding access and facilities there. As part of the planning process, the preserve hosted public meetings in May 2012 to consult with the public and get feedback on which potential actions are most desirable to local communities. We received useful feedback at these meetings that helped us develop reasonable alternatives for the master plan. Since the Serpentine Hot Springs is one of the most revered places on the Seward Peninsula. It is a site that has been used continuously by residents of the region for at least 12,000 years. Serpentine Hot Springs contains significant archeological, historic, natural, recreational, spiritual, and subsistence values. The hot springs are located approximately thirteen miles from the end of the Nome-Taylor Highway.

During public comment we hear four major goals and objectives to be addressed by the plan, access, specifically the airstrip and trail marker leading people to the hot springs, the quality of the visitor experience and the condition of the facilities and wilderness eligibility.

The Bering Land Bridge National Preserve was created to provide outdoor recreation and environmental education, including public access for recreation at Serpentine Hot Springs.” Current access is primarily by fixed-wing aircraft in the summer months and snow machines in the winter. Winter access is aided on some routes by the use of trail markers. Summer visitors have limited access. Some visitors walk in from the end of the Nome-Taylor Highway, but the majority use aircraft to access this site. The existing airstrip is short (1100’) and infrequently maintained. As a result, few commercial operators will fly into Serpentine Hot Springs. The new plan must identify how the NPS can improve access to ensure visitation can continue in a safe and efficient manner. The existing facilities include a 1940’s era bunkhouse, a cedar hot tub enclosed in a wood frame bathhouse, and an outhouse. There are reports of occasional crowding and conflict between groups converging on the site. Sanitation issues have arisen in the past, and the transportation and storage of heating fuel is an ongoing concern. Additionally, the bunkhouse is located on an island between the main branch of Hot Springs Creek and a secondary branch and flooding from seasonal high water is an area of concern. This issue is exacerbated by recent beaver activity immediately upstream from the bunkhouse facilities. These facilities will need to be replaced in the near future and this plan is an opportunity to recommend new locations at the site for the facilities as well as to possibly recommend new types of facilities.

The following draft alternatives have been created after considering the park’s purpose, significance, and legal mandates as well as public and agency comments received during the scoping phase of the planning effort. Four alternatives have been developed, presenting different options for managing resources and visitor use, and improving facilities and infrastructure at Serpentine Hot Springs. Alternative A, the no-action alternative, serves as a basis for comparison between Bering Land Bridge National Preserve’s current management and the other alternatives. It provides a baseline for evaluating changes and impacts of the action alternatives. This alternative is also useful in understanding why the NPS or the public may believe that changes in

management direction are needed. Under this alternative, there would be no change in the current management for the foreseeable future. The National Park Service would continue to manage Serpentine under the overall operational direction provided in its enabling legislation, NPS policies, and other agreements and laws that currently guide management.

Alternatives B-D are the 'action-alternatives.' These organize the range of new concepts and ideas we have heard from the public and that are within the framework of NPS laws and policies. Alternatives

B-D focused on improving facilities and infrastructure and changing the general management, visitor use and experience at Serpentine Hot Springs. Alternative B offers a minimal amount of potential change; it would focus on replacing existing facilities and amenities largely in-kind and without offering a wider range of new opportunities for visitors to the site. The NPS would continue to have a minimal presence at Serpentine Hot Springs, and the hot springs experience would continue to be one that is highly informal. Alternative C accommodates current use while adding limited additional facilities for recreational and administrative purposes, and focus on dispersing visitor use. Alternative C would provide moderate improvements to all facilities. The existing airstrip would be expanded somewhat. The bunkhouse would be replaced and relocated to the vicinity of the airstrip. Restrooms will be improved. Alternative D focuses on expanding visitor opportunities and proposing the greatest increase in infrastructure. Alternative D would provide significant improvements and addition of facilities. The existing airstrip would be expanded and realigned. The bunkhouse would be replaced with a larger cabin and relocated to the vicinity of the airstrip. Additional improvements such as a formal camping area, more and improved restrooms, and an NPS administrative structure would eventually be constructed.

There were two items that are common to all the alternatives: adding additional route markers to help people get to the hot spring. The NPS will continue to maintain the existing route markers that lead people from Shishmaref and Nome to Serpentine Hot Springs during the winter months and from the Kugoruk Road during the summer months. If other communities request additional route markers be added, the NPS will consider this on a case-by-case basis dependent upon need, cost, and the capacity of the NPS to provide this service. The second is wilderness eligibility of the Serpentine Hot Springs Area.

As part of this project, the NPS is proposing to remove the immediate area surrounding Serpentine Hot Springs from wilderness eligibility. The purpose of this action is not to diminish the wilderness qualities of the site, but rather to preserve the site's long established history and current use as a place of cultural and subsistence practices, and to ensure recreational activities can continue unimpeded. People have traveled to and enjoyed this site for 100's of years. We believe that the site is better managed for this purpose than for wilderness characteristics.

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

None

**Leaphart** – The remaining item on Report is this Cost-Benefit. They are working on regulations on implementing that EIS. We have been talking about the state next step and some opportunity to weigh in on this whole issue. There is likely to be some proposals this coming year in the Compendiums. They are supposed to have some public meetings in the area to talk about some of the restriction that will remain in place. My understanding that this Regulatory Analysis is for the purposes of developing permanent regulations; it's not a completed process yet. It gives us some

opportunity.

**Commissioner Olson** - Maybe someone can educate me on the Hot Springs and the Park Service...prior to 1980 who controlled this particular agency? Who was in command?

**Leaphart** - I think it was BLM managed land.

**Commissioner Olson** - A certain status that they called Federal Agencies of the non-managed land? Was it actually under the control of somebody?

**Leaphart** - BLM, but they didn't actively manage the area. I'll have to get back to everyone on this but there was an act that passed in the mid 30's about hot springs in federal ownership that they are BLM managed. It's very possible that these hot springs are subject to that law. I think the purpose of that law was to keep certain geothermal places in public ownership.

**LUNCH** – adjourn for lunch at 11:53 a.m., reconvened at 1:30

#### **AGENCY REPORTS - Overview of Big Game Hunting Guide Programs**

**Leaphart** – A little background on why I wanted to put this on the agenda, this past summer the BLM announced that they are going to be conducting a Hunting Guide Capacity study in anticipations of developing a more comprehensive hunting guide program on BLM land. They are trying to dovetail on the state's program which is in the works now. We have two land management agencies; let's hear from the USFWS, USFS and the Park Service, who also manage hunting guide activities on lands in their jurisdiction. Even though we have varied mandates, policies, etc. this will hopefully all work together and be compatible. I thought we needed to understand how each of these system works.

**Mr. Bill Overbaugh, BLM, State Office, Anchorage** – Hello Stan, I sort of wish you had put me behind the other guys and then I could say that we are doing what they are doing but no. I'm not off the hook unfortunately. The other agencies did their capacity studies back in the 1990's and the BLM wasn't part of that. We are trying to catch up now. There are hot-spots in the state where we have received increasing information about conflicts and not having really looked at it in depth we thought this was our opportunity to study it. To address these conflicts, we're proposing to complete a statewide hunting guide capacity analysis, through an environmental assessment. The goal being to determine the proper allocation of commercial hunting guide permits per Guide Use Area based on user conflicts and social issues associated with commercial hunting guides. These social issues are anticipated to drive the scope of the EA, including the affected environment, the identification of alternatives, the analysis of impacts, and subsequent decisions.

What we started last summer was a 60-day public scoping comment period to find out what we could garner starting the EA process and develop a reasonable range of alternatives. The purpose of the public scoping process is to identify relevant issues and criteria that will guide the process and influence the scope of the analysis and alternatives. Detailed comments related to social user conflict, or the lack of, related to commercial hunting guides will be the most important for this analysis. There will be a no-action alternative which would reflect the current number of guide

permits issued. At least one of the alternatives will use a 10 year average of guide permits issued. Beyond that we are looking for existing and current information on conflicts in each specific guide use area and that will help to determine upper and lower limits.

We are at the beginning of our study and I don't have a data of alternative to report but to say that we are cooperating with the DNR study to see what efficiencies could be had by working together. We have to complete our process to determine our number before we can join the process but we hope when we are ready the timing will be right to work together.

**Commissioner Fish** - The allocation of commercial guide permits based on user conflicts and social issue. Please explain what is meant by a social issue?

**Mr. Overbaugh** – Beyond conflict, we are seeing a number of users after the same resource, specifically subsistence type uses. Which I suppose could be a part of the user conflict but there may be some other issues more on the social scale. What we are trying to avoid is a conversation on biological issues, that the realm of Fish and Game. We also didn't want to get into the discussion of allocating numbers of permits based on biological issue.

**Commissioner Arno** – What do you have for baseline data on past use? I realize federal land managers are taking over subsistence use, and there are a few decade in it. What has been done to gather harvest data from each group and are you seeing an increase in guided clients on BLM lands?

**Mr. Overbaugh** – We are just now getting the 10-year history from our field offices. Most have at least that much data. We aren't looking a harvest data or number of licenses. We are really trying to focus on the social issues and where we have gathered data in terms of that social conflict is in our resource management plans, planning and other NEPA processes. We have gathered that data and we are going to analyze that.

**Commissioner Arno** -What you are looking at are conflict between users in one area not an expanding user group after that resource on BLM Lands.

**Mr. Overbaugh** - It could be guide to guide conflict and it could be guide to subsistence user groups. It could be between groups like watchable wildlife groups, wildlife viewing. It could be to the community. For example we have a situation up in Kotzebue where there are some community based concerns about transportation of the meat, transportation in and out. Also up in Wiseman there are few hot spots around the state, we are going to be studying all of that.

#### **Valerie Baxter DNR - State of Alaska Hunting Guide Program**

We are the Division of Mining, Land & Water with 66 professional staff in two regional offices, managing over 100 million acres of state owned upland as well as tide, shore and submerged lands.

A little hunting guide industry history, it was in 1973 that the Alaska Legislature created the Guide License and Control Board with the intent of that Board to "protect fish and game management", and "to get competent people as guides in Alaska". Then in 1974 the Board

established an area system limiting guides within Exclusive Guide Areas; and in 1976 the program was extended statewide.

A major defining moment was the Owsichuk Decision, which came in 1988 when the Alaska Supreme Court found the Exclusive Guide area system to be unconstitutional. It went up against the common use clause that protects the common use of all resources. The court cited 4 primary reasons in its decision; not subject to competitive bidding and were exclusive; assignments were not based on wildlife management; provided no remuneration to the state; of unlimited duration and were not subject to any other contractual terms or restrictions. I heard it being described as a free-for-all. After the Owsichuk Decision there has been very little regulation of the guiding industry early on, but the Big Game Commercial Services Board was created and was tasked with oversight and management of the industry and its enforcement. That Board is made up of appointees from the public and it is made up of two guides, two transporters, a land owner, a member of the public Board of Game representative and a Department of Law representative.

Currently if you would like to guide on State land you have the choice of day use of state land with no overnight camping or facilities, this only requires a Commercial Day Use Registration for a \$25 fee. If there is overnight use of state land in which camps or facilities are in place for up to 14 days, a Commercial Recreation Permit is required. This is an authorization that can be processed on the same day that the application and fee are received. Fees are \$500 for up to 6 months authorization and \$1000 for up to 12 months. Authorization term is up to 12 months. Overnight use of state lands for camps or facilities in place longer than 14 days, a Land Use Permit is required. These permit authorizations cost \$100 to apply, usually have a public notice period, and can take 60-90 days to adjudicate. These permits require insurance and bonding and annual fees are based on the level of infrastructure such as year round storage, tent platforms, cabins, and number of sites. Land Use Permits are usually issued for periods up to five years. There are a few guide operations that have leases for the lands where they camp and have facilities. These are often larger operations with more infrastructure such as multiple cabins and/or lodges. There are no DNR restrictions on state land on the number of guides operating or the number of guides granted permits within an area, and permit stipulations do not carry regulatory citation authority but are revocable at will. There are stipulations and rules on the permit but there is not regulatory citation authority. I can't come into your camp and see that you've built your outhouse too close to the river and cite you but they can revoke with or without cause.

Some of the issues that have come up since the demise of the Exclusive Guide Areas, there have been attempts to recreate the program in a manner which satisfies the deficiencies noted in the Owsichuk Decision, and which addresses important conservation and stewardship values. Without a way to more closely manage guide activity, several problems have repeatedly been raised in connection with guided hunt activities on state land. Those problems include: overcrowding in the field leading to user conflicts and increased competition for trophy and food source animals; impacts to certain animal populations; poor stewardship of public lands; inefficient enforcement actions due to poor record keeping; increasing demands for further restrictions on guided hunting activities.

The purpose of the guide concession program is to address the issues identified by the guide

industry, the Big Game Commercial Services Board and the Alaska Board of Game related to the ongoing problems identified in the field, and those are; decreased incentive to practice wildlife conservation; the decreased quality of experience for guided clients; the conflicts between user groups; an overall lack of land stewardship; and difficulties enforcing game laws.

Before February 15, 2012, DNR has distributed a Whitepaper in 2009 for review, held informational meetings were held in Anchorage, Fairbanks, Juneau, Tok, Dillingham, Kodiak, Kotzebue and Little Rock, Arkansas and held public and agency comment periods from December 8, 2009 through March 31, 2010. There was a proposed decision released February 15, 2012 another public and agency comment period was February 15, 2012 through April 23, 2012, the Department of Mining, Land and Water hosted statewide public meetings in Juneau, Fairbanks and Anchorage and several online web based meetings. During this time we received 192 comments, including recorded testimony at the meetings and on webinars. In June 2012, DMLW formed an Interagency Steering Committee with representatives from the Alaska Department of Fish and Game, the Department of Parks and the BLM. The purpose of the committee is to cooperatively design and develop a final program. DMLW hosted multiple meetings with the cooperating agencies to decide on key issues brought forward by public comments and the agencies. In response to public comments asking for increased industry participation, the steering committee also held information sharing meetings with the Acting Chairs of the BGCSB and BOG. The purpose of these meetings was to receive additional feedback from the two regulatory boards that impact the guiding industry on possible changes to the GCP prior to the issuance of a Final Decision.

Other aspects of the program are to create an application; a scoring process and evaluation panel; develop appropriate fee schedule; offer programs for full and limited guide concessions; to limit on the number of assistant guides, develop maps; establish transferability and fill vacancies

During the summer and fall 2012 the committee held meetings, issued an analysis and resolution and a draft final decision which will hopefully be published in December. January 2013 we plan to brief the legislature, acquire the necessary budget, personnel, limited enforcement authority and program receipt authority in anticipation for January 2014 to have applications available and award notifications to go out in summer 2014. The grand plan is to have guide concession areas effective by January 2015.

**Commissioner Arno** – Thank you for the overview from the state's perspective, but CACFA we deal mainly with federal areas but the reason why is important to watch the state on this is that it would be fun to watch the BLM try to have a concessionary and not include state and private lands in there. That is the only hook or interest we have in this. My question is, what have you gathered since the decision in the degradation of access due to this large influx of new hunters, that the resource is being negatively effected and it needs to be managed with a concession on state land

**Ms. Baxter** - As far as number of guides, number of hunts, all that data, the only numbers I know about is basically from Occupational Licensing. They are going back in to their hunt records to. As far as I know there is data back to 2007, before that it is in boxes. I'm not certain how far back it goes. We are working with Fish and Game for all of the biological data. During scoping, we sent out and asked questions to all the offices asking, do you see any conflicts?

What do you see? What have you heard? Have you seen resource degradation? Do you have a proposal to address it? Have you done anything to address it? As we go through this we want to give credit and build it into the use of state lands.

**Senator Menard** - Can you share with us how many new personnel that you will need for the Concession Program?

**Ms. Baxter** - The idea is that this program to pay for itself. We will prepare a packet for the Legislature and we have been working with the Governor's office to request enough money for the first two years. The authority is important that the money come straight back in to the program. We calculated the fees and designed them to pay for the program. We have estimated two teams, 3 people for Northern Region and four people for Anchorage. We want to stagger the permits expiration in the beginning and after the initial period they will all be 10 year permits. We designed that so there wouldn't be a deluge of permits all at one time. It looks like 7 permanent positions and two non-perms.

**Mr. Kevin Apgar - National Park Service**

How the NPS program is structured, there are 15 national park units in Alaska; many include both a park unit and separate preserve units, for example Denali National Park & Preserve. Parks are not open to sport hunting, but preserves are. There are big game hunting guides authorized as a commercial visitor service in National Park Service preserve units. All NPS commercial visitor services are authorized under NPS specific legislation, the Concessions Management Improvement Act of 1998. All other federal agencies generally authorize big game guides under their general authorities.

There are different types of authorizations. The National Park Service authorizes big game guides under concession contracts. The other federal land managers generally authorize these services under special use permits. Currently the National Park Service has 32 hunting guide contracts. These contracts are awarded by way of a competitive selection process. That process consists of a solicitation or a prospectus is released, generally issued 12-18 months in advance of the start of the contract. Primary selection factors for all Park Service concessions were established in the 1998 National Park Service specific legislation. These are primary selection factors are the impact on park resources, the quality of the visitor service and the visitor experience, are they financial capability of making the proposed franchise fee. There are also specific sub factors under each of the primary factors which are developed for the specific visitor service, in this case, hunting guides. There specific sub-factors area listed in the solicitation. The NPS may also include certain secondary selection factors.

The National Park Service coordinates with State/Alaska Big Game Commercial Services Board, as the State manages occupational licensing of big game hunting guides in Alaska. The Federal and State land managers grant landowner permission for state registered hunting guides to operate in areas they manage.

All NPS commercial visitor service authorizations require the contractor to operate in accordance with applicable federal and state law, regulation and policy. The contract terms and conditions of big game hunting contracts are generally issued for 10 years. The contracts generally include

an assigned guide use area, which is a portion of the applicable Preserve unit. There may be multiple guide use areas within a Preserve. The maximum number of clients the guide is authorized to contract with is specified. The contract requires payment of a franchise fee, and this fee is based on the probable value of the contract to the commercial operator. In the past, the minimum fee for big game guides has most commonly been 3% of gross receipts.

**Mr. Brian Anderson - U.S. Fish & Wildlife Service**

In 1976, the former Alaska Guide Licensing and Control Board established a system for allocating exclusive big game guide use areas, which was used on National Wildlife Refuge System (NWRS) lands. In 1988, an Alaska Supreme Court decision (*Owsichuk vs. State of Alaska*), found the state's allocation program unconstitutional and abolished it. When it became clear that the state would not be able to develop an acceptable program, the U.S. Fish and Wildlife Service began to develop its own process for allocating big game guide permits. In 1992, the Service published an environmental assessment for a proposed big game guide-outfitter policy for NWRS lands in Alaska. The preferred alternative was to establish an "equitable allocation system" for selecting big game guides on Alaska refuges using a competitive selection process. The policy formed the basis for regulations that were promulgated in 1997.

The 16 refuges are divided up into 98 guide use areas, for which we currently have issued 111 big game guide permits. Most guide use areas are exclusive use and only have one permit assigned to it although 14 areas are joint use, and four areas are not offered due to potential conflicts with subsistence users. Individual guides are limited to holding no more than three permits for refuge guide use areas. Permits are issued for five years, with one noncompetitive five year renewal following satisfactory compliance with permit stipulations. Limited permit transfers are allowed in accordance with the regulations. To initiate the process, the Service publishes a prospectus and invitation to bid for each refuge. A ranking panel consisting of three Service employees scores each application based on established criteria, and recommends the "best qualified" applicants to the refuge manager for final selection. The refuge manager reviews the applications, conducts interviews with applicants, reviews client surveys, and uses other sources of information in making a final selection. Unsuccessful applicants have the right to appeal the refuge manager's selection to the regional director. Appeals must be in writing, and appellants may request an informal hearing with the regional director. The regional director's decision constitutes the final agency action on the appeal. Because of their economic potential, many refuge big game guide permits are highly sought after, and fiercely competed. In 2012, the Service received 235 applications from 81 applicants. In addition to the time needed to evaluate the applications, the subsequent appeals can require hundreds of hours of staff time to process, and constitute a significant workload for the regional director. Although the competitive selection process imposes a heavy administrative burden on the agency during the permit selection cycles, the program has been successful at retaining guides who provide high quality and safe services to the public.

**Mr. Roger Birk (by phone) - U.S. Forest Service**

I wanted to hit on the capacity analysis that we are doing that effect hunting. IN Southeast there are

concerns of over harvesting of bears. For black bears, Fish and Game is going to a drawing system looking to cut back on the number harvested. We are looking for the guide to regulate theme selves but we are not issuing new permits for black bear guiding hoping that attrition will take care of the problem. For brown bear game management units four, the ABC Islands, the Forest Service and Fish and Game are trying to work out the number but nothing concrete has taken place.

There are several Needs Assessments and capacity analysis that have been done on the Tongass. These have set the use level for guided permits.

### **3:04 p.m. Mr. Bud Rice - Bering Land Bridge National Preserve Guided Sport Hunting Concessions Environmental Assessment**

(Discussion of the maps from the presentation identifying the different configuration of guide use areas within the preserve by alternative along with options for a no hunting guide use zone Serpentine Hot Springs facilities. There are two options, one uses the watershed of Hot Springs Creek and Reindeer Creek within the preserve boundary and as far west as a line between two prominent knolls on opposite sides of Hot Springs Creek; or create a boundary with a four mile radius of the Serpentine facilities)

Discussion of alternatives - Alternative A is the no-action alternative and that would offer no hunting guide concessions awarded within the Preserve. Subsistence and sport hunting continues as in past. Sport hunting access continues with private transportation or with licensed air taxi operators and big game transporters.

Alternative B would award Up to 3 hunting guide concessions for the whole Preserve, allowing each hunting guide concession to an average of 10 clients per year and no more than 14 clients in any one year with a maximum of 100 to 300 clients over the 10-year contract period.

The potential impacts of this alternative are found to effect the local economy by allowing a few guide and assistant guide jobs with effects negligible but perceptible, of low intensity, potentially long-term, and important but rare in the region. Moderate effect on recreational use from up to 30 hunters added annually in sparsely used area. Effects long-term, medium intensity, and affect an important activity. Potential disturbance to archeological and historical resources moderate because of uniqueness of these resources in area and low intensity, but long-term effects. Minor effect for subsistence hunting for muskoxen, brown bears, and caribou, but larger effect on subsistence moose hunters due to competition for moose near Deering and Shishmaref. Effect on wildlife varies by species. Effects would be minor for muskoxen and caribou, and moderate for moose and brown bears.

Alternative C is the NPS Preferred Alternative which would award up to 3 hunting guide concessions for separate guide areas in the Preserve. Client limits at 10 per year for GUA 22-01 and a total of 10 clients per year for the remaining GUAs (22-03, 22-06 and 23-07) for a maximum of up to 200 clients in 10 years.

**3:20 p.m. Break, return to business at 3:32 p.m.**

**3:32 p.m. PUBLIC PARTICPATION**

**Donald Duncan, Fairbanks** – (by phone) Master Guide doesn't have a federal land permit; I prefer not to deal with the feds. I do deal exclusively with the state and have enjoyed working with the state for a long but this new Hunting Guide Concession Program is a disaster. All you have to do is run the numbers, there are going to be a lot of guys out of business forcing them to USFS, FWS and even BLM lands. This is only going to drive the cost of a guided hunt up. In the long run the BOG is going to see the guiding industry focus on resident hunters because they are going to have a longer season, any size moose...I want to make a comment on hunter conflicts, the majority of complaints are coming from not guide owned guides but transporters dropping off unlimited numbers of hunters.

**Mike McCreary, Deadhorse** – (by phone) I'm involved in the air taxi business. About these conflicts, and the social engineering behind the plan are in my opinion are pretty narrow and short sided. It is my feeling that the BOG through the state of Alaska essentially sells hunting licenses on an unlimited basis. They sell them over the counter to as many people as want to buy them. While it is true we restrict certain areas to drawings, the nature of how we sell hunting licenses pushes the traffic to general season areas. It is catching up to us from the last 30-40 years. The BOG is hesitant to limit non-resident participation in that team the state has who is selling unlimited license to caribou and moose hunters. This depletes the resources. We can't continue to sell licenses to non-residents and limit opportunities to residents. Non-resident and residents are competing for the resources. The problem is centered with the Department of Fish and Game and the BOG to support the programs like the state is pushing for hunting concession.

**Mel Grove, Big Lake, President of the Alaska Outdoor Access Alliance** – (by phone) I am a committee member of the Mat-Valley fish and game committee and a small business owner in Wasilla. I'd like to bring up the 13b easement issue and the lack of the state at identifying marking and preserving 13b easements. We have been talking about it for years and there hasn't been much effort and notifying the public where these easements are. I'd like to see the state and CACFA but pressure on the Commissioner to identify and mark those easements before they are vacated.

**Mark Wayson, In holder in Denali National Preserve** – In September we had a teleconference with the Park Service, now they have decided that I need to file a permit and that is going to require an EA to apply for access. Last time, the former Superintendent Anderson testifies after me and said that he lied to you when he said that he never denied an in holder access that is flat not true. They turn me down and they continue to turn me down because there is no road to Diamond so they won't let me use the road to Kantishna. There are 6 other in holders in the same situation and they are allowed to use the road. I don't know what's next. I have to have this permit in by the February 1<sup>st</sup>. The state has dropping the ball, Mr. Burns was talking some strong stuff last year and of course there was no follow up.

**John Sturgeon** – Warren asked me to stop by and talk to you about my lawsuit. About a year ago I decided to take on the federal government. The motion I filed was on navigability. The issue was that the National Park Service thinks they have jurisdiction over the state of Alaska on navigable waters and submerged lands. There is no argument that the state owns submerged lands under navigable waters like the Yukon, like the Nation, like the Charlie, or that they own a column of water. The key point is that our good friend Senator Ted put a special provision in ANILCA, section 103c, that says on all ANILCA designated conservation units that federal regulations would

not apply on state and private in holders. The state's navigable waters are an in holding. It's pretty clear. The federal government doesn't agree. Since I talked with you, there have been a few developments. The federal government has thrown in a number of issues to slow the thing down, a motion to have my case combined with the Jim Wilde which is a criminal case. The judge didn't allow that and then they wanted to combine this with the Katy John 2 case on appeal in front of the appeal in 9<sup>th</sup> circuit and the judge said, no we can't do that either, nice try. The other thing that we won on is the State of Alaska tried to intervene on my case and the feds tried twice to object and the judge said both times, that the state can intervene. The judge said that, if there is a regulation, even if it has been passed the time to appeal, if there is an action that happens because of that regulation, the state can appeal, a person can appeal. The bottom line is that the state can intervene. We hope to file a motion for summary judgment in mid December. We have completed our work and we're waiting for the State because we want to file at the same time.

I ask, "What kind of a case do we have?", and my Attorney said we have a very good case. It was an opinion given reluctantly but it was given honestly. So, we submit our motion for summary judgment and the feds have an opportunity to respond and then we rebut them. The judge may allow the feds to rebut one more time. There is a question on whether we will have oral arguments and there should be a decision some time this summer. There is no time frame for making a decision; it is when the judge wants to make it. If there isn't a decision by next season I am going to ask the judge to allow me to hunt in this area because I will be harmed if I don't.

**4:27 p.m. Leaphart** – Update on the Yukon Charlie Incident (Caribou Slaughter) (7:40 on Disk one)

Meeting adjourned at 4:53 p.m.

#### **Thursday, November 29, 2012**

#### **9:00 a.m. RECONVENE - CALL TO ORDER**

**9:02 a.m. Lt. Governor Mead Treadwell**- I think the work you are doing is very important and I wanted to come and talk about what we are doing in the arctic. I'm very interested in your work, please keep us informed and that you know our office is open to you as well.

Thank you for being involved this is an important commission. I was a student of the Hickel administration and I take a look at the Statehood Act and ANILCA as hard fought compromises that we left to Alaska with very special rights and interests. ANILCA has set up a wave for Federal and state land managers can work together and that wave has passed. This administration has not been positive for us in gaining access to Alaska public lands. It's been a slow roll of the outer continental shelf. It's been awful on NPR-A into areas that they have leased themselves. It's been difficult at Point Thompson and Roads to Resources all over the state has been very difficult. I see your role as helping open a dialogue to get their decisions out there and on the table. The low-water mark is the NPR-A plan, that's one where the federal government took half of NPR-A off the table without the kind of consultation we thought we were promised. It's one where we went to make decisions on pipeline routes before the discoveries had been made, so we don't know what's going to happen.

Just after that happened we got several phone calls from the White House asking, “How can we work together better on ocean policy and how can we work together better on the arctic?”, and “Would you support us on a planning exercise on the arctic?” I don’t think the state of Alaska is interested in any more federal plans because every time the federal government does a plan we lose ground. Every single planning effort that is going on is taking away more rather than empowering Alaskan’s to do what was given at Statehood at that is manage our resources and maintain access to fish and wildlife. The Congressional delegation was asking for something else when they went they asked, “What is our strategic plan on the arctic?” They are coming back with a plan that may introduce another planning effort in the arctic. The governor has written a letter, we are really concerned about that.

All told, I want to say that Alaskan’s need to know how much we are under assault. We are under assault by well meaning people who think that ANILCA was a starting place instead of a finishing place when it came to the No-More Clause. We are under assault by people who are wanting to ignore the history and move forward with development.

There was discussion with the Lt. Governor on CACFA’s role and the concern of federal overreach

**Lt. Governor Treadwell** - One this that I would be interested in hearing from you is how should we try structure the federal state relationship on land use issues, using levers in the law that we are not using now and is there a better way to go about it. That is the fundamental question that we make sure that the sunshine that ANILCA promised, watching what happened on federal decision is there.

**Representative Keller** - That is very encouraging because that is how we see ourselves and something that came yesterday was to establish a better relationship with the AG’s office. Like it or not the solution is in the courts and the actions that are going on. The AG’s office has always been very responsive to us.

Continued discussion “Law of the Sea”, subsistence, Alaska energy needs, federal over reach.

**9:42 a.m. BREAK, return to business 9:50 a.m.**

**9:52 a.m. ROLL CALL**

Leaphart called the roll at 9:01 a.m. with the following members present: Rod Arno, Mark Fish, Representative Wes Keller, Senator Menard, Mike Meekin, Warren Olson, Susan Smith, and Franks Woods. Charlie Lean, Colleen Richards, Alex Tarnai, and Ron Somerville were unable to attend.

Commission staff in attendance: Executive Director, Stan Leaphart, Assistant, Karrie Improte.  
Others in attendance: Cynthia Jacobson, Brad Palach

**Leaphart** – Introduced Ms. Cynthia Jacobson and Surrogate Species Policy with the Fish and Wildlife Service

**AGENCY REPORTS - Ms. Cynthia Jacobson, Ph.D., Assistant Regional Director, Science Applications - Strategic Habitat Conservation and Surrogate Species**

Very much appreciate the dialogue this morning and these topics resonate with me and are consistent with what I'm talking about today. What I would like to talk about is a approach, an initiative taken by the U.S. Fish & Wildlife Service. This idea, we hope, will increase our efficiency and effectiveness in conservation activities to assist in focusing our priorities on what we think we can have the most impact on. In 2006, the endorsed Strategic Habitat Conservation as the conservation approach the agency would use to achieve its mission in the 21st Century. In response to the unprecedented scale and complexity of challenges facing our natural resources, agency leaders saw the need to develop and implement a landscape approach to conservation that was more strategic, science-driven, collaborative, adaptive, and understandable. Indeed, throughout the conservation community, people are relying more and more on strategic approaches that apply advanced science and technologies to questions of how best to target conservation to sustain populations of fish and wildlife across the landscape.

Fish, wildlife, and plants and the habitats they depend on, are dynamic; responding to ecological events and processes occurring at multiple scales, ranging from more local to global. Therefore, the better we understand how species respond to changes at these various scales, the better we can conserve landscapes capable of supporting self-sustaining populations now and in the future. SHC is the adaptive framework that we will use as routine practice within the agency to fulfill our mission and achieve our vision.

The Service is committed to using Strategic Habitat Conservation to work and measure progress toward desired biological or ecological conditions, also called biological outcomes. The purpose of SHC is to coordinate and link actions that various programs and partners perform at individual sites, so that their combined effect may be capable of achieving these outcomes at the larger landscape, regional, or continental scales. In this way, conservation actions can help recover and sustain species' populations as part of whole communities and systems, together with their ecological functions and processes.

The Strategic Habitat Conservation approach is built on five main components that compel the FWS to align expertise, capability and operations across our programs in a unified effort to achieve mutually aspired biological outcomes: (1) biological planning working with partners to establish shared conservation targets and measurable biological objectives for these outcomes, and identify limiting factors affecting our shared conservation targets; (2) conservation design creating tools that allow us to direct conservation actions to most effectively contribute to measurable biological outcomes, (3) conservation delivery working collaboratively with a broad range of partners to create and carry out conservation strategies with value at multiple spatial scales, and (4) outcome-based monitoring evaluating the effectiveness of conservation actions in reaching biological outcomes and to adapt future planning and delivery and (5) assumption driven research testing assumptions made during biological planning to refine future plans and actions. Both monitoring and research help us learn from our decisions and activities and improve them over time.

Strategic Habitat Conservation relies on an adaptive management framework to focus on a subset of shared conservation targets, set measurable biological objectives for them, and identifies the information, decisions, delivery, and monitoring needed to achieve desired biological outcomes. Strategic Habitat Conservation helps the Service, and the broader conservation community,

effectively organize expertise and contributions across programs and partners, so our efforts to conserve landscapes capable of supporting self-sustaining populations of fish, wildlife, and plants are both successful and efficient.

Strategic Habitat Conservation begins with biological planning, which involves setting measurable biological objectives, for selected species of fish, wildlife, and plants – our conservation targets. The first step in this process is to select a subset of species that can serve as surrogates for a broader array of biological outcomes, since it is often impractical and inefficient to consider requirements for all species present on a given landscape. This subset of species will represent other species or aspects of the species' environment in conservation designs and strategies. By setting measurable biological objectives, such as population objectives, for this subset of conservation targets, the Service and its partners will be able to carry out conservation actions that benefit a larger group of species of conservation interest. Biological models for these species help us understand what habitat features or other conditions are limiting their populations preventing them from existing or thriving so we can target conservation to best address these underlying problems. Working with state wildlife agencies and other partners is critical throughout the biological planning process.

Conservation design involves combining geospatial data with biological information and models to create tools such as maps that evaluate the potential of every acre of habitat to support a species' population. Using these tools, we can determine what the current habitat-acre capability is and what it needs to be to achieve our specific biological objectives or outcomes. We can then make decisions collaboratively about the kind, quantity, and configuration of habitat needed, and what activities to undertake and where.

Conservation delivery involves working strategically to influence human behaviors, species, and habitats across the landscape. It involves using the products of conservation design to adjust and target our efforts, as we collaborate with people to develop and carry out conservation strategies that affect the landscapes, habitats, and ecological processes fish and wildlife depend on. Conservation strategies, delivery tools, and management activities, such as restoring wetlands, acquiring grassland easements, and working with private landowners to enhance habitat conditions for priority species, can be targeted to those areas that have the greatest benefits for fish, wildlife, and plant populations based on landscape scale models and designs. In this way, site-scale actions are coordinated and linked to landscape-scale habitat objectives and population outcomes using the biological planning and conservation design tools described above. Other important conservation delivery tools to influence human behavior and help achieve biological outcomes include communication, environmental education, access to recreational opportunities, regulatory forums and processes, conservation policy development, and targeted law enforcement activities. With such a broad array of tools at our disposal based on biological planning and conservation design work we can ensure that our actions add up to real landscape level results for fish, wildlife, and plants.

**10:50 a.m. BREAK, return to business 11:00 a.m.**

#### **AGENCY REPORTS**

**11:00 a.m. – Tetlin NWR Land Exchange – Bob Green for Meg Hayes - Din e'h LLC**

**Leaphart** – The next items on our agenda is an information item, if you recall at the February

meeting in Juneau, the Tetlin Refuge had issued a letter on this land exchange. It had been some time then I heard from Meg Hayes, who is a consultant on this project. She was not able to make it today but we have Bob Green and Bruce Moore to present their concerns and issue on this proposal. We also have Mitch Ellis from the USFWS to answer questions from their prospective

**Bob Green** – I'm a lifelong Alaskan, I was around before statehood, I was around during the land allocation and ANILCA. I have been involved in land issues for the native corporation around Tok since 1971. I have also been a state employee for 30 years. I am also the general Manager for Din e'h LLC, which is the Athabasca word for the people. I represent the village corporations of Dot Lake, Tanacross, Tetlin and Northway. All of those communities own substantial land in what is being called the utility corridor which has been established as the area where utilities will exit Alaska and go into Canada. Another interesting fact is that it is in an unorganized Borough. The villages I represent are all in favor of a gas pipeline. We are thinking ahead of what Alaska could look like 20-30 years from now in that part of the state. We are of course interested in these projects because it will bring economic development to our region. We are also very familiar with the relationship of the ANCSA and the relationship between that Act and ANILCA. We understand the State compact between these two acts, it is the law of the land and as land managers we have learned to follow federal law and use it as protective legislations.

This conversation is at the 10,000' level and that is what is the role of the State of Alaska in the use of federal lands that could effect economic development and what is the position of the state of Alaska on Title 11 of ANILCA. We abide by it and believe it is a sacred act between the State of Alaska, we don't deviate from it, we follow it. That is my interpretation of that segment of the law. In this particular situation we have a proposed natural gas pipeline following TAPS to Delta Junction then going east down the highway to the border. What has been proposed by Exxon Mobile and Trans Canada to the USFWS is a land exchange through the Tetlin wildlife refuge. This exchange was posed by Exxon Mobile over a year ago as an alternative mean to comply with title 11 of ANILCA; away to circumvent Title 11 of ANILCA. My own assessment is that Exxon Mobile didn't know anything about ANILCA and two, they didn't want to deal with multiple agencies and three, and they wanted to do en in route. One other level of authority that exists in the region is to have government to government tribal consultation with the Department of the Interior. It is in their policy, it is a part of the fiber of that agency. It is tribal consultation policy they are required to do it. The basis for that conversation is a focus on Title 11, particularly for gas lines and pipeline. When we heard about this proposed land exchange, we wanted to know more about it before we could engage in meaningful consultation with the parties. At that point we had zero information and had to submit a FOIA request to get that information. Despite that they have a policy on government to government consultation with tribes at the earliest possible convenience with the people who are affected by the project. We are still in the process of processing the FOIA.

I have asked Bruce Moore, our legal council, so that he could explain from a legal perspective our understanding of the land exchange.

**Mr. Bruce Moore** – The first issue is it is called a land exchange and we see it as a right of way, asking it a Title 11 issue. Title 11 has a specific process for going through, for establishing a utility corridor through a national wildlife refuge. This is being treated like a land exchange, title 13 of ANILCA and the original genesis of that idea is because they didn't have enough time to go through

Title 11 and comply with the October 2012 AGIA deadline that Trans Canada had agreed to when they won the license. Their analysis is we can't apply for a FREC unless we have all the land rights tied down. There is much more flexibility for an agency in the land exchange process than there is in applying for a right of way. Our concern is that a right of way can provide more protection for the refuge because it specifically addresses pipeline and utility-corridors. Here are the terms of the exchange: 400 acres of Tetlin Refuge go to the Conservation Fund; the Conservation Fund gives about 515 acres to the Neches River National Wildlife Refuge in Texas; a fund is set up with \$500,000, financed by Exxon Mobile or APP the Alaska Pipeline project, to purchase additional lands for addition to the Tetlin Refuge or other National Wildlife Refuge in Alaska. The Tetlin parcel abuts the Canadian border to the east and the northern boundary is 300 feet from the Alaska Highway. The parcel contains the previously disturbed pipeline corridor of the former 'Haines to Fairbanks' pipeline, which is still visible. After receiving title to the land, The Conservation Fund would issue an easement, about 80 acres, to the Alaska Pipeline Project.

The terms are for a permanent perpetual easement with a related temporary easement for construction.

There was discussion among the Commission on this topic.

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

**None**

#### **Tetlin NWR Land Exchange - Continued**

**Mitch Ellis, USFWS** – Unfortunately, there was a lot of misinformation that you just heard. During a FOIA request a lot of times they will redact information that is pre-decisional or attorney client privilege, a lot of reasons. When we worked with the Din e'h Corporation we went through a few reiterations and we gave them about 98% of the information we had on the issue. The easement agreement you have in your packet not the easement agreement, it was a document in the FOIA package that was a template. It is not a perpetual easement, the draft, the latest document is only 2 weeks old, and it's a 30 year easement if the project becomes viable again. I want to reiterate is that our position is to facilitate the pipeline. Tetlin is on a strategic spot and is the only conservation unit that defined in ANILCA on that route. Our intent from the beginning was to help facilitate that ROW.

Another false impression is that it's an exclusive easement; it is not an exclusive easement. If it went through, Exxon Mobile would have a right of way to build a gas pipeline nothing more. They won't have any exclusive right to the corridor. If a railroad or another utility wanted to go through they would have to come along and seek a ROW for their project.

Now, they do have some valid concerns, and I want to address those. The circumvention of ANILCA Title 11 is a major concern. The poor communication with Alaska natives, tribes in that area has been an issue and the inappropriateness of the exclusive easement to Exxon is another concern. The circumvention of ANILCA Title 11, we use it often, our realty department was not to get around that. Bruce did correctly portray the urgency. When the deadlines were in place, we were trying to meet those deadlines working together. A few months after we got the proposal from Exxon Mobile we did reach out to the tribes in that area, particularly the

Northway tribe and Din e'h. We feel like we have gone above and beyond to reach out. That consummated between our agency and Bob Green and Belinda Thomas that we would not move forward with the exchange if the interest of the tribes aren't met. We still feel that way. If at the end of the day we haven't taken into account and addressed and met the needs of the tribes we won't do the land exchange. Our authority to do land exchange come from multiple places, ANILCA Title 13, National Wildlife System Administrative Act give us they authority to do that, so, we're not trying to get around the law. We felt it was in everyone's best interest to do the land exchange.

Additional discussion by the Commission on this topic.

**12:15 a.m. Adjourned for LUNCH, reconvened at 1:45**

**1:45 p.m. UNFINISHED BUSINESS**

**A. Eastern Interior Resource Management Plan – Supplement**

**Leaphart** – We are awaiting the release of the Hard rock mining supplement for this plan. Once released there will be a 90-day public comment period.

There was a brief discussion on the plan as staff have not reviewed it yet but will during the comment period once the supplement is released.

**Serena Sweet, Planning Supervisor, BLM State Office** – Right now we are waiting to hear from our Washington office. When we get that approval we will publish our notice in the Federal Register and that will start a 60-day public comment period. That is when we start planning and scheduling our public meeting.

**Leaphart** - Can you confirm hat the supplement will only cover the mineral leasing question? Will there being anything on the new directive from BLM with regards to looking at things like potential water trails. I'm wondering that the delay may stem from the inclusion of some other things beyond the mineral leasing question.

**Ms. Sweet** - From my understanding that has no bearing on it, on the delay. We are waiting on Washington. That is sometimes the case that there are policy changes but what we are waiting on is final approval of the document. That doesn't mean other stuff might come out between the release of the supplement and the final. If policy changes happen during that time frame we will take that into consideration.

**B. National Petroleum Reserve – Alaska – Final Integrated Activity Plan**

**Leaphart** - We thought the Plan would be out by now; maybe it will be released by early February. The difference with this plan, it's not the same process as the Delta River because it is an Integrated Activity Plan. There is no administrative Appeal and no Governor's Review. The only challenge to this Plan can be made in court. Also the process was different I that 90 days after the close of Public Comment the agency came up with a new alternative. This seems to be becoming a trend. It was very frustrating how this played out. The State was involved during the development of the Draft plan and in talking with some of the State folks who were involved; they were very frustrated how this has played out in the selection of the new preferred alternative. In your packet is a copy of

the news release from Secretary from the Governor's office urging the Secretary to start over on the whole plan. We've never seen an agency, 90 days after the close of the comment period, in a plan of this complexity, come up with a new preferred alternative. I've never seen it happen. It's troubling because you think you are commenting on a particular proposal and then come to find out they come up with another alternative.

## **NEW BUSINESS**

### **A. Serpentine Hot Springs Master Plan Environmental Assessment -**

**Leaphart** – Introduction and review of a letter of comment and support for the Serpentine Hot Springs Master Plan Environmental Assessment.

As the project alternatives are refined, it is important that all alternatives include provisions to improve safe access to the hot springs and the facilities there. This should include improved trail marking, expanding and hardening of trails and safety upgrades to the airstrip. Maintenance and upkeep of the bunkhouse and bathhouse to improve public safety and health at those facilities should also be included in each action alternative.

The Commission supports updating the Preserve's wilderness eligibility status by removing the Area from wilderness eligibility. We also encourage the NPS to consider removing additional acreage in the area if necessary to meet the ANILCA mandate for the hot springs area. In light of the longstanding use of this area, the presence of the facilities and airstrip, this area should not have been determined to eligible in the original ANILCA 1317 wilderness review.

### **B. Bering Land Bridge Hunting Guide Environmental Assessment**

**Leaphart** – There was some discussion on the alternatives and it was decided that Alternative C reflected the best compromise for the Preserve. The Commission noted that the National Park Service recognized that guided sport services are an appropriate and necessary means to provide hunting opportunities for both Alaska resident and nonresident hunters within the Preserve, this is authorized in ANILCA. Alternative C allows for up to 3 sport hunting guide concessions would be licensed for separate guide areas within the preserve. Members felt that separate guide areas would provide the best opportunity for applicants and felt that separate areas are preferred by most guides. Alternative C set client limits for one guide use area at 10 per year and a combined total of 10 clients per year for the other guide use areas. This would allow a maximum of 200 clients over the expected ten year life of the concession contracts. Regardless of the approach taken for establishing and/or adjusting client limits, the Commission strongly recommends the National Park Service work closely with the State of Alaska Department of Fish and Game. These proposed client limits represent an indirect allocation of wildlife resources. It is essential that the NPS works closely with the ADF&G to determine harvestable surplus of those resources and to meet biological objectives under the State's sustained yield principles.

**Commission Arno** - This is a good quagmire to send to the BGCSB, let them figure it out. What is appropriate for CACFA to make is the encourage increased opportunity by establishing three areas

**Leaphart** - Support the establishment of the three guide area but in terms of the allocation refer it to the BGCSB. Not make a specific recommendation on that? Is that something they would

do? Would they seek out the assistance of the BGCSB or is that a decision they make in house? Do we want to make the suggestion that they seek out the BGCSB? Have they ever come to the Board and said...

**Commissioner Arno** – Yes, they have.

**Commissioner Meekin** – This is something we've been talking about all along, when it come to Big Game in Alaska you must reference the State.

**3:25 p.m. BREAK, return to Business at 3:30 p.m.**

### **3:30 p.m. PUBLIC PARTICIPATION**

**Mike McCrary** – (by phone) The theme is pretty consistent that the federal agencies that don't follow the rules. The rules re hard enough but when you get the feds who don't follow their own rules. Fortunately there are guys out there like John Sturgeon, who can stand up and make a stand for us all. My situation is like the Noatak situation that we went through. Essentially, the Refuge manager continues to make up the rules as we go in this permitting process. In particular I'm impressed by the Lt. Governor's advice today directing us more towards the permitting process. Thank you very much for your time and your effort. I appreciate the job that you got.

Written comments by **Dee Longenbaugh** were accepted.

### **COMMISSIONER COMMENTS**

**Commissioner Olson** – I'm getting together with people tomorrow that will ask me, what's the status of this lawsuit, that lawsuit and I don't know. I'd really like someone here from the AG's office to talk with us and give us an update at every meeting.

**Leaphart** – If you recall when Bettye Fahrenkamp was chair of the Commission she insisted we have someone for the AG's office at every meeting and many time they would sit there like a potted plant or respond to a question with, "I'll have to get back to you on that." If we can compile a list of case that are relevant to what we are working on and I can get together with the Assistant AG's, like Anne Nelson, she is very knowledgeable on the cases that we follow. I could say, "How about an update? Is there any change?" If there is any change or any issues, then they can come down and talk to us. My responsibility to do a little up front work so they don't just come down here and sit or can't offer us anything. I will do that. They used to do a great job of putting out a quarterly report on the cases they are working on. I will commit to doing more homework prior to the meeting and get someone here if we need to do that.

**Commissioner Olson** - We are still reactionary, we're still trig to get our hands around it. The rule book is the state constitution. We're going to one day get between a rock and a hard place and ask ourselves can this be better managed by the State of Alaska. Do we need duplication of management and cost?

**Commissioner Smith** – I'm disheartened. I'm questioning the federal agencies are taking us seriously and showing us the respect. When we hear two side that are so dramatically different, in my heart I want to solve problems and when people come to the table that aren't completely honest

it makes our job so much harder. I'm excited about the list of grievances that we're taking about putting together for the legislature. That was turning point for our access in Wrangell Park, exposing and getting testimonials from people of exactly what happen to them and sent it in with our list of grievances, sent it to everyone. That was the turning point. After listening to all of the problems, we have a really good feel that we have to go to another level, take that next step. I hope we still have the idea of a federalist attorney that would be a wonderful next step for us. Thank you Linda for you service and support.

**Commissioner Woods** – Good to be back, been absent for a year. The highlight for me was hearing from the Lt. Governor and what we are faced with here in the State of Alaska everyday. Not only do we have a system that isn't designed to represent us, it isn't just the federal system. There are two sides to it. In order to become effective in theta arena we need to be at the table in their arena.

**Leaphart** – Introduced Teri Marceron, Forest Supervisor for the Chugach National Forest who joined the meeting.

**Ms. Teri Marceron, Forest Supervisor, Chugach National Forest** – We are based in Anchorage, where I'm located. I attended the ANILCA training to have the opportunity to get the training and to meet many State and other federal counterparts. The Chugach is one of eight National Forests that have been selected to revise their management plan using the new planning rule. There are new components of that rule that we are starting to implement internally. We have done some sensing and a little detail. It's premature for us to give you a formal presentation and we are still working internally on our directives which haven't been finalized yet. Our plan is fairly new; we're going to initiate that process in January.

**Representative Keller** – Good meeting, I like the extra time. As far as the grievance list it's going to be a big job. We are engaging in something that will take time and be very useful. When you list grievance against agencies like National Forest, you are becoming the focal point for feedback. I'm excited about it. This year ahead may be really interesting; this could escalate, for us, in this role. Consider the time you can offer to CACFA and you may have to step it up.

**Senator Menard** – This is my last meeting on the Board and I haven't not recognized how unique we are and what a large mass of federal land we are. Having said that I recognize the high caliber of this Board.

**Commissioner Arno** – Each time we come we learn a little more and I want to emphasize this idea of triage. There are some many different areas that CACFA can make a difference in and how we set a model for dealing with these issues. How we take citizen's involvement, we're headed in the right direction. We'll let Stan do all the work and come up with this list of grievances, id' like to look at it as an opportunity. Here is an opportunity where CACFA can effectively try to move the ball to everyone's best interest.

**Commissioner Fish** – I have the tendency to agree withal of the pint made thus far. I can cover a lot of ground by saying ditto. One thing, I'm really excited about this declaration we're considering. It's a great opportunity. I was just made aware of today how a simple public statement

can open doors and opportunities to make policy changes on a personal level. I think it's going to get attention and I look forward to working on it. I have talked to many people and encouraged them to come and testify so we can hear from them and engage with the public but life happens. That is why it is so important for us carry the message. I keep thinking of this land distribution in Alaska and I keep thinking that less than 1% of Alaska is in private hands and out of that 1% there are very few property rights that go with that and it

**Next meeting date set for February 8-9, 2013**  
Meeting adjourned at 5:01p.