

**STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
BIG GAME COMMERCIAL SERVICES BOARD**

**MINUTES OF MEETING  
December 7-9, 2010**

By the authority of AS 08.01.070(2) and AS 08.86.030 and in compliance with the provisions of AS 44.62 Article 6, a scheduled meeting of the Big Game Commercial Services Board was held December 7-9, 2010 in Anchorage, Alaska, Coast International Inn.

**Tuesday, December 7, 2010**

**Item 1. Call to Order/Roll Call**

The meeting of the Big Game Commercial Services Board was called to order by Paul Johnson, Chair, at 8:30 a.m. Members present and constituting a quorum were:

Paul Johnson, Registered Guide-Outfitter, Chair  
Dirk Nickisch, Transporter  
Leif Wilson, Transporter, Vice-Chair  
Dick Rohrer, Registered Guide-Outfitter  
Robert Mumford, Public Member  
Ted Spraker, Board of Game

Raymond Stoney and Brenda Rebne were absent.

Present from the Division of Corporations, Business and Professional Licensing were:

Karl Marx, Licensing Examiner  
Cori Hondolero, Records and Licensing Supervisor  
Quinten Warren, Investigations  
John Clark, Investigations  
Lee Strout, Investigations

Present from the Department of Law was:

Kevin Saxby, Assistant Attorney General

Present from State and Federal Agencies were:

Brian Anderson, USFWS  
Bob Schneider BLM  
Bill Overbaugh, BLM  
Howard Martin, FAA  
Clark Cox, Natural Resource Manager, Dept. of Natural Resources (DNR)  
Dianna Leinserger, DNR  
Valerie Baxter, DNR  
Ryan Hockel, DNR  
Cliff Lars, DNR  
Stan Leaphart, DNR  
Lee A. Benson, USFS  
Bill Tremblay, USFS  
Jon Martin, USFS  
Heather Bartiett, USFWS  
Susan Atos, North Slope Borough  
Gordon Brower, NSB  
Erik Kenning, ASRC  
Lt. Bernard Chastain, Public Safety

Present from the public were:

Dennis Byrne, Registered Guide-Outfitter #1056  
Scott McRae, Registered Guide-Outfitter #1149  
Chris Zwolinski, Master Guide-Outfitter #145  
Jim Kedrowski, Master Guide-Outfitter #186  
Aaron Bloomquist, Registered Guide-Outfitter #1259  
Steve Johnson, Registered Guide-Outfitter #978  
Rick Kinmon, Registered Guide-Outfitter #1266  
Braun Kopsack, Master Guide-Outfitter #179  
Karl Braendal, Registered Guide-Outfitter #286  
Joe Klutsch, Master Guide-Outfitter #91  
Peter Barela, Registered Guide-Outfitter #1272  
David Lazer, Master Guide-Outfitter #175  
Clifford Smith, Registered Guide-Outfitter #995  
Patrick Wheeler, Registered Guide-Outfitter #980  
Steve Perrins, Master Guide-Outfitter #123  
Steve Hicks, Assistant Guide #4196  
Robert Jewett, Registered Guide-Outfitter #1231  
Arno Krumm, Registered Guide-Outfitter #1239  
Ralph Miller, Master Guide-Outfitter #169  
Wayne Kubat, Master Guide-Outfitter #147  
Loren Karro, Registered Guide-Outfitter #941  
Henry Tiffany, Master Guide-Outfitter #144  
Mike Odin, Class-A Assistant Guide #751  
Nate Turner, Registered Guide-Outfitter #1036  
Fred Sorenson, Registered Guide-Outfitter #906  
Dale Adams, Master Guide-Outfitter #168

Lance Kronberger, Registered Guide-Outfitter #1156  
John Rydeen, Registered Guide-Outfitter #1269  
Adam Cook, Public  
Tony Lee, Master Guide-Outfitter #105  
Ronald Lind, Registered Guide-Outfitter #1011  
Ivana Haverlikoua, Public  
Jim Weidner, Registered Guide-Outfitter #1004  
Mark Enyeart, Assistant Guide #4436  
David Byrd, Registered Guide-Outfitter #1291  
Jared Cummings, Class-A Assistant #726  
Lyle Becker, Registered Guide-Outfitter #1276  
Dan Montgomery, Master Guide-Outfitter #173  
Bob Summers, Assistant Guide #7157  
Mary Patania, Public  
Mike McCrary, Public  
Larry Bartlett, Public  
Mike Nichols, Assistant Guide #7171  
Brent Keith, Registered Guide-Outfitter #1015  
Gilbert Huntington, Public  
Tom Kirstein, Master Guide-Outfitter #98  
Brad Dennison, Master Guide-Outfitter #138  
Robert Fithian, Master Guide-Outfitter #128 (APHA)  
Wade Willis, Public

Mr. Paul Johnson, Chair, stated that B.J. Schmitz had recently resigned. He asked staff to send a thank you card for her service. He pointed out to the audience that this public seat was open if they knew anyone who might be interested.

Mr. Johnson stated that, although this is not done at every meeting, he would like each Board member to introduce themselves and who they represent.

## **Item 2. Review/Amend Agenda**

Mr. Paul Johnson, Chair, asked if Board members had had a chance to review the proposed agenda and make any revisions. Mr. Johnson asked if there was anything that they would like to add to the agenda. Mr. Johnson stated that he had had a request from the North-West Arctic Borough to make a presentation and he proposed putting them in between the FAA and DNR testimony. Hearing no other amendments or objections to the above change, the agenda was approved unanimously.

## **Item 3. Ethics Disclosure**

The Board had no ethics violations to report.

Mr. Johnson stated that before the Board moved on to reviewing applications he would encourage the Public to take this opportunity to work in the various subcommittees.

Mr. Dick Rohrer reminded the supervision subcommittee to look at AS 08.54.610 as well.

8:40 a.m. the Board recessed in order to give the Board members time to review applications, 9:00 a.m. the Board reconvened.

**Item 4. Application and Examination Review**

1. St. Onge, Adam Robert, Assistant guide applicant without Yes answer
2. Ratcliffe, John R., Assistant guide applicant with Yes answer
3. Van Bebber, Lucas (Luke), Class-A assistant guide applicant (upgrade) with Yes answer
4. Tracey, Robert, March 2010 Registered guide exam review
5. Huntington, Gilbert, Registered guide exam applicant with Yes answers
6. Steven Hicks, Registered guide applicant with Yes answer
7. Hammond, Jesse L., Assistant guide applicant with Yes answer
8. Gilles, Benjamin, Registered guide exam applicant with Yes answer
9. Happy Hooker Charters, Transporter application with Yes answer
10. Smith, Ishmael, Transporter application with Yes answer
11. Tuttle, James, Class-A assistant guide applicant (upgrade) without Yes answer
12. Halverson, Duane, March 2010 Registered guide exam review

After reviewing information provided by staff regarding the assistant guide license application for Adam Robert St. Onge the Board conducted a roll call vote.

Mr. Leif Wilson pointed out that he negligently omitted material facts on his application. Mr. Ted Spraker stated that he intended to vote Yes since this failure to properly post a bear bait station was a comparatively minor incident. Mr. Johnson cautioned for consistency on incorrect applications. Mr. Rohrer would be inclined to vote No assuming that the applicant could resubmit a correct application. Mr. Kevin Saxby stated that he understood that staff could work with applicants in order to complete applications. Mr. Ted Spraker would be willing to vote No also with the understanding that he could resubmit a correct application in time for the upcoming season. Mr. Bob Mumford pointed out that AS 11.56.200 clearly states that the Board can deny this application but he also assumes that he can apply later.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to deny the application for licensure as an Assistant guide for Adam Robert St. Onge.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Dick Rohrer		X
Dirk Nickisch		X
Leif Wilson		X
Bob Mumford		X

<b>Paul Johnson</b>	<b>X</b>
<b>Ted Spraker</b>	<b>X</b>

**THE MOTION FAILED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding the application for the registered guide-outfitter examinations for Gilbert Huntington the Board conducted a roll call vote.

Mr. Wilson stated that as far as he could tell Mr. Huntington has paid his fines and served his suspension so is now eligible. Mr. Rohrer wanted to be clear that since he lapsed over four years he is now retaking all of his registered guide tests and can use his past guiding experience to qualify.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve the application for taking the registered guide-outfitter examinations for Gilbert Huntington.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>	<b>X</b>	
<b>Bob Mumford</b>	<b>X</b>	
<b>Paul Johnson</b>	<b>X</b>	
<b>Ted Spraker</b>	<b>X</b>	
<b>Dick Rohrer</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding Jesse L. Hammond's application for an assistant guide license the Board conducted a roll call vote.

Mr. Wilson stated that he appears to qualify. Mr. Spraker referred to eligibility statutes which do not disqualify him.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve the application for assistant guide for Jesse L. Hammond.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Leif Wilson</b>	<b>X</b>	

<b>Bob Mumford</b>	<b>X</b>
<b>Paul Johnson</b>	<b>X</b>
<b>Ted Spraker</b>	<b>X</b>
<b>Dick Rohrer</b>	<b>X</b>
<b>Dirk Nickisch</b>	<b>X</b>

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding the application for the registered guide-outfitter examinations for Benjamin Gilles the Board conducted a roll call vote.

Mr. Wilson stated that he only had minor violations and those have been expunged.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve the application for taking the registered guide-outfitter examinations for Benjamin Gilles.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Bob Mumford</b>	<b>X</b>	
<b>Paul Johnson</b>	<b>X</b>	
<b>Ted Spraker</b>	<b>X</b>	
<b>Dick Rohrer</b>	<b>X</b>	
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding the transporter license application for Ishmael Smith the Board conducted a roll call vote.

Mr. Wilson stated that he appears to have answered all of the questions properly and is qualified. Mr. Mumford saw no problem. Mr. Rohrer had some concerns about a long history of problems but hopes that Mr. Smith has learned from them. Mr. Dirk Nickisch plans to abstain since he cannot in conscience vote Yes due to the long history.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve the transporter license application for Ishmael Smith.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
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Dirk Nickisch  
Dick Rohrer X  
Leif Wilson X  
Bob Mumford X  
Paul Johnson X  
Ted Spraker X

ABSTAIN

**THE MOTION PASSED BY A MAJORITY VOTE.**

10:06 a.m. the Board recessed in order to give the agency representatives time to prepare.

10:20 a.m. the Board reconvened.

**Item 5. State & Federal Agency Testimony**

**A. Bureau of Land Management (BLM)**

Bob Schneider, District Manager for the Fairbanks District, gave an update on statewide activities and thanked the Board for being able to speak first.

BLM issues approximately 100 hunting related permits including guiding and transporting opportunities throughout the state. Some units have no commercial activities at all or just a few. There are also areas such as GMU 23 which is a focus at this time.

He gave an update on the Eastern Interior Resource Management Plan which includes 6.7 million acres. Mr. Schneider then briefed the Squirrel River Area Management Plan which includes 640,000 acres of BLM land. Currently 8 guides are permitted in 23-06 and in 2008 there were 33 clients dropping to 19 in 2009. Standards will have to be set if use is to be limited. At this time transporters and air taxis are also required to be permitted as an interim measure. 2009 & 2010 five permits were issued. Only three transporters dropped off clients in 2009 totaling 13 hunters. Comment forms for the Squirrel River scoping plan were available on the back table.

Mr. Johnson asked about money for the data base use. He requested that BLM get in touch with Karl Marx and the Director.

Mr. Wilson asked how the Doyun Conveyance is progressing. A number of acres have been conveyed and the Doyun Corporation has possibly considered dropping the Molly Airstrip selection and additional easements in the area are being looked at. Because of some of the appeals on some conveyances they have been split into two groups.

Mr. Rohrer asked for a breakdown of how many guides there are versus transporters. He stated that most are guides but he would have to get back to him with numbers.

**B. Public Safety**

Lt. Bernard Chastain from Wildlife Troopers stationed at their headquarters in Anchorage, and the representative to this Board. They now have a wildlife trooper stationed in Yakutat who is also a pilot. He has had a very steady amount of work as far as guides and transporters are concerned. He has had a court agreement where someone agreed to never apply for an Alaska guide license again. One case in court now is scheduled for five weeks which is longer than some homicide trials. These court cases take a lot of resources from the troopers and Department of Law.

Lt. Chastain offered to be available to answer any questions including strict liability. Mr. Johnson suggested holding this subject until the violations subcommittee was available.

Mr. Rohrer asked if the case where the individual agreed to never seek a guide license included a transporter license. Lt. Chastain answered that the agreement included transporting and any commercial guide license in the state.

Mr. Mumford asked how the Wildlife Safeguard Program is going and if the troopers are getting many complaints through that still. Lt. Chastain answered that the Safeguard Program is a separate volunteer entity which kind of ebbs and flows depending on who is in charge and how much interest they have. It is still active and there is a designated line that goes to the Wasilla dispatch. Mr. Mumford asked if they are still getting a substantial number of tips. Lt. Chastain answered that it was still active and explained that callers could apply for rewards if their tips lead to convictions.

Mr. Spraker asked about the pilots' orientation course in GMU 23 and if there had been any compliance problems. Lt. Chastain answered that they had cited no one in the past year for failure to have this in their possession.

### **C. US Fish & Wildlife Service**

Brian Anderson refuges permit coordinator for district seven, reported that they have been very active in planning and they currently have a draft of the revised comprehensive conservation plan for the GMU 23 lands available for public review. These were available on the back table. It includes how to resolve user conflicts in the field, and they are interested in hearing opinions from the industry.

There are 16 national Wildlife Refuges in Alaska, and 59 guides currently hold 111 permits. 96 of these permits will expire 12/31/13 which will end a ten year cycle of opening them to competition. They plan to open the application bids from August 2011 until February 2012. They plan to notify all applicants by the end of 2012. Refuge managers have final decision on the board reviewed applications. They plan to have better maps and online applications.

Mr. Johnson reminded Mr. Anderson that there will be fees for continued access to the data base. He reminded licensees that right now application fees are paying for the data base.

Mr. Rohrer asked if Mr. Anderson could provide the Board with a violations ranking for applications in view of the proposed strict liability system. Mr. Anderson said that he could. He went on to ask whether the US Fish & Wildlife had given any consideration to raising the



minimum disqualifying fines. The way that it reads right now, any applicant who receives three violations or misdemeanors in ten years or whose point deductions exceed 90 is ineligible. They are currently using the state's any persons report. He is still looking into the strict liability offenses. Mr. Anderson stated that the state reports are not always very clear and sometimes take some research. Mr. Rohrer asked Lt. Chastain if even \$50.00 violations would show up on the any persons report. Lt. Chastain nodded yes. Mr. Anderson stated that there is more discretion on existing permits. Mr. Johnson asked if these violations would hurt the applicant's next permit. Mr. Anderson answered yes.

Mr. Nickisch asked that since so many applications are coming up, would this be a good time to align boundaries and eliminate some of the 4<sup>th</sup> GUAs for guides. Mr. Anderson sees an opportunity to work on these boundaries. Mr. Rohrer asked if there could be a meeting between the Arctic Refuge staff and permit holders before the March Board meeting in order to make proposed changes to the boundaries. Mr. Anderson thinks that that this should be possible. Mr. Johnson asked Mr. Marx to get proposed boundary changes on the March agenda.

Mr. Mumford asked if they could alter the way the bids were looked at by setting a minimum \$501.00. Mr. Anderson stated that there was a hierarchy of violations, but the way it stands, three violations would make an applicant ineligible. Mr. Mumford suggested that any fine below \$501.00 would not need to be disclosed. Mr. Anderson expressed his hesitation to change a system that has been in place for a while and seems to be working well, but will continue to discuss this.

Mr. Johnson asked why a period of ten years. Mr. Anderson explained that the term for the concession and violations histories were just aligned.

Mr. Spraker asked for a comparison of statutory ineligibility violations and US Fish & Wildlife scoring. Mr. Anderson stated that they also look at felonies, misdemeanor convictions for domestic violence, and any conviction that prevents possession of a firearm which would make them ineligible. They also take DWI into consideration, but they are mostly concerned with fish and wildlife violations. Mr. Rohrer stated that he appreciated the advance notification and long bidding window.

Mr. Johnson called the National Park Service but no one answered.

#### **D. US Forest Service**

Bill Trembley, from the Tongass National Forest, spoke about their activities for the past year. He has been meeting with Doug Larson and local biologists about GMUs 1-5. Overall, management strategies are going pretty well. This past November the board of game made a significant decision regarding black bear management by going to a non-resident draw hunt. They are looking at issuing ten year permits for guides on Prince of Wales Island. Mr. Trembley thanked the Board for updates to the Field Guide contact information. He would like to get access to client comments about their guides in order to increase the quality of their experiences. They are looking at portraying hunting more realistically to other tourists. He discussed some recent violation cases and how their operations were suspended.

Mr. Johnson asked Mr. Trembley to talk with Mr. Marx about funding continued data base access.

Mr. Rohrer asked about the long term ramifications of the two suspensions. Yes, they will be reviewed. There is an appeal process. Mr. Rohrer asked about an incident when the actions of an assistant guide were illegal and if that impacted the employing registered guide. Yes, this will cost the employing guide competitive points. Mr. Rohrer stated that he brought this incident up to caution guides in the audience how important it is to choose a qualified assistant to recommend and supervise.

Mr. Spraker discussed the non-resident black bear draw permits in Southeast Alaska. The non-resident unguided hunter harvested a high percentage of female black bears of nearly 50%/50%. This was done to address a very strong conservation concern. The board of game was concerned about the economic impact on licensed transporters but this was overwhelmed by conservation concerns. Mr. Trembley added that the guide's allocation would be based on their past three year actual use.

Mr. Johnson asked if they were still interested in having transporters register the areas that they use. Mr. Trembley stated that they were still interested in knowing if a transporter might be in a GMU. Mr. Johnson also addressed the client feedback on guides. Other than for a master guide-outfitter application, staff does not solicit comments. Investigations does receive complaints but cannot share these while they are still part of an unresolved case.

#### **E. Federal Aviation Administration (FAA)**

Howard Martin spoke representing the FAA. He gave an update on interpretations, enforcement, and rule making. At this time guides flying clients is still considered incidental. There is a statutory mandate to regulate guide and lodge users. The tentative schedule is to get a plan out for public comment in the next 8-10 months. Notice will be posted in the Federal Registry. The best estimate is that these rules would not be in place until 2013. The statute outlines the requirements for commercial pilot certification, a class 2 medical certificate, and minimum time.

Outfitted operations, rather than remaining in the field with the client, still require a part 135 certificate.

Enforcement warns that some guides have been duped and hired air operators who they believed held 135 certificates but did not. He suggested checking first.

Mr. Johnson reminded Mr. Martin that the Big Game Commercial Services Board added requirements in the past to avoid higher restrictions, and he requested that the FAA work with the Board in the future. Mr. Martin suggested commenting on the Federal Registry when it comes out to the public. He stated that the Administrative Procedures Act prevents disclosing anything to the Board before the public and there are restrictions on federal agencies using advisory committees. However, comments coming from an agency such as the Board will carry great weight.

## **F. North Slope Borough**

Gordon Brower, deputy director for the North Slope Borough planning department, and Susan Atos, his manager, introduced themselves. The North Slope Borough currently permits 400-600 users who are mostly oil and gas but there is growing recreation use.

Susan Atos gave a Power Point presentation. For their permitting purposes, Commercial Recreation includes guiding. They now have new applications tailored towards recreation users and have lowered the fees. The forms and fee schedules are also available at [www.north-slope.org](http://www.north-slope.org).

Mr. Spraker asked if there was an individual hunter pilot fee. They answered that personal use is seen as subsistence and is not issued permits

Mr. Wilson asked if a guide or transporter already had state or federal permits, would they still need to obtain an additional borough permit. They answered yes, because they are collecting concurrent fees based on the borough legal department's review.

*12:30 p.m. The Board recessed for lunch, 1:30 p.m. The Board reconvened.*

Mr. Johnson asked the other Board members for their thoughts on offering professional seminars such as moose and bear hunting at future Board meetings to help improve the guide profession. The Board unanimously supported this concept and Mr. Johnson asked Mr. Marx to add this to the March agenda.

## **G. Department of Natural Resources (DNR)**

Clark Cox with the Division of Mining Land and Water introduced Valerie and Diana from the Fairbanks office along with Cliff, Ryan, and Candy from the Anchorage office. He stated that they would be available throughout the Board meeting. DNR has no specific comments on the regulations as proposed.

Mr. Cox went on to give an update on the DNR guide concession program. DNR received about 240 comments which have been reviewed in house, but with no dedicated staff, they have not been able to move beyond that stage.

Dan Sullivan was appointed the new director yesterday, and he has appointed his new deputy commissicners, Joe Balash and Ed Fogels.

Mr. Cox has talked with the BLM staff, and they actively support the concession program. The concession program has been receiving \$50,000.00 each of the past two years, which does not roll over when unused for travel and maps. Only a small percentage was used. This fiscal year they were awarded \$120,000.00 which has only been used for travel to bring Fairbanks staff to this meeting. They hope to use some of these funds to hire a contractor to evaluate comments since they have no dedicated staff. They plan to update the website including a timeline. They expect to have an update for public comment between March and

May, leading to a final decision around November 2011. Prospectuses should be available January 2013 and concessions in effect January 2014 based on the current tentative schedule.

Mr. Johnson pointed out that there are GUA boundary changes on the schedule and asked Mr. Cox to be available with maps later today.

Mr. Johnson stated that due to the number of investigative reports to read, the Board would be putting off the investigative reports session until a later day to give the members more time to read them all.

## **Item 6. Subcommittees**

### **A. Transporters**

Mr. Johnson and Mr. Nickisch took part in a public noticed subcommittee meeting on December 6, 2010 on which Mr. Johnson asked Mr. Nickisch to give an update.

Mr. Nickisch stated that there were basically three proposals:

- 1) Remove "incidental" from AS 08.54.790(10)(B), which would require all air carriers transporting hunters off of state airports to hold a transporter license.
- 2) Eliminate transporters all together. If the individual were providing more than point to point service as an air carrier, then it would fall under guiding and require a guide-outfitter license.
- 3) Status quo. Leave everything as it is and let the board of game regulate end users through the issuance of tags, whether it be registration hunts or draw hunts.

Mr. Johnson stated that the Board had asked Representative Joule to ask the Legislature for funds for a temporary investigator position in Kotzebue to look into these issues. Investigator John Clark was hired late in the season. He asked how the Board felt about requesting an extension for Mr. Clark's position. Mr. Wilson stated that he would certainly support that since the more people in the field the better. This plan will help identify air taxis operating as transporters without a license. He also asked to see the final report that Mr. Clark submitted to the Legislature. Mr. Johnson asked Mr. Clark to stand up and introduced himself. Mr. Rohrer very much supports funding this position since Mr. Clark has broadened his search from caribou to transporters. Mr. Johnson asked Mr. Marx to help draft a letter to Rep. Joule requesting a year extension for Mr. Clark's position.

Mr. Spraker spoke on behalf of the board of game that they were willing to help with transporter issues. He went on to caution making sweeping changes to regulations in order to capture a couple of bad operators. He agreed with enforcement that they need more protection in the field. Speaking for himself, he cautioned doing away with all transporters since there are hunters who need transporters.

Mr. Rohrer mentioned the "assistant transporter licenses" under the main business license to hold individuals more accountable. He also felt that having transporters list which game management units they planned to operate in would be very useful.

## **B. Supervision**

Wayne Kubat asked Ralph Miller and Lt. Chastain to join him so that they could brief where they were in the process and others could catch them to make suggestions.

12 AAC 75.240(f) Lt. Chastain had concerns with the definition of "emergency situation" but they were continuing to look in other statutes for a useable definition.

Mr. Kubat stated that Lt. Chastain had reasons to be concerned about the vagueness of the supervision regulation as proposed. They are looking at leaving the regulation as written and just referencing AS 08.54.790(b-g).

Mr. Kubat suggested leaving 12 AAC 75.250 as-is since it closely mirrors AS 08.54.610(e) and (1) needs struck out.

Mr. Johnson asked Lt. Chastain and Mr. Saxby to search for existing definitions of emergency situations. Lt. Chastain stated that the reason that they went with "similar important and necessary duties" is that this is already in statute and defined. He stated that they chose not to include (a), contracting and booking hunts, to prevent them from being in Las Vegas while they are supposed to be out guiding.

Mr. Kubat stated that in 12 AAC 75.250(a) they are taking out that the contracting guide must be present in the field at least once with the client since it is just a duplication of statute 08.54.610(e). Ralph Miller went on to state that he feels that they have made a lot of progress.

Mr. Johnson stated that the agenda allowed for some more time this afternoon to continue working on these issues. Mr. Kubat also looked into changing 12 AAC 75.250(a) to game management unit but that did not work well.

## **C. Game Management Unit Examination**

Mr. Johnson asked Ms. Cori Hondolero if the GMU 9 qualification exam update was finished. Ms. Hodolero stated that it was and that she also brought GMUs 16 and 8 to work on. Mr. Johnson asked how many present were qualified in GMU 16 and 8. There were four in each.

*2:02 p.m. Mr. Johnson initiated a recess while waiting on printing, 2:07 p.m. the Board reconvened.*

Mr. Johnson stated that while waiting for the assistant guide exam subcommittee update to be prepared, the Board would move on to guide use area boundary changes. He stated that there would need to be a motion to public notice US Fish and Wildlife boundary changes for

the March Board meeting along with any other boundary changes that they saw. He suggested holding the notice to specific changes rather than opening all boundaries.

Mr. Rohrer was just informed by DNR that there are similar concerns to this request in GMU 15. Mr. Cox knew where at least two are and maybe more. Mr. Cox offered to run back to the DNR office and get the maps.

**Item 4. Application and Examination Review (Continued)**

After reviewing information provided by staff regarding the 4<sup>th</sup> partial guide use area application for David Marsh, the Board conducted a roll call vote.

Mr. Leif Wilson stated that after reviewing the application it appeared to be a legitimate request. Mr. Rohrer asked Mr. Wilson to amend the motion to include "portion" of a 4<sup>th</sup> GUA. Mr. Rohrer went on to say that he felt that this meets both the letter and intent of the regulation.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve the registration of the portion of a 4<sup>th</sup> guide use area for David Marsh.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>
<b>Dirk Nickisch</b>			
<b>Leif Wilson</b>	<b>X</b>		
<b>Bob Mumford</b>	<b>X</b>		
<b>Paul Johnson</b>	<b>X</b>		
<b>Ted Spraker</b>	<b>X</b>		
<b>Dick Rohrer</b>	<b>X</b>		

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Johnson stated that they were still waiting for the assistant guide exam subcommittee's printed reports.

Mr. Rohrer brought up that on Kodiak, GMU 8, guides have a system that is working well. When a non-resident hunter draws a tag, he enters into a guide-client agreement which local staff checks against the contracting guide GUA registration list on the BGCSB website. If the guide is not properly licensed and registered in the GUA, it is discarded. Mr. Spraker stated as a board of game member he would look into it with the department and Mr. Flinger.

**Item 6. Subcommittees (Continued)**

**D. Master Guide-Outfitter Requirements and Assistant Guide Examination**

Nate Turner and Henry Tiffany handed out a seven page subcommittee update. Mr. Turner stated that Joe Want and Tom Kirstein also helped. Mr. Johnson asked for an outline of this document.

Mr. Turner stated that the justification for these proposed license standards is that, without a doubt, Alaska is North America's premier big game hunting destination, and at least one of the three top hunting opportunities in the world.

Mr. Tiffany began with the suggestion to create a packer license, and list their participation on hunt records to verify that they meet a 45 day requirement. Assistant guide license applicants would need to pass an examination. He stated that this might take the form of an online test requiring a 100% to pass but could be taken as many times as necessary so as to show that at least at one time they knew the basic statutes and regulations.

Mr. Turner suggested changes to the class-A assistant guide license including spending at least three years as an assistant, and passing a wilderness first aid course. He went on to suggest reducing the current 15 year requirement to 10 years and adding a training course.

Mr. Tiffany suggested raising the requirements for a registered guide-outfitter applicant to include more favorable letters of recommendation and some form of wilderness first aid card. Mr. Turner stated that some subcommittee members felt very differently about the importance of client letters of recommendation.

Mr. Turner quoted Mr. Want as having said: "A master guide license should mean something." They suggested raising the requirements such as having been licensed as a registered guide for at least 15 years and receiving at least 90% favorable recommendations back from at least 45 clients. They expressed a suggestion from Mr. Want that a master guide candidate should need to make some substantial contribution to the guide knowledgebase. They went into suggested disciplinary actions.

Mr. Rohrer asked if they intended that registered guide candidates would then have to have five years rather than the current three years. Mr. Tiffany answered yes. Mr. Johnson suggested speaking with Mr. Saxby to see what statutory changes would be required.

*2:56 p.m. the Board recessed to give the Board members time to meet with subcommittees, 3:24 p.m. the Board reconvened.*

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to adjourn into Executive Session under the authority of AS 44.62.310, to hear 10. Investigative Report.**

*4:20 p.m. the Board returned from executive session.*

**Item 4. Application and Examination Review (Continued)**

After reviewing information provided by staff regarding transporter license #534 renewal, with newly disclosed history, for Happy Hooker Charters, Inc. the Board conducted a roll call vote.

Mr. Leif Wilson stated that this license meets all legal requirements.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve the transporter license renewal for Happy Hooker Charters, Inc. #534.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Ted Spraker</b>	<b>X</b>	
<b>Dick Rohrer</b>	<b>X</b>	
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>	<b>X</b>	
<b>Bob Mumford</b>	<b>X</b>	
<b>Paul Johnson</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding the assistant guide application for John Radcliff the Board conducted a roll call vote.

Mr. Nickisch moved to change the vote to table this application for further review and a potential consent agreement with Mr. Rohrer seconding. Mr. Johnson clarified that if this vote now passes it will be tabled but if the vote fails it will be back on the floor for approval. Mr. Spraker asked that if the Board voted to table this application when they anticipate that the review would be complete. Mr. Johnson stated that he did not want to put on the record any specific time and that the investigators would do the best they could.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve tabling the assistant guide license application for John Radcliff.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Dick Rohrer</b>	<b>X</b>	
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>	<b>X</b>	



<b>Bob Mumford</b>	<b>X</b>
<b>Paul Johnson</b>	<b>X</b>
<b>Ted Spraker</b>	<b>X</b>

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding the registered guide-outfitter application for Stephen Hicks the Board conducted a roll call vote.

Mr. Nickisch moved to change the vote to table this application for further review by the investigative staff with Mr. Spraker seconding. Mr. Johnson clarified that if this vote now passes it will be tabled until further review could be done and it could be brought back to the Board.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve tabling the registered guide-outfitter license application for Stephen Hicks.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>	<b>X</b>	
<b>Bob Mumford</b>	<b>X</b>	
<b>Paul Johnson</b>	<b>X</b>	
<b>Ted Spraker</b>	<b>X</b>	
<b>Dick Rohrer</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding the class-A assistant guide application for James Tuttle the Board conducted a roll call vote.

Mr. Nickisch moved to change the vote to table this application for further review and a potential consent agreement with Mr. Rohrer seconding. Mr. Johnson clarified that if this vote now passes it will be tabled and sent back to the investigators for review but if the vote fails it will be back on the floor for approval.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve tabling the assistant guide license application for James Tuttle.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	
Dick Rohrer	X	
Dirk Nickisch	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding the class-A assistant guide application for Luke Van Bebber the Board conducted a roll call vote.

Mr. Nickisch moved to change the vote to table this application for further review and a potential consent agreement with Mr. Rohrer seconding. Mr. Johnson clarified that if this vote now passes it will be tabled and sent back to the investigators for review but if the vote fails it will be back on the floor for approval.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve tabling the assistant guide license application for Luke Van Bebber.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	
Dick Rohrer	X	
Dirk Nickisch	X	
Leif Wilson	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Johnson asked that if anyone who the Board just voted on is present please see the investigative staff at this time.

***The meeting adjourned at 4:27 p.m. until Wednesday at 8:30 a.m.***

**Wednesday, December 8, 2010**

**Item 8. Call to Order/Roll Call**

The meeting of the Big Game Commercial Services Board was called to order by Mr. Johnson, Chair at 8:30 a.m. Members present constituting a quorum were:

Dick Rohrer, Registered Guide-Outfitter  
Dirk Nickisch, Transporter  
Leif Wilson, Transporter, Vice-Chair  
Robert Mumford, Public Member  
Paul Johnson, Registered Guide-Outfitter, Chair  
Ted Spraker, Board of Game

Raymond Stoney and Brenda Rebne were absent.

Present from the Division of Corporations, Business and Professional Licensing were:

Karl Marx, Licensing Examiner  
Cori Hondolero, Records and Licensing Supervisor  
Quinten Warren, Investigations  
John Clark, Investigations  
Lee Strout, Investigations

Present from the Department of Law was:

Kevin Saxby, Assistant Attorney General

Present from State and Federal Agencies was:

Clark Cox, DNR

Present from the public were:

Loren Karro, Registered Guide-Outfitter #941  
Dan Montgomery, Master Guide-Outfitter #73  
Larry Bartlett, Public  
Arno Krumm, Registered Guide-Outfitter #1239  
Tom Kirstein, Master Guide-Outfitter #98  
Brent Keith, Registered Guide-Outfitter #1015  
Robert Jewett, Registered Guide-Outfitter #1231  
Ronald Lind, Registered Guide-Outfitter #1011  
Matt Snyder, Registered Guide-Outfitter #882  
Bred Dennison, Master Guide-Outfitter #138  
Dale Adams, Master Guide-Outfitter #168  
Chris Zwoliwski, Master Guide-Outfitter #144  
Lance Kronberger, Registered Guide-Outfitter #1150  
Dan Suprak, Registered Guide-Outfitter #1254  
Mike McCrary, public  
Steve Hicks, Assistant Guide #4196

Jim Kedrowski, Master Guide-Outfitter #186  
Kelly Vren, Master Guide-Outfitter #102  
Gus Lamoureux, Master Guide-Outfitter #85  
Patrick Wheeler, Registered Guide-Outfitter #980  
Jim Weidner, Registered Guide-Outfitter #1004  
Ralph Miller, Master Guide-Outfitter #169  
Dennis Byrne, Registered Guide-Outfitter #1056  
Henry Tiffany, Master Guide-Outfitter #144  
Wayne Kubat, Master Guide-Outfitter #147  
Peter Barela, Registered Guide-Outfitter #1272  
Ivana Haverlikova, Public  
Steve Perrins, Master Guide-Outfitter #123  
Nate Turner, Registered Guide-Outfitter #1036  
Duane Halverson, Class-A Assistant Guide #674  
Wade Willis, Public  
Brian Peterson, Master Guide-Outfitter #114  
"Smokey" Don Duncan, Master Guide-Outfitter #136  
Aaron Bloomquist, Registered Guide-Outfitter #1259  
Tony Lee, Master Guide-Outfitter #105  
Karl Braendel, Registered Guide-Outfitter #286

Mr. Johnson began by asking Mr. Rohrer if DNR had the maps with the proposed boundary changes. Mr. Rohrer answered that Mr. Cox was not present yet with the maps, but his understanding was that there were about a dozen boundary corrections that needed to be made. He suggested asking Mr. Saxby for help with wording this so that it would not open all boundaries to discussion.

## **Item 9. Board Discussion**

### **A. Amend/Adopt March 9-11, 2010 Board Meeting Minutes**

Mr. Wilson made a motion to adopt the March 9-11, 2010 minutes with Mr. Spraker seconding. Mr. Johnson asked if there were any amendments or deletions. Mr. Johnson asked for a unanimous consent to adopt the minutes as written. Seeing no objections the minutes were adopted.

### **B. Multiple Guide Use Area (GUA) Registration**

Mr. Johnson asked Mr. Marx to discuss staff issues regarding 4<sup>th</sup> GUA registrations. Mr. Marx stated that the portion of a 4<sup>th</sup> GUA registration for federal concessions seems to be running smoothly and all of them are going before the Board. Additional GUAs registered strictly for predator control require that the guide takes responsibility for verifying that these areas are in fact open for predator control. Mr. Spraker and Mr. Wilson discussed whether or not any areas might still be open for brown bear predator control at the time.

### **C. Correspondence**

There was one letter from a transporter regarding the legality of hanging clients' deer off his boat rails in order to help the meat air cool. Mr. Marx stated that 12 AAC 75.450(b)(13) on page 23 states that a transporter cannot provide any game processing equipment. After some discussion with Mr. Rohrer, Mr. Nickisch, Mr. Wilson, and Lt. Chastain the Board sees no problem with where game is transported including in boat rigging. Mr. Marx was asked to reply to this transporter.

#### **D. Legislative Statute Proposals**

Mr. Johnson stated that the Board has consistently supported creating an "old timers" license and charging a guide use area registration fee. He went on to ask the Board if they support returning more statutes to regulation so as to give the Board more options.

Mr. Rohrer spoke about the budget and how this is a self funding Board, so finally receiving the data base access fees might have a favorable effect on the license fees. He made it clear that license fees were not up to the Board but ultimately a finance agency. Mr. Rohrer talked about reinstating a \$100.00 GUA registration fee which could potentially lower the license fees for non-contracting guides. Mr. Johnson asked the Board if there were any objections to writing a letter through the director to the legislature proposing these statute changes.

Mr. Rohrer verified with Mr. Saxby that current statutes do not allow for a life time honorary license. Mr. Johnson stated that there are other boards with such honorary licenses just not this Board.

Mr. Wilson asked what sort of statute changes the Board was looking at. Mr. Johnson gave the example of moral turpitude. Mr. Rohrer talked about the legislative change requested to AS 08.54.610(e) to align it with the regulation change.

#### **E. Budget**

Mr. Rohrer gave a budget update beginning with a review of the significant jump in contractual services expenses from fiscal year 2008 of \$29,000.00 to fiscal year 2009 of \$188,000.00 which turned out to be mostly Department of Law for hearing cases. He asked Mr. Saxby to look into this and to have staff be careful how this time was billed. This fiscal year is currently \$100,000.00 less so far. There has also been a slight increase in shared licensing expenses. Mr. Rohrer asked if the Board members had any other specific questions that he and Ms. Kathy Mason could address.

#### **E. Live Audio Streaming.**

Mr. Johnson asked Mr. Marx to give an update on this proposal. Mr. Marx gave a brief update on progress so far. Basically this Board would copy what the board of game is currently doing. They have been very helpful, but more server space is needed since apparently no other professional license board has used this technology yet.

Mr. Johnson stated that strict liability would be left until the violations subcommittee had more time to work on it.

9:21 a.m. the Board recessed while DNR set up maps, 9:38 a.m. the Board reconvened.

#### **F. Mapping Boundary Update Public Notice.**

Mr. Rohrer assured the public that this is not intended to open all guide use area maps open to boundary changes but only to clean up a few select boundary oversights which are preventing full use of state lands.

Mr. Rohrer moved to potentially open for boundary adjustments: 15-03 north boundary, 16-05 north boundary, 5-01 north boundary, 11-02 southern boundary, 9-30 south-west boundary, the state land boundary adjacent Kamashak Bay and McNeil River, 9-06 eastern boundary adjacent the Katmai, private lands between 16-01 and 9-04, 23-04 western boundary, 23-06 western boundary, and all US Fish & Wildlife Service refuge boundaries. The motion was seconded by Mr. Spraker.

Mr. Johnson explained that intent of this motion was to public notice these boundaries for the March 2011 Board meeting. Mr. Rohrer mentioned that there is a shortage of time, and if this does not get done at the March 2011 meeting, it will not get done at all.

**On a motion duly made by Mr. Rohrer, seconded by Mr. Spraker, and approved unanimously,**

**RESOLVED to public notice proposed boundary changes only.**

#### **Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Dick Rohrer	X	
Dirk Nickisch	X	
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

#### **Item 10. Subcommittee Updates**

##### **B. Supervision**

Mr. Ralph Miller and Mr. Wayne Kubat presented a handout and began with 12 AAC 75.250. Mr. Kubat stated that this regulation mirrors the statute so AS 08.54.610(e)(1) needs to be deleted too. Mr. Johnson asked for a clarification of the subcommittee's intent for regulation 12 AAC 75.250 in the meantime. Mr. Wilson stated that it is still progressing

as public noticed. Mr. Rohrer asked Lt. Chastain what enforcement thinks. Lt. Chastain stated that enforcement is mandated to enforce the statute. Mr. Rohrer asked if removing this regulation will cause an enforcement problem. Lt. Chastain answered that this is more of an industry self-regulated standard but that there were enough other statutes to use. Mr. Rohrer stated that USF&W permits require that the permit holder must be in one of the areas.

Mr. Kubat stated that 12 AAC 75.240(f) be accepted as public noticed, except that "similar" in the next to last line be changed to "other." They have changed their recommendation to as public noticed and drop yesterday's recommendation of referencing AS 08.54.790(8) b-g. Lt. Chastain asked for a little more time to help write out something a little clearer.

Mr. Johnson asked Mr. Kubat's subcommittee to coordinate with Mr. Nate Turner's and Mr. Henry Tiffany's subcommittee since it would also require statute changes.

### **C. Master Guide-Outfitter Requirements and Assistant Guide Examination**

Mr. Henry Tiffany stated that both he and Mr. Turner were surprised by how well their proposals were received.

Mr. Tiffany explained that their intent was not to create a new license for packers, but rather allow them to be tracked on hunt records.

Mr. Tiffany stated that some guides approached them about changing the assistant guide requirement from having hunted big game in Alaska for two calendar years to five years, or having served as a packer for at least 45 days.

Mr. Tiffany relayed that some guides suggested removing AS 08.54.610(d), which requires that a non-contracting registered guide be certified in a GMU to act as a class-A assistant guide.

Mr. Tiffany also relayed that some guides were concerned with the proposed requirement for a master guide-outfitter candidate to be qualified for all big game species since some guides' operations simply do not allow them to harvest all big game species.

Mr. Tiffany brought up the comment that assistant guides would like to be able to bring up complaints against their employers. Mr. Johnson pointed out that they already can.

Mr. Turner wanted to make sure that people currently working as packers could count this towards licensure.

Mr. Johnson asked how important an assistant guide personally harvesting an Alaskan big game animal was. Mr. Turner agreed that just personally harvesting something might not be necessary, or even the proposed four client harvest, but some number should be there just to make sure that they have experience. Mr. Tiffany stated that it would be unconscionable to send any guide to the field who had no experience capping and dressing

a harvest. Mr. Johnson asked if the subcommittee had worked with Mr. Saxby to list all of the statutes that need changed. Mr. Saxby said that he did have a preliminary list.

Mr. Rohrer stated that he assumed that there would be a packer license in order to have accountability. Mr. Johnson asked Mr. Cox to make about 35 copies of these proposals. Mr. Spraker agreed with Mr. Rohrer that there needs to be a packer license. He went on to say that the goal is to raise the bar, and that assistant guides are the backbone of the industry.

Mr. Spraker gave an update on a board of game proposal, brought up by a guide, to change second degree kinship requirements. He also suggested buying a copier and ream of paper for the next meeting. The board of game tabled these proposed regulations until March so that this Board could have a chance to comment on them.

- 1) They proposed requiring that the Alaskan relative have a valid big game hunting license in their possession, which is not currently required.
- 2) They proposed adding to 5 AAC 92.990, Definitions, "personally accompany" means staying within close enough proximity to the person being accompanied to exert direct and immediate supervision using a normal human voice at the time when an attempt to take game is made.

Mr. Spraker stated that it was very important for this Board to look at especially the second proposed definition before the March board of game meeting. Mr. Saxby explained that this definition will be the same requirement for guides, and could have an impact on the industry.

Mr. Rohrer asked when the violations subcommittee would make a presentation on adopting strict liability. Mr. Johnson answered that this subcommittee as well as examinations and supervision would continue working with Mr. Spraker for now. Mr. Johnson reminded the public that there was a signup sheet for public comment scheduled to begin at 1:00 p.m.

*10:24 a.m. the Board recessed so that Board members could participate in subcommittees and take lunch, 1:00 p.m. the Board reconvened.*

#### **Item 11. Public Comment**

Mr. Johnson requested that speakers limit their comments to 3-4 minutes.

Wade Willis, public

Mr. Willis stated that friends of his, Coke and Joanne Wallace, asked that he read e-mails for them.

Mr. Johnson personally suggested keeping future comments to useful and constructive suggestions.

Brian Peterson, Master Guide-Outfitter 114



Mr. Peterson stated that the Department is only counting the dates in the field on hunt records as hunting dates which causes a problem for the requirement to date supervision.

He suggested that transported clients not be allowed to harvest game spotted the same day that they are transported, which he has suggested to the board of game.

Mr. Peterson suggested that the industry be cautious raising licensing standards when he sees the real problem being unlicensed activities. He suggested focusing on enforcement as the key.

Mr. Rohrer asked for clarification on how the staff would know the difference between dates in the field and dates of the hunt. Mr. Peterson stated that he has had hunt records sent back because the last day in the field was not "after" the hunt per 12 AAC 75.240(c). Mr. Marx suggested that the last day in the field should be adequate. Mr. Johnson asked to wait for more comments before making a statement.

Mr. Wilson asked if Mr. Peterson's earlier suggestion about transported clients not being able to hunt the same day they are dropped off referred to boat based transporter clients. Mr. Peterson answered yes since aircraft are already covered. He went on to say that this practice would make it easier to enforce when clients are using the boat to spot and pursue game. Mr. Wilson sees some conflict since salt water based transporters can provide accommodations. Mr. Peterson suggests that since it is already illegal for a transporter to pursue game, which is hard to enforce, it should also be illegal for the client. Mr. Johnson stated that such a case has been successfully prosecuted by enforcement. Mr. Spraker offered to share what was passed at the November board of game meeting.

"Smokey" Don Duncan, Master Guide-Outfitter 136

Mr. Duncan began by stating that he has had similar returned hunt record problems as Mr. Peterson and that his hunt is over when he says that it is over, which is when his client makes a harvest. He suggested adding another line to the hunt records.

Mr. Duncan stated that he has been told by the FAA that if he accompanied his outfitted clients at least five minutes then he could fly under part 91, but AS 08.54.790(9) specifically states that guides cannot accompany or be present in the field with outfitted clients. He suggested adding more lines to the hunt records to show the guided and unguided dates.

Mr. Duncan suggested hiring an outside contractor to evaluate all licenses and penalties, such as how doctors' and lawyers' violations and penalties compare to guiding violations and penalties, to gain some sort of professional parity. He also suggested hiring a lawyer to evaluate which statutes could be moved back to regulations all at once so that this Board could take control of the industry.

Mr. Duncan suggested removing packing from statute as a specific guiding service. He does not want to have to drag a packer along with clients since it would make it harder

to stalk game and it would be easy for a packer to inadvertently provide guiding services such as spotting game. He suggested instead that the assistant guide standards need to be raised by requiring them to pass an online version of the current registered guide-outfitter test to show candidates how serious this profession is. He also pointed out that the packer letter of recommendation could mean that a new assistant guide would be working for a different guide than who trained him.

Mr. Johnson asked Mr. Duncan if this more comprehensive assistant guide test could be taken online such as the hunter education test. Mr. Duncan answered yes since the purpose is to educate.

Mr. Wilson pointed out that according to Howard Martin from the FAA, in order for a guide to fly under part 91, the guide would have to remain in the field on a fully guided hunt. Mr. Duncan stated that his information came from the Fairbanks FAA in accordance with the Ralph Marshal decision in 1962. Mr. Wilson pointed out that Howard Martin is the Regional Counsel for the FAA and would probably overrule the Fairbanks local office.

Aaron Bloomquist, Registered Guide-Outfitter 1259

Mr. Bloomquist suggested that if a client has portions of their hunts guided and unguided then do two different hunt records.

Mr. Bloomquist basically opposed to a packer license. Mr. Spraker stated that he basically likes adding legitimacy to packers with a license but envisions it being a one page easily obtained license. He went on to ask if it is legal for a packer to do what he is expected to be learning. Mr. Rohrer suggested a new term of apprentice guide who would always be under direct supervision.

Mike McCrary, Public  
Not present.

Kelly Vrem, Master Guide-Outfitter 102

Mr. Vrem pointed out that he suggested the term apprentice guide three years ago. He suggested that all that might be required is a first aid card not unlike a dishwashing license. Mr. Mumford wanted to make clear that a licensed packer could not be hired by a hunter to help on an unguided hunt. Mr. Vrem is in favor of the proposed supervision change.

Lance Kronberger, Registered Guide-Outfitter 1150

Mr. Kronberger stated that he does not like the one Alaskan big game animal harvest requirement for assistant guides.

He reported that he hires packers who do not intend to become guides so a packer license would have to be readily available.

Mr. Kronberger stated that he has seen a dramatic increase in next-of-kin hunters applying for non-resident drawings which, combined with board of game cutbacks, is making it hard for guides.

Mr. Kronberger stated that he is losing confidence in the DNR concession program. He understands that the DNR review board no longer plans to have members who are familiar with the guide industry. He is also concerned that the timeline is so far off that it will force the board of game to impose more restrictions. Mr. Rohrer asked if Mr. Kronberger has any alternate suggestions to the draws. Mr. Kronberger answered that he has no clear alternative, but he feels that the suggestions made in the past are changing into something over which the industry does not have control. Mr. Johnson asked how he felt about the federal concession programs. Mr. Kronberger stated that the federal programs had growing pains too and that DNR trying to create a new, untested system is causing him to lose confidence. Mr. Spraker stated that he is also disappointed in the DNR timeline delays, and that the board of game has held off making decisions based on the DNR concession program. Mr. Spraker warns that the board of game will probably be forced to make more restrictions over the next few years.

Tony Lee, Master Guide-Outfitter 105

Mr. Lee stated that at the December 2006 Board meeting the following wording for 12 AAC 75.340(d)(8) was voted on but has not been changed:

"...avoid using an aircraft in any manner to spot big game for the purpose of taking a specific animal, unless specifically authorized to do so under other applicable laws, or spring brown bear, grizzly bear units areas where more than one bear can be taken in a year."

Mr. Johnson stated that even after the Board votes on something, it goes through the Department of Law and can be changed.

Mr. Lee commented on Howard Martin's testimony, and that the FAA is too undermanned to issue the air carrier certificates which they now want to require. He went on to say that, in the past, if pilots held but were not using their part 135 certificates, the FAA wanted them back since they could not administer them.

Mr. Lee commented on the apprentice guide proposed license. He does not feel that one mandatory harvest is necessarily useful.

Mr. Lee compared the ethics regulations for guides providing buffer areas to transporters who only have to allow for appropriate buffers between hunters using the same service. Mr. Lee stated that, in talks with troopers, they wanted an enforceable distance between camps. He stated that the GMU 23 conflict committee came up with a 1.5 mile recommended camp spacing. He went on to suggest that all air taxis operating off state maintained airfields should need a transporter license so that they could be held to this standard.

Mr. Wilson pointed out that transporters cannot legally have anything to do with setting up a camp and therefore cannot be held accountable for the camp location. Mr. Lee asked then how the air taxis can take new hunters to the same camp location every year if they are not allowed to guide. Mr. Nickisch suggested that a transporter has the ethical discretion to alter a client's request to avoid overcrowding.

Karl Braendel, Registered Guide-Outfitter 286

Mr. Braendel stated that he first received his assistant guide license in 1969 and that even the higher proposed license standards are lower than he expects from his employees. He went on to support the idea of Board sanctioned guide schools.

Wayne Kubat, Master Guide-Outfitter 147

Mr. Kubat disagreed with the requirement in AS 08.54.610(d) that a registered guide must be certified in a GMU before acting as a class-A assistant for a contracting guide in that GMU.

He felt that there are guides registering predator control areas with the intent to hunt brown bears there, without taking the responsibility to verify that these areas are in fact open for brown bear under predator control.

Mr. Kubat pointed out that the board of game has a clear way to accept regulation proposals and that this Board in the past had a regulation proposal form.

Mr. Kubat supports the idea of strict liability but does not feel that a citation should be issued for minor paperwork mistakes.

Mr. Johnson asked if there were any areas opened for brown bear predator control. Mr. Wilson and Mr. Rohrer were not certain. Mr. Marx was asked to explain the department's policy for predator control, which puts the burden of verifying whether an area is open for a species totally on the registering guide's shoulders.

*2:26 p.m. the Board recessed, 2:42 p.m. the Board reconvened.*

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to adjourn into Executive Session under the authority of AS 44.62.310, to hear examination and application reviews.**

*3:16 p.m. the Board returned from executive session.*

**Item 4. Application and Examination Review (Continued)**

Mr. Johnson asked Mr. Saxby to verify that, until approved, the Board would only refer to case numbers. Investigator Quinten Warren confirmed this.

After reviewing information provided by staff regarding case #1750-10-002 the Board conducted a roll call vote.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to accept the consent agreement #1750-10-002.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Ted Spraker</b>	<b>X</b>	
<b>Dick Rohrer</b>	<b>X</b>	
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>	<b>X</b>	
<b>Bob Mumford</b>	<b>X</b>	
<b>Paul Johnson</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding case #1700-10-003, the Board conducted a roll call vote.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve the consent agreement #1700-10-003.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Dick Rohrer</b>	<b>X</b>	
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>	<b>X</b>	
<b>Bob Mumford</b>	<b>X</b>	
<b>Paul Johnson</b>	<b>X</b>	
<b>Ted Spraker</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding case #1700-08-020, the Board conducted a roll call vote.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve the consent agreement 1700-08-020.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Dirk Nickisch	X	
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	
Dick Rohrer	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding case #1700-09-022, the Board conducted a roll call vote.

Mr. Johnson made it clear that the Board is voting on the initial fines.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve the consent agreement 1700-09-022.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	
Dick Rohrer	X	
Dirk Nickisch	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding case #2010-000453, the Board conducted a roll call vote.

Mr. Rohrer stated that in this case, someone was paying resident hunting license fees, and it was discovered that they were not a resident and had to pay restitution of back fees. He contends that a portion of the money for the difference between resident and non-resident guide licenses also be paid to this Board.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve the consent agreement #2010-000453.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Dick Rohrer	X	
Dirk Nickisch	X	
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding case #2010-000900, the Board conducted a roll call vote.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve the consent agreement 2010-000900.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	
Dick Rohrer	X	
Dirk Nickisch	X	
Leif Wilson	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding case #201-001040, the Board conducted a roll call vote.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to accept the license forfeiture #201-001040.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Ted Spraker</b>	<b>X</b>	
<b>Dick Rohrer</b>	<b>X</b>	
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>	<b>X</b>	
<b>Bob Mumford</b>	<b>X</b>	
<b>Paul Johnson</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

After reviewing information provided by staff regarding case #1700-10-013, the Board conducted a roll call vote.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to accept the surrender of master guide-outfitter license in #1700-10-013.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Dick Rohrer</b>	<b>X</b>	
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>	<b>X</b>	
<b>Bob Mumford</b>	<b>X</b>	
<b>Paul Johnson</b>	<b>X</b>	
<b>Ted Spraker</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Rohrer wanted to take this chance to put some comments on the record for case #1700-10-003. He stated that the Board has tried to keep fines consistent in the past, and that this case of guiding outside of a registered GUA was not consistent with typical cases since there were extenuating circumstances; the guide turned himself in as reflected in the level of fine.

Mr. Johnson asked the Board how they would like to proceed with public reprimands. Mr. Saxby stated that he thinks that a case can be made public once it is adopted, since there is no longer a confidential requirement. Mr. Mumford stated that he felt that public means putting it out for the industry to see. Mr. Saxby described how the Alaska Bar publicly censures violators. Mr. Clark compared it to other licenses in the division such as engineers, who post it on a web site. Mr. Johnson asked if anyone objected to just scratching out the word confidential and putting the case on the back table.



Mr. Rohrer stated that the Board was asked to review a guide test; and the Board agreed with the score and no changes were made.

#### **Item 9. Board Discussion (Continued)**

Mr. Spraker stated that the predator control issue needs to be taken back to the board of game for some very clear decisions. He went on to explain that there is a great deal of confusion. Mr. Saxby cited AS 08.54.750(f) and stated that the wording does not match either board's intentions or wording.

Mr. Johnson asked how the Board would like to proceed with statute changes. Mr. Wilson thought that it would take a committee to decide what should be taken out of statute and put into regulation. Mr. Saxby stated that much of what the master guide/assistant guide exam and other subcommittees want changed overlap, and would require changes to AS 08.54.600, .610, .620, .630, and .710. He went on to say that there could be several ways to change this such as either specific statutory requirements or adding statutes that give the Board additional authority to set standards above these minimums.

Mr. Johnson stated that there was some public comment to remove the regulatory requirement for one big game harvest in Alaska under 12 AAC 75.920, and questioned whether this same regulation could be used to require passing an assistant guide examination. Mr. Saxby said typically not in similar cases.

Mr. Johnson asked for a committee to define what statutes need to be moved to regulation. Mr. Mumford offered to help but requested more input from the public. Mr. Mumford went on to suggest creating a regulation proposal form that could be downloaded from the website. After some discussion, Mr. Kubat presented a form given to him by examiner Cindi Roccodero in 2003. Mr. Nickisch agreed that several statutes need to be moved to regulation. Mr. Spraker felt that the Board has a fairly open process as it is now, and agrees that more statutes need to be moved to regulation.

#### **Item 10. Subcommittee Updates (Continued)**

##### **E. Violations**

Mr. Rohrer brought up the violations subcommittee and strict liability. Mr. Johnson stated that the Board was still waiting to hear back from the Federal land holders on how minor violations would affect concessions.

Loren Karro, "Smokey" Don Duncan, and Lt. Chastain gave an update from the violations subcommittee. Mr. Duncan plans to provide the Board with a hand out of suggested fines for violations.

Ms. Karro and Lt. Chastain explained strict liability and bailable offenses. Lt Chastain stated that a regulation could give the district attorney strict liability for violations of regulations 12 AAC 75.100 through 75.990. Mr. Saxby stated that it would safest to make this change to

statute but the Board does have implied authority over regulations. Mr. Mumford pointed out that strict liability offenses could still jeopardize federal concession since all violations effect scoring and there is a three strike rule. He suggested that the federal land managers would have to agree to a \$500.00 or \$501.00 minimum to prevent this strict liability proposal from having a negative impact on the industry. Mr. Johnson stated that he will entertain a motion at any time to vote on this.

Mr. Duncan went on to bring up the concern that client restitution should be considered for violations. Mr. Warren concurred. Mr. John Clark stated that there were consent agreements in the works that require reimbursing the client.

Mr. Rohrer asked for a general update from Investigations. Mr. Warren started by introducing Lee Strout and John Clark. Mr. Johnson asked how they felt cases were going. Mr. Warren answered that the case load seems to be leveling off. Mr. Rohrer asked if there was a pattern to complaints. Mr. Warren answered while he did not have a breakdown they did see complaints from clients after unsuccessful hunts, about the way they were treated, and the quality of service expected. He went on to say that there was usually nothing in contract that supported their expectations so there was not much that could be done. Mr. Rohrer asked if there were complaints about the ability of assistant guides. Mr. Warren said that they did receive complaints about the skill level of some assistant guides being below expectations but that these complaints often seemed connected to guides who had other complaints as well.

Mr. Spraker stated that his subcommittee had an updated definition for personally accompany as meaning staying within 100 yards of the person being accompanied at the time at an attempt to take game is made. The reason that 100 yards was used is for archery hunts. He will take this to the board of game in March.

*4:38 p.m. the Board meeting adjourned until Thursday at 8:30 a.m.*

## **Thursday, December 9, 2010**

### **Item 15. Call to Order/Roll Call**

The meeting of the Big Game Commercial Services Board was called to order by Mr. Johnson, Chair, at 8:30 a.m. Members present and constituting a quorum were:

Leif Wilson, Transporter, Vice-Chair  
Paul Johnson, Registered Guide-Outfitter, Chair  
Robert Mumford, Public Member  
Dick Rohrer, Registered Guide-Outfitter  
Ted Spraker, Board of Game  
Dirk Nickisch, Transporter

Raymond Stoney and Brenda Rebne were absent.

Present from the Division of Corporations, Business and Professional Licensing were:

Karl Marx, Licensing Examiner  
Cori Hondolero, Records and Licensing Supervisor

Present from the Department of Law was:

Kevin Saxby, Assistant Attorney General

Present from State and Federal Agencies were:

Bill Tremblay, USFS  
Brian Anderson, USFWS

Present from the public were:

David Raiche, Assistant Guide #4724  
Ben Gilles, Assistant Guide #6857  
Jay Fishell, Assistant Guide #6702  
Duane Halverson, Class-A Assistant Guide #674  
Wayne Kubat, Master Guide-Outfitter #147  
Steve Perrins II, Assistant Guide #5450  
Dan Montgomery, Master Guide-Outfitter #173  
Brent Keith, Registered Guide-Outfitter #1015  
Ralph Miller, Master Guide-Outfitter #169  
Jim Weidner, Registered Guide Outfitter #1004  
Michael K. Odin, Class-A Assistant Guide #751  
Bob Summers, Assistant Guide #7157  
Nate Turner, Registered Guide-Outfitter #1036  
Henry Tiffany, Master Guide-Outfitter #144  
Arno Krumm, Registered Guide-Outfitter #1239  
Matt Snyder, Registered Guide-Outfitter #882  
Tony Lee, Master Guide-Outfitter #105  
John Rydeen, Registered Guide-Outfitter #1269  
Gus Lamoureux, Master Guide-Outfitter #85  
Peter Barela, Registered Guide-Outfitter #1275  
Sam Rohrer, Registered Guide-Outfitter #1085  
Lance Kronberger, Registered Guide-Outfitter #1150  
Loren Karro, Registered Guide-Outfitter #941  
Aaron Bloomquist, Registered Guide-Outfitter #1259

Mr. Johnson began with stating that Robert Tracy can sit for the registered guide-outfitter examination today.

**Item 15. Public Testimony Regarding Public Noticed Regulations (12 AAC 240(f), 12 AAC 75.250(a) and (b), 12 AAC 75.340(a), 12 AAC 75.440(a))**

Aaron Bloomquist, Registered Guide-Outfitter #1259

Mr. Bloomquist commented on 12 AAC 75.340(f)(3) not covering fresh water gravel bars. He went on to point out that 5,000 contiguous acres is already required in order to register a GUA but there are coastal areas where a guide could get upland land use for plots smaller than 5,000 acres, which would deny them the use of the tide lands.

Wayne Kubat, Master Guide-Outfitter #147

Mr. Kubat stated that while he agreed with the public noticed wording of 12 AAC 75.240(f), he also agreed with enforcement suggestions that he provided to Board. He also supported changes to 12 AAC 75.250(a) and (b) with statute changes with alternate wording developed with Lt. Chastain.

Ralph Miller, Master Guide-Outfitter #169

Mr. Miller stated his support of the public noticed changes, with legal and enforcement input, and just wants to get it done.

Henry Tiffany, Master Guide-Outfitter #144

Mr. Tiffany supports public noticed changes with the written comments that he has provided. Mr. Johnson asked for Mr. Tiffany's mailing address.

Mr. Johnson stated that due to public testimony being noticed until 11:00 a.m. the Board will wait until that time to vote on the regulation proposals.

**Item 10. Subcommittee Updates (Continued)**

**D. Violations**

Mr. Rohrer stated that even the least offense of a less than \$500.00 fine on his federal concession could cause him to lose a bid. He was not ready to make a motion on strict liability until the March Board meeting. Mr. Mumford conceded to hold this motion until March if a position letter was sent to the federal land managers. Mr. Johnson added that due to the frequent changes in federal staff members he suggests a memorandum of agreement (MOA).

Mr. Spraker asked if this exemption for violations of \$500.00 and less only included fish and game violations. Mr. Brian Anderson stated that the US Fish and Wildlife Service only considers fish and wildlife violations except for felonies, DWIs, and violations that prohibited firearm possession. Mr. Johnson asked about USCG and FAA violations. No, but they do use the troopers' fish and wildlife violations printouts.

Mr. Rohrer pointed out that the Board has been asked on several occasions to deal with individuals who have lost their rights to possess firearms, but the federal concessions are very clear. Felons cannot even be employed in camps.

Bill Tremblay described the US Forest Service prospectus process including crosschecking with other agencies. Mr. Spraker asked how the USFS dealt with felony convictions. Mr. Tremblay stated that he has not seen these issues come up on the Tongass but they would probably deal with them similarly to other agencies.

Mr. Johnson stated that Mr. Mumford will write a letter to these other agencies and Mr. Rohrer would like to postpone strict liability until the March Board meeting.

Mr. Johnson asked Mr. Mumford with Mr. Nickisch to help lead a discussion about what statute changes the Board would like to recommend to the Legislature.

*9:09 a.m. the Board recessed to continue working in subcommittees, 10:41 a.m. the Board reconvened.*

**Item 15. Public Testimony Regarding Public Noticed Regulations (12 AAC 240(f), 12 AAC 75.250(a) and (b), 12 AAC 75.340(a), 12 AAC 75.440(a)) (Continued)**

“Smokey” Don Duncan, Master Guide-Outfitter #136

Mr. Duncan supports the intent of these changes to the regulations. He suggested again that the Board should hire a lawyer to determine what statutes can be moved to regulation.

**Item 10. Subcommittee Updates (Continued)**

**F. Transferring Statutes to Regulations**

Mr. Mumford, Mr. Nickisch, and Mr. Rohrer suggested passing corresponding regulations to take to the Legislature contingent on removal of statutes. This was with Mr. Saxby's advice and the intent is to demonstrate that removing these statutes will raise the industry standards. Mr. Rohrer reminded the Board that there will be a cost to this plan in legal reviews.

Mr. Johnson asked for opinions on the regulation proposal form. Mr. Rohrer suggested that they be screened and not all public noticed. Mr. Nickisch suggested that the current 45 day requirement be moved farther back in order to give the Board time to review these by mail vote. Mr. Johnson stated that he and Mr. Marx would work on this form.

Mr. Spraker asked Mr. Saxby if the Board can pass regulations to compliment eligibility statutes to give Board members some options for applicants with more colorful, non-wildlife related, criminal backgrounds. Mr. Saxby stated that AS 08.54.600(a)(6) would normally grant the Board a wide range of authority but for example AS 08.54.610(a) states that individuals are entitled to a license if they meet these standards. He suggested adding a statement to AS 08.54.610 and other statutes granting the Board more authority.

Mr. Saxby suggested waiting until 11:00 a.m. to see if anyone else would like to testify on the proposed regulation changes. Mr. Johnson asked if there was any other business while the

Board was waiting. Mr. Spraker suggested the Board write another letter to the new governor in support of the DNR concession program and attempt to move the schedule up.

**Item 16. Adopt/Amend Regulations**

**The contracting guide or a non contracting registered guide-outfitter or class-A assistant guide supervising an assistant guide shall be available in the same guide use area, or an adjacent guide use area with a common border, to direct and monitor the big game hunting services provided to the client, *except during times when:***

**(1) An emergency situation exists that requires the guide's assistance; or**  
**(2) the contracting registered guide-outfitter or noncontracting registered guide-outfitter or class-A assistant guide supervising the hunt is outside the guide use area or neighboring guide use area while;**

**A) In transit with meat or trophies in that or a neighboring guide use area**  
**B) In transit with food, supplies or clients directly associated with conducting guided hunts in that or a neighboring guide use area**

**C) Conducting important duties that are essential for completion of current contracted hunts.**

**Note: Emergency situation means a situation in which a person is**

**(1) in a remote area and;**

**(A) is involuntarily experiencing an absence of food, water, shelter, or medical care required to sustain life or health or is lost ; and**

**(B) will be unable to perform the functions necessary for survival, leading to a high risk of death or serious and permanent health problems, without the assistance of the guide; or**

**(2) The guide's presence is necessary for a family medical condition.**

On a motion made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously by roll call vote, it was

RESOVLED to accept amendments to regulation, 12 AAC 75.240(f) as public noticed and with above amendments.

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Dick Rohrer	X	
Dirk Nickisch	X	
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Wilson moved to amend the changes to the language submitted by the supervision subcommittee dated 12-09-2010 with Mr. Spraker seconding. Mr. Rohrer stated that he plans to vote yes on the amended changes since the Department of Public Safety helped craft this language. Mr. Wilson commented that the definition of family medical condition is set clearly enough that he is comfortable with it. Mr. Spraker stated that he intends to vote yes on the amended changes and complimented the subcommittee and Department of Law on making these issues so clear. Mr. Saxby stated that legal does not have nearly the freedom to rewrite the language of regulations as other boards. Mr. Nickisch moved to make a friendly amendment to make language consistent by changing (a) to in transit too which Mr. Wilson and Mr. Spraker accepted. Mr. Johnson made it clear that this vote includes the "in transit" amendment.

Mr. Spraker wanted to make it clear that Department of Law can make minor changes to maintain intent and help pass regulations. Mr. Saxby stated that some leeway is already in place but not as much as other boards.

**On a motion made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously by roll call vote, it was**

**RESOVLED to accept to regulation, 12 AAC 75.240(f), as public noticed and amended.**

**Roll Call Vote**

NAME	YES	NO
Paul Johnson	X	
Ted Spraker	X	
Dick Rohrer	X	
Dirk Nickisch	X	
Leif Wilson	X	
Bob Mumford	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

**On a motion made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously by roll call vote, it was**

**RESOVLED to adopt the publicly noticed repeal of regulation, 12 AAC 75.250(a).**

**Roll Call Vote**

NAME	YES	NO
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	
Dick Rohrer	X	

**Dirk Nickisch X**

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Nickisch stated that there was some concern over the perceived reduction in supervision, but that due to increased technology like satellite phones there would be no weakening of supervision. Mr. Rohrer stated that he intends to vote yes since in recent years communication has increased so much. He went on to say that many guides are requiring all of their assistants to carry satellite phones now. Mr. Spraker stated that he intends to vote yes and that the committee assigned to work on this supports this change.

**On a motion made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously by roll call vote, it was**

**RESOVLED to adopt the publicly noticed changes to regulation, 12 AAC 75.250(b).**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Bob Mumford</b>	<b>X</b>	
<b>Paul Johnson</b>	<b>X</b>	
<b>Ted Spraker</b>	<b>X</b>	
<b>Dick Rohrer</b>	<b>X</b>	
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Wilson stated that he intends to vote yes since this is to remove reference to 12 AAC 75.250(a), which has been deleted. Mr. Rohrer stated that the old intent had been to tie the contracting guide with the actual hunt by making them meet the client in the field, but this inadvertently placed a heavier burden on guides who were actually guiding clients themselves in other areas.

**On a motion made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously by roll call vote, it was**

**RESOVLED to adopt the publicly noticed changes to regulation, 12 AAC 75.340(a).**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Paul Johnson</b>	<b>X</b>	
<b>Ted Spraker</b>	<b>X</b>	
<b>Dick Rohrer</b>	<b>X</b>	



Dirk Nickisch	X
Leif Wilson	X
Bob Mumford	X

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Mumford stated that he intends to vote yes since this is basically for cleaning up and would make the regulation more inclusive to lift standards.

(3) if permitted to advertise or sell big game hunts under AS 08.54, may not advertise or sell big game hunts to be conducted solely on tidelands; a guide of any class may not provide big game hunting services on tidelands or below mean high water mark in fresh water except on those tidelands and below mean high water mark lands that are immediately adjacent to uplands on which the guide has authorization to provide big game hunting services; in this paragraph, "tidelands" has the meaning given in AS 35.05.965; and

On a motion made by Mr. Wilson, seconded by Mr. Spraker, and approved 4:2 by roll call vote, it was

**RESOVLED to accept amendments to regulation, 12 AAC 75.340(f)(3) as public noticed and with above amendments.**

**Roll Call Vote**

NAME	YES	NO
Dick Rohrer	X	
Dirk Nickisch	X	
Leif Wilson		X
Bob Mumford		X
Paul Johnson	X	
Ted Spraker	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Rohrer moved to amend the changes to the language adding below the high water mark in fresh water, and removing reference to 5,000 contiguous acres, which was seconded by Mr. Spraker. Mr. Rohrer pointed out that the reference to having land use authorization on at least 5,000 contiguous acres is still in another place but that this would allow the use of small strips of tide lands adjacent to smaller permitted parcels of uplands. Mr. Saxby suggested that the legal term is mean high water line for fresh water as opposed to the original term below high water mark. Mr. Rohrer accepted the wording change to below mean high water mark as a friendly amendment and Mr. Sparker concurred.

Mr. Wilson was concerned that this might eliminate the current use of large alluvial areas. Mr. Nickisch gave local examples of current river use for hunting and is not sure that the rare exception justifies this change in regulation.

On a motion made by Mr. Wilson, seconded by Mr. Spraker, and approved 4:2 by roll call vote, it was

**RESOVLED to accept to regulation, 12 AAC 75.340(f)(3) as public noticed and amended,**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Ted Spraker</b>	<b>X</b>	
<b>Dick Rohrer</b>	<b>X</b>	
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>		<b>X</b>
<b>Bob Mumford</b>		<b>X</b>
<b>Paul Johnson</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Johnson called for any further comments, seeing none he called for a vote on the main motion.

On a motion made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously by roll call vote, it was

**RESOVLED to adopt the publicly noticed changes to regulation, 12 AAC 75.440(a).**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Bob Mumford</b>	<b>X</b>	
<b>Paul Johnson</b>	<b>X</b>	
<b>Ted Spraker</b>	<b>X</b>	
<b>Dick Rohrer</b>	<b>X</b>	
<b>Dirk Nickisch</b>	<b>X</b>	
<b>Leif Wilson</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Wilson stated that this appears to just be housecleaning.

*11:29a.m. The Board recessed for lunch, 1:03 p.m. the Board reconvened.*

Mr. Johnson Passed a card for B.J. Schmitz around to be signed.

(3) if permitted to advertise or sell big game hunts under AS 08.54, may not advertise or sell big game hunts to be conducted solely on tidelands; a guide of any class may not provide big game hunting services on tidelands or below ordinary high water mark in fresh water except on those tidelands and below ordinary high water mark lands that are immediately adjacent to uplands on which the guide has authorization to provide big game hunting services; in this paragraph, "tidelands" has the meaning given in AS 35.05:965; and

On a motion made by Mr. Nickisch, seconded by Mr. Spraker, and approved unanimously by roll call vote, it was

RESOVLED to reconsider regulation, 12 AAC 75.340(f)(3).

Roll Call Vote

NAME	YES	NO
Dick Rohrer	X	
Dirk Nickisch	X	
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	

THE MOTION PASSED BY A MAJORITY VOTE.

Mr. Nickisch stated that he was informed that the correct wording was below ordinary high water mark for fresh water.

On a motion made by Mr. Nickisch, seconded by Mr. Spraker, and failed 3:3 by roll call vote, it was

RESOVLED to amend regulation, 12 AAC 75.340(f)(3) as public noticed and amended,

Roll Call Vote

NAME	YES	NO
Dick Rohrer		X
Dirk Nickisch		X
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker		X

THE MOTION FAILED BY A VOTE of 3:3.

Mr. Nickisch moved to amend the wording to below ordinary high water mark. Mr. Rohrer asked to clarify wording. Mr. Wilson asked for a friendly amendment to remove and reference to fresh water from the wording which Mr. Spraker seconded. Mr. Wilson stated that his reason was that he has not heard of fresh water being a big issue and is concerned that this could create an argument over use. Mr. Spraker does not plan to vote for this unless he can be convinced that this is harming someone. Mr. Mumford is inclined to vote yes if the fresh water reference is removed since fresh water marks are not as well defined as tide marks. Mr. Rohrer probably voting no on taking out fresh water since he has heard concerns from industry. Mr. Johnson stated that he will probably vote yes to removing fresh water since even navigable waters are vague and does not want to add to staff workload trying to answer questions about this. Mr. Spraker is still concerned about guides hunting the rivers without upland land use and a wounded animal pursuit running into a trespassing issue. Mr. Wilson is worried about this eliminating guides who are currently using large river deltas and even the guide who brought this up, Aaron Bloomquist, was not sure if this would affect current users.

Lt. Chastain offered that ordinary high water mark is defined under AS 41.17.950(15) "ordinary high water mark" means the mark along the bank or shore up to which the presence and action of the tidal or non-tidal water are so common and usual, and so long continued in all ordinary years, as to leave a natural line impressed on the bank or shore and indicated by erosion, shelving, changes in soil characteristics, destruction of terrestrial vegetation, or other distinctive physical characteristics;"

Mr. Rohrer pointed out that 12 AAC 75.230 still requires permission to use at least 5,000 contiguous acres of upland before being able to register the GUA. Mr. Marx and Mr. Warren explained that it the guide's responsibility to be in compliance and that staff takes what they register in good faith.

Mr. Johnson made it clear that this vote is to take out the reference to fresh water.

**On a motion made by Mr. Nickisch, seconded by Mr. Spraker, and approved unanimously by roll call vote, it was**

**RESOVLED to consider regulation, 12 AAC 75.340(f)(3) as public noticed and amended.**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
<b>Leif Wilson</b>	<b>X</b>	
<b>Bob Mumford</b>	<b>X</b>	
<b>Paul Johnson</b>	<b>X</b>	
<b>Ted Spraker</b>	<b>X</b>	
<b>Dick Rohrer</b>	<b>X</b>	
<b>Dirk Nickisch</b>	<b>X</b>	

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Johnson stated that this vote was to amend the wording to below ordinary high water mark for fresh water for the next vote.

**On a motion made by Mr. Nickisch, seconded by Mr. Spraker, and approved 5:1 by roll call vote, it was**

**RESOVLED to adopt regulation, 12 AAC 75.340(f)(3) as public noticed and amended,**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Dick Rohrer	X	
Dirk Nickisch	X	
Leif Wilson	X	
Bob Mumford		X
Paul Johnson	X	
Ted Spraker	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Johnson stated that this vote was to adopt the wording to below ordinary high water mark for fresh water amendment to 12 AAC 75.340(f)(3).

**Item 4. Application and Examination Review (Continued)**

After reviewing information provided by staff regarding case #2010-000961 the Board conducted a roll call vote.

Mr. Wilson stated that this case was pretty straight forward. It was an assistant guide licensee who was cited for failure to salvage all edible meat and is surrendering his license until such time as he is able to convince this Board that he is competent to resume practice.

**On a motion duly made by Mr. Wilson, seconded by Mr. Spraker, and approved unanimously, it was**

**RESOLVED to approve to accept the surrender of license in case #1750-10-002**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	
Dick Rohrer	X	
Dirk Nickisch	X	

Leif Wilson X

**THE MOTION PASSED BY A MAJORITY VOTE.**

1:32 p.m. The Board recessed to participate in statute and transporter subcommittees, 2:50 p.m. the Board reconvened.

**Item 10. Subcommittee Updates (Continued)**

**A. Transporter Issues**

Mr. Wilson stated that major statute changes might be needed for some transporter issues. Mr. Rohrer pointed out that the authority to require transporters to register areas is already in AS 08.54.750(g). Mr. Wilson felt that this might not accomplish a lot for air taxis. Mr. Johnson felt that it could sort out a lot of licensed and unlicensed marine operators in south-east Alaska. Mr. Rohrer stated that it would be very beneficial to be able to track marine transporters around Kodiak.

**On a motion duly made by Mr. Rohrer, seconded by Mr. Spraker, and approved unanimously,**

**RESOLVED to public notice proposed GMU registration for transporters as set out in AS 08.54.750(g).**

**Roll Call Vote**

<b>NAME</b>	<b>YES</b>	<b>NO</b>
Dick Rohrer	X	
Dirk Nickisch	X	
Leif Wilson	X	
Bob Mumford	X	
Paul Johnson	X	
Ted Spraker	X	

**THE MOTION PASSED BY A MAJORITY VOTE.**

Mr. Wilson planned to vote yes at least to hear public comment and to start fleshing it out. Mr. Mumford planned to vote yes and felt that the Board has heard this come up before and that it is time to move on it. Mr. Spraker planned to vote yes and was all for making things more equitable, but the users also need to be addressed.

## **Item 10. Subcommittee Updates (Continued)**

### **G. Transferring Statutes to Regulations**

Mr. Mumford presented some suggested statute changes that would benefit the industry:

- AS 08.54.770 (page 8), add (6) in order to collect fees for registering guide use areas.
- AS 08.54.610(e)(1) (page 3), delete requirement to be physically present as recommended by Mr. Kubat.
- AS 08.54.610(d), strike "in the game management unit for which the person is certified" allowing a registered guide-outfitter employed by another guide to act as a class-A in any game management unit.
- AS 08.54.610, .620, .630, and .650, add sections "meets other requirements that the Board adopts by regulation." These would be numbered AS 08.54.610(b)(5), .610(f), .620(5), .630(6), and .650(3).

Mr. Johnson asked if these last changes would allow the Board to bump a master guide down to registered guide. Mr. Saxby answered that it might be less directly than Mr. Johnson is talking about. Mr. Saxby went on to state that these changes would allow the Board to add to the standards but not weaken statutes.

Mr. Spraker asked about adding more criminal offenses to the eligibility requirements in AS 08.54.605. Mr. Saxby stated that he assumed that the Board would eventually want to add moral turpitude and other violations here.

Mr. Johnson asked if anyone objected to Mr. Marx writing a brief letter to the Director to keep him updated on these desired changes. Seeing none, he asked if anyone objected to any Board member personally presenting these changes to the legislature.

Mr. Nickisch proposed that Mr. Turner and Mr. Tiffany continue working on proposed regulations to replace statutes and put up for public comment. Mr. Johnson asked Mr. Saxby if the proposed statute changes would allow these changes. Mr. Saxby answered that these changes would allow some but not all proposed licensing requirements, since some are in direct conflict with statutes.

Mr. Rohrer asked to verify the March 15-17, 2011, Board meeting dates. He went on to ask that all volunteer examination proctors meet with him after the Board meeting adjourned to give some instructions.

Mr. Johnson moved to adjourn.

The Board adjourned at 3:13p.m.

Respectfully submitted:

  
\_\_\_\_\_  
Karl Marx, Licensing Examiner

Approved:

  
\_\_\_\_\_  
Paul Johnson, Chairperson  
Big Game Commercial Services Board

Date: 3-16-11