

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

**BIG GAME COMMERCIAL SERVICES BOARD**

**MINUTES OF TELECONFERENCE MEETING**

**April 2, 2013**

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 public noticed TELECONFERENCE meeting of the Big Game Commercial Services Board was held April 2, 2013.

The staff of the Division of Corporations, Business and Professional Licensing prepared these minutes. They were reviewed and approved by the board during the December 3-5, 2013 meeting.

**Tuesday, April 2, 2013**

**Call to Order**

The meeting was called to order by Kelly Vrem, Chair, at 2:30p.m.

**Roll Call**

Board members present:

Kelly Vrem, Master Guide-Outfitter, Chair  
Karen Polley, Public Member, Vice Chair  
Michele Metz, Large Private Landowner  
Robert Mumford, Board of Game Representative  
James (David) Jones, Transporter  
James (Tom) Atkins, Transporter  
Gene Peltola, Public member  
Henry D. Tiffany IV, Master Guide-Outfitter

Board members absent:

Brenda Rebne, Large Private Landowner

Board staff present:

Sara Chambers, Division Operations Manager  
Michelle Johnston, Records & Licensing Supervisor

Cindy Cashen, Licensing Examiner  
Michelle Wall-Rood, Investigator  
Dan Branch, Assistant Attorney General  
Harriet Milks, Assistant Attorney General

Public:

Joe Want  
Joe Klutsch

### **AGENDA ITEM 1 12 AAC 75.240(i) Supervision of a Contracted Hunt- Dept of Law Opinion**

Chairman Vrem stated that the proposed change further clarifies the location and duties of a supervising Guide and would like to see this adopted to allow people to continue with their business in the fall. Mr. Branch stated that AS 8.54.610(e) has been amended for supervising guides and this regulation proposal will implement the statute. 12 AAC 75.240(i) spells out the rules to plan, direct or monitor a hunt. 12 AAC 75.240 is amended by adding a new subsection to read:

(i) For purposes of the requirement in AS 08.54.610(e) for supervision of a contracted hunt, and in addition to the requirements of this section, the contracting registered guide-outfitter may plan, direct, and monitor a contracted hunt

(1) while in the field and present in

(A) the same game management unit in which the contracted hunt is taking place;

(B) a game management unit adjacent to and sharing a common border with the unit in which the contracted hunt is taking place; or

(C) a location that is no further than 50 miles from the nearest boundary of an area or unit described in (A) - (B) of this paragraph;  
and

(2) if performing those activities, while in the field and present in a location listed in (1) of this subsection, is practicable; for purposes of this paragraph, planning, directing, and monitoring the contracted hunt is not practicable if the contracting registered guide-outfitter cannot communicate in person, communicate personally by telephone, or communicate personally by radio with the assistant guide, class-A assistant guide, or registered guide-outfitter involved in the contracted hunt.

There is a restriction in that the supervising guide has to be able to communicate with the hunter. Mr. Tiffany asked if 12 AAC 75.240(i) would be a new subsection to replace 12 AAC 75.240(f) or in addition to 12 AAC 75.240(f).

Mr. Branch stated that it would be in addition to AAC 75.240(f) which currently reads:

- (a) A registered guide-outfitter who contracts to guide a hunt shall plan, direct, and monitor the big game hunting services provided to the client.
- (b) At the conclusion of the hunt, a registered guide-outfitter who contracts to guide a hunt shall evaluate the performance of the assistant guide, class-A assistant guide, or registered guide-outfitter involved in the hunt to determine whether the big game hunting services provided to the client were satisfactory.
- (c) To comply with (b) of this section, the contracting registered guide-outfitter shall verbally communicate, by telephone or radio, or in person, with the client and the assistant guide, class-A assistant guide, or registered guideoutfitter involved in the hunt, separately or together, at least once within 10 days after the conclusion of the hunt.  
The contracting registered guide-outfitter shall obtain the necessary information to evaluate the performance of the assistant guide, the class-A assistant guide, or registered guide-outfitter and determine whether the big game hunting services were provided safely, in accordance with state and federal law, and to the satisfaction of the client.
- (d) The contracting registered guide-outfitter shall make a good faith effort to verbally communicate with the client to obtain the necessary information to evaluate the performance of the assistant guide, class-A assistant guide, or registered guide-outfitter. If the attempt to verbally communicate with the client is unsuccessful, the contracting registered guide-outfitter shall write to the client and request the necessary information to evaluate the performance of the assistant guide, the class-A assistant guide, or registered guide outfitter. The contracting registered guideoutfitter shall write to the client within 60 days after the conclusion of the hunt.
- (e) A registered guide-outfitter shall document on the hunt record the date the registered guide-outfitter complied with the verbal, or if applicable the written, client communication requirements in (c) and (d) of this section.
- (f) The contracting registered-guide outfitter or a noncontracting 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 from 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; or

(C) conducting important duties that are essential for completion of current contracted hunts.

(g) *Repealed 7/30/2006.*

(h) In this section, "emergency situation" means a situation in which a person is in a remote area and

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

(2) is lost;

(3) is 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

(4) the guide's presence is necessary for a family medical condition.

Mr. Mumford asked how that would work and if (f) was more restrictive. He stated that as a citizen, he was uncomfortable agreeing to this for a game management unit that is very large in size. He asked if (f) and (i) conflict with each other. Mr. Jones stated that the new paragraph clarifies "contracting" while (f) restricts an Assistant Guide. Mr. Branch stated that a non-contracting Guide would act as a Class-A Assistant. Mr. Tiffany stated for clarification, it would be one game management unit with a fifty mile buffer. The original version was broader. Chairman Vrem stated this change is meant to allow a Guide to operate in two game management units simultaneously. Mr. Jones stated the contracting Guide could be in the distant boundary but the person actual doing the hunt would a Class-A Assistant Guide or a non-contracting Registered Guide. Mr. Mumford stated that he feared the board will create laws or regulations that will cover only two or three guides. The distance can be too great between the Registered Guide and the hunters. Ms. Polley stated the effort was to clarify "supervision" and where someone could supervise. Prior to this, the supervising Guide could be anywhere. It was an attempt to clarify the game management units and guide use areas and require the supervising Guide personally communicate with the hunter. Chairman Vrem stated that the former regulation was being superseded by the passage of House Bill 229. Mr. Tiffany stated it seemed as though the proposed subsection (i) would have 85% of guides in compliance with perhaps 15% who would abuse the regulation. It's a good effort to help everyone be in compliance without "liberalizing" it too much, for example, a Guide in Southeast Alaska

supervising a Bristol Bay hunt. Mr. Atkins stated that he is going to support this and agrees with Mr. Tiffany. Mr. Mumford stated he needed to explain that he is not representing the Guide or Transporter but from the perspective of the paying hunter. He would not support it.

Public member Joe Klutsch stated that there were people taking care of their personal business problems during the subcommittee meeting in Fairbanks. It would have been helpful if a board member had participated in the meeting. A board member should be on all the subcommittees so guides can't take personal advantage of their absence when developing proposals. He agreed with Mr. Mumford that the client has a right to be with, and have a relationship with, the contracting Guide. Everyone's hunt is different. Guides need to take care of the client, comply with regulations, take care of safety issues and respond accordingly within the game management units or adjoining unit when the hunt is under contract.

Mr. Peltola stated he believes the client would be getting the short stick and would vote against the proposal. Ms. Polley stated that the proposal is actually a tightening up of the statutes. Prior to the proposal a Guide could be anywhere and might not see the client. This proposal makes it so they have to be present or near proximity. Before this the Guide could be down south while supervising a hunt. Public member Joe Want stated he is concerned that this would have little impact the way it is written.

Mr. Jones asked what would happen if nothing was done. Mr. Branch stated that the new version of AS 08.54.610 does not define being primarily in the field assisting or supervising a hunt. It is good business to have clear direction. This will have to be re-noticed as it is not the final decision today. Chairman Vrem and Ms. Metz stated they agreed with Ms. Polley that this proposal is actually a tightening up of the statutes. Mr. Tiffany stated that this proposal provides definition. Mr. Peltola asked if the board could address concerns after being approved today and put out for public comment. Mr. Peltola asked why there was a fifty mile buffer. Chairman Vrem stated the fifty mile buffer allows a Guide to go to an airport or repair shop in certain areas. It was a reasonable amount of miles to deal with maintenance situations. Mr. Mumford stated that he recognizes it is difficult to come up with language in our laws but we have to be very careful but he cannot support this. He believes it is on the right track but isn't there yet. Mr. Mumford was willing to support the motion after Mr. Branch and Ms. Polley explained the public comment process for this motion and the board's ability to address the concerns of board members. Ms. Milks stated that basically after public noticed proposals and public comment, the board can still make changes. If the spirit is intact, it may not have to be re-public noticed.

Upon a motion duly made by Ms. Polley, seconded by Ms. Metz and approved by roll call vote, it was:

**RESOLVED to approve 12 AAC 75.240(i) as amended for public notice.**

**Roll Call Vote:**

	<b>APPROVE</b>	<b>DENY</b>	<b>ABSTAIN</b>
<b>Kelly Vrem</b>	<b>X</b>		
<b>Karen Polley</b>	<b>X</b>		
<b>Robert Mumford</b>	<b>X</b>		
<b>Michele Metz</b>	<b>X</b>		
<b>James (David) Jones</b>	<b>X</b>		
<b>James (Tom) Atkins</b>	<b>X</b>		
<b>Gene Peltola</b>	<b>X</b>		
<b>Henry D. Tiffany IV</b>	<b>X</b>		
<b>Brenda Rebne-absent</b>			

**AGENDA ITEM 2            12 AAC 75.230(a)(4) Guide Use Areas –Dept of Law Opinion**

Ms. Milks stated the proposed amendment would add a corporate entity to the category of persons who can register for a guide use area, and to limit the corporation and any of its employees to three GUAs. Although corporations can be “persons” under the law in some contexts, they cannot be persons in this one. AS 08.54.750 limits applicants for GUA registration to registered guide outfitters, and AS 08.54.610(a) limits registered guide outfitter licenses to natural persons, which means real, flesh and bone people. Therefore, only people can register for GUAs. And, since the human guide is the one who must meet the requirements for registration in a GUA and who will be performing the services that use the GUA, the nature of the guide’s employer or the relationship his hunter/clients may have with the corporate employer is not something this regulation can reach. Ms. Polley stated that was a good clarification. Chairman Vrem stated he is not concerned because these group agreements of registered guides usually fall apart over time. He believes something will need to be done in the future.

**On a motion duly made by Ms. Polley, seconded by Mr. Atkins and approved unanimously, it was**

**RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing confidential disciplinary matters. for the purpose of discussing investigations and reports.**

Board staff members remained during the session.

The Board entered executive session at 3:58p.m and went back on record at 4:28p.m.

In the matter of Case No. 2011-000781, Michael A. Spisak, Assistant Guide-Outfitter License No. 6786 and Transporter License 875

Ms. Polley moved to accept the surrender of the Assistant Guide-Outfitter license from Michael A. Spisak. Mr. Peltola seconded.

Discussion: Chairman Vrem stated it was self evident that this is a voluntary surrender of license and he will accept this for the matter of expediency.

**Upon a motion duly made by Ms. Polley seconded by Mr. Peltola and approved by roll call vote, it was:**

**RESOLVED to accept the surrender of Assistant Guide-Outfitter License No. 6786 and Transporter License 875 of Michael A. Spisak.**

**Roll Call Vote:**

	<b>APPROVE</b>	<b>DENY</b>	<b>ABSTAIN</b>
<b>Kelly Vrem</b>	<b>X</b>		
<b>Karen Polley</b>	<b>X</b>		
<b>Robert Mumford</b>	<b>X</b>		
<b>Michele Metz</b>	<b>X</b>		
<b>James (David)Jones</b>	<b>X</b>		
<b>James(Tom)Atkins</b>	<b>X</b>		
<b>Gene Peltola</b>	<b>X</b>		
<b>Henry D. Tiffany IV</b>	<b>X</b>		
<b>Brenda Rebne-absent</b>			

In the matter of Case No. 2013-000432, Richard L. French II, Registered Guide-Outfitter No. 1226

Ms. Polley moved to accept the Consent Agreement of the Registered Guide-Outfitter Richard L. French II. Ms. Metz seconded.

Discussion: Chairman Vrem stated Mr. French entered into a consent agreement after having seen the errors of his ways and has moved on with his life. Ms. Polley stated a probation period of four years will be a good solution.

**Upon a motion duly made by Ms. Polley seconded by Ms. Metz and approved by roll call vote, it was:**

**RESOLVED to accept the Consent Agreement of Registered Guide-Outfitter Richard L. French II.**

**Roll Call Vote:**

	<b>APPROVE</b>	<b>DENY</b>	<b>ABSTAIN</b>
<b>Kelly Vrem</b>	<b>X</b>		
<b>Karen Polley</b>	<b>X</b>		
<b>Robert Mumford</b>	<b>X</b>		
<b>Michele Metz</b>	<b>X</b>		
<b>James (David) Jones</b>	<b>X</b>		
<b>James (Tom) Atkins</b>	<b>X</b>		
<b>Gene Peltola</b>	<b>X</b>		
<b>Henry D. Tiffany IV</b>	<b>X</b>		
<b>Brenda Rebne-absent</b>			

In the matter of Case No. 2012-001317, Levon Wallace Assistant Guide-Outfitter license application

Ms. Polley moved to accept the Consent Agreement with a two year probation of the Assistant Guide-Outfitter license applicant Levon Wallace. Ms. Metz seconded.



Discussion: Mr. Tiffany stated that he appreciated the individual being forthcoming on his application, being willing to accept the probationary period and learning the right way to do things.

**Upon a motion duly made by Ms. Polley seconded by Ms. Metz and approved by roll call vote, it was:**

**RESOLVED to accept the Consent Agreement with a two year probation of Assistant Guide-Outfitter license applicant Levon Wallace.**

**Roll Call Vote:**

	<b>APPROVE</b>	<b>DENY</b>	<b>ABSTAIN</b>
<b>Kelly Vrem</b>	<b>X</b>		
<b>Karen Polley</b>	<b>X</b>		
<b>Robert Mumford</b>	<b>X</b>		
<b>Michele Metz</b>	<b>X</b>		
<b>James (David) Jones</b>	<b>X</b>		
<b>James (Tom) Atkins</b>	<b>X</b>		
<b>Gene Peltola</b>	<b>X</b>		
<b>Henry D. Tiffany IV</b>	<b>X</b>		
<b>Brenda Rebne-absent</b>			

**In the matter of Class A Assistant Guide-Outfitter license application for Andrew W. Runkle**

Ms. Polley moved to accept the Class A Assistant Guide-Outfitter license application with a voluntary Consent Agreement for a two year probation for any infractions involving alcohol of Andrew W. Runkle. Mr. Peltola seconded.

Discussion: Mr. Mumford stated he would like to see a probation that included fish and game violations. Chairman Vrem stated he was uncomfortable with that because if the applicant did not have probation for alcohol use and made a mistake in the size of a moose or sheep that would be a different category as opposed to one involving alcohol. This is related to behavior with professional standards and not a fish and game violation. Ms. Metz stated she agreed with the Chair; if the board was not requesting this probation in the first place, based on alcohol violations, the board would not be requesting a fish and wildlife probation. Mr. Tiffany stated he also agreed with the Chair and wondered if drugs should also be included in the

probation with alcohol. Ms. Metz stated the probation should remain focused on alcohol since alcohol was the prior violation.

**Upon a motion duly made by Ms. Polley seconded by Mr. Peltola and approved by roll call vote, it was:**

**RESOLVED to accept the Class A Assistant Guide-Outfitter license application with a voluntary Consent Agreement for a two year probation for any infractions involving alcohol of Andrew W. Runkle.**

**Roll Call Vote:**

	<b>APPROVE</b>	<b>DENY</b>	<b>ABSTAIN</b>
Kelly Vrem	X		
Karen Polley	X		
Robert Mumford		X	
Michele Metz	X		
James (David)Jones	X		
James(Tom)Atkins	X		
Gene Peltola	X		
Henry D. Tiffany IV	X		
Brenda Rebne-absent			

**On a motion duly made by Ms. Polley, seconded by Mr. Atkins and approved unanimously, it was**

**RESOLVED to enter into executive session in accordance with AS 44.62.310(c) for the purpose of discussing confidential disciplinary matters. for the purpose of discussing investigations and reports.**

Board staff members remained during the session.

The Board entered executive session at 4:40p.m.and went back on record at 4:54p.m.

Mr. Peltola excused himself because of a prior commitment at 4:54pm.

In the matter of forming a written exam working group

Ms. Polley moved to create two new committees; one to review and update the written Registered exams and Game Management Unit exams and one to review and update the oral Registered exams. Mr. Tiffany seconded.

Discussion: Ms. Polley stated she will work with Mr. Tiffany and Chairman Vrem to update the written exams for the Registered Guide-Outfitter certification and the Game Management Unit. She will meet with Supervisor Johnston to better understand the GMU and Registered exams. Chairman Vrem stated he would like to see help from another Guide in Southeast Alaska who could attend the meetings in Juneau. She wants to work on the concept of proctored GMU exams that could be taken without having to take them at the same time as the oral exams

Chair Vrem stated he will form a committee with Mr. Tiffany and Mr. Want to update the oral exams for the Registered Guide-Outfitter certification.

**Upon a motion duly made by Ms. Polley, seconded by Mr. Tiffany and approved by roll call vote, it was:**

**RESOLVED to create two new committees, one to review and update the written Registered exams and Game Management Unit exams and one to review and update the oral Registered exams. Mr. Tiffany seconded.**

Roll Call Vote:

	APPROVE	DENY	ABSTAIN
Kelly Vrem	X		
Karen Polley	X		
Robert Mumford	X		
Michele Metz	X		
James (David)Jones	X		
James(Tom)Atkins	X		
Gene Peltola-absent			
Henry D. Tiffany IV	X		
Brenda Rebne-absent			

Upon a motion duly made by Mr. Jones, and approved  
unanimously, it was:

**RESOLVED** to adjourn the meeting of the Alaska Big  
Game Guides and Commercial Services Board.

The meeting adjourned at 4:56pm.

Respectfully submitted:

Approved:



Cindy Cashen, Licensing Examiner

3/19/14

Date



Kelly Vrem, Chairperson  
Big Game Commercial Services  
Board

3/19/14

Date