

2017 SESSION OPERATING BUDGET AMENDMENT PROPOSAL

OFFERED IN: The House Finance Subcommittee

TO: HB 57 / HB 59

OFFERED BY: Representative Dave Talerico

DEPARTMENT: Department of Natural Resources

APPROPRIATION: Land and Water Resources

ALLOCATION: Mining, Land and Water

ADD: Temporary Increment (FY18-19) of \$1,000.0 Fed (1002)

DELETE:

POSITIONS: Add: 4 temporary positions

EXPLANATION: This amendment gives the DNR Division of Mining Land and Water authority to accept federal funds to implement the already developed Hunting Guide Concession Program (DNR GCP). Once the program receives the necessary start up money it supports itself from its own fee structure. BLM has indicated that it would prefer to fund a state program and defer to state management rather than implement and manage its own concession program. This is an opportunity to prevent further federal overreach in the hunting guide industry.

Resident hunters are not managed or restricted by this program. Resident hunters and ethical guides need this program to alleviate crowding/unethical behavior. Currently DNR issues permits to an unlimited number of licensed guides in any area; DNR does not have a legal way to deny trespass.

The DNR GCP underwent an extensive public process in its development. Both the Board of Game and the Big Game Commercial Services Board support the program. Its time Alaska's hunting guide industry is put on equal footing with other resource industries that have their own state lease structures.

STATE OF ALASKA

BOARD OF GAME

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January 11, 2008

DEPARTMENT OF
NATURAL RESOURCES

JAN 17 2008

COMMISSIONER'S OFFICE
ANCHORAGE

Commissioner Tom Irwin
Department of Natural Resources
550 West 7th Avenue, Suite 1400
Anchorage, AK 99501

Dear Commissioner Irwin,

Re: Support and findings to re-establish a program to limit the amount of guide/outfitter activity that occurs on State lands.

The Alaska Board of Game is very pleased that you have taken up this important and very much needed project. The Board of Game (BOG) is responsible for developing regulations that conserve and develop Alaska's wildlife resources. It should be noted that the following comments relate only to the professional guide/outfitter industry and not to the transporter industry. The BOG has many concerns similar in nature to the following regarding the transporter industry but our comments herein represent only those pertaining to the guide/outfitter industry.

Alaska's professional hunting guide and outfitter industry has been an integral part of State history by providing professional escort to the many visiting hunters from around the world who choose to hunt in Alaska. Alaska's extreme climate, terrain, vast wilderness, waterways, certain big game animals and logistical challenge pose serious levels of danger to visiting sportsmen and women who are often not prepared for these concerns. Thus, the professional guide and outfitter industry provides a necessary service.

Prior to statehood (January 1, 1960) the responsibility of managing Alaska's fish and wildlife resources was vested in the Alaska Game Commission under the U.S. Department of Agriculture. This commission, created in 1925 was composed of five members. The professional guide industry held representation on this commission from 1931 through their termination on December 31, 1959. By 1973, the growth of the guide industry and its impact on wildlife populations generated the creation of the Alaska Guide Licensing and Control Board. During 1976 this board created an area system that limited hunting guides to exclusive guide areas for stewardship factors including wildlife conservation, consumer protection, and long term industry sustainability. This system required guides to be good stewards of the resources in order to provide for sustainable annual harvests.

This area system continued through 1988 when the Alaska Supreme Court found several Constitutional failures within the program and it was abolished. (*Judge Rabinowitz 1988 Alaska Supreme Court Owsich Decision*). Judge Rabinowitz did point out in his decision that "Nothing in

this opinion is intended to suggest that leases and exclusive concessions on state lands are unconstitutional'. He further suggested that the authority needed to develop such a system was vested within the Department of Natural Resources (DNR) under their *long-term leases* or *concession* provisions.

In the ensuing years, several attempts were made by the guide industry to recreate an area system to replace the one lost but were met with failure in the legislative process. Since that time, the BOG has continued to receive numerous proposals that come before us asking in some way to limit the impact on game populations by guided hunt activity as well as numerous proposals requesting ways to limit the number of guides that operate on state lands at the same time. The result of these proposals is that this Board of Game and the Alaska Department of Fish and Game Wildlife Conservation Division have had to spend a significant amount of time and effort creating complex regulatory oversight and subsequent programs to address this concern.

As a note, the Department of Interior (DOI) National Park Service and U.S. Fish and Wildlife Service agencies in Alaska recognized in 1988 the potential for failure of stewardship due to the loss of the former guide area system and took action to address this concern. The result was the co-operative development between the guide industry and DOI of a system that effectively restricts guided hunt activity within any certain area within DOI lands. It is important to understand that once the development of an area system was established on the DOI lands, we as the BOG have had very few proposals brought before us with issues or concerns dealing with commercial guide use within this land base.

In short, it appears that development of a system limiting the amount of guided hunt activity that can occur on State lands, similar in nature to the existing DOI program, will effectively address the following concerns:

Resource Conservation Concerns:

Since the loss of the former area system utilized by the guide industry, the BOG has received a continuous flow of proposals that ask to reduce or even eliminate the amount of wildlife harvested on State lands by guided hunters. These proposals are variously supported by the public, impacted rural communities, local State Fish and Game Advisory Committees and Department of Fish and Game.

Responding to these proposals, the BOG is presented with the known biological statistics related to the health and historical harvest of the game populations by the Department of Fish and Game. In many cases throughout the State, this science has made it clear that impacts on the wildlife resources by the guide industry have occurred. The BOG is then faced with the challenge of trying to define a regulatory process to limit the amount of impact on wildlife by the guide industry. As the BOG cannot control the number of guides, the manner of responding to these concerns is most commonly development and adoption of a complex set of regulations that limits guided hunter opportunity. Changing general hunts to limited entry permit hunts, registration permit hunts and restricting use by establishing controlled use areas are programs used to limit hunter effort. Recent BOG action

concerning the increased harvest of sheep by guided hunters in Units 14A and 13D is a timely example of the impacts of uncontrolled guiding activity.

Additionally, the BOG has heard numerous testimonies from the public reflecting instances of poor land and water resources conservation generated by hunting guides and their clients on State lands. These complaints are generally related to solid waste, human waste, garbage, fuels and abandoned camps. Since there are limited permitting requirements to keep track of who is operating on these lands it is difficult to determine who the guilty parties were.

Industry Stewardship Concerns:

It is difficult for the BOG to develop programs that limit hunter effort in a manner that will protect guides who strives to be a good steward of the wildlife resources, the consumer and the industry. These persons also present numerous proposals to us asking for regulations that will protect their efforts to be good stewards. Unfortunately, the programs the BOG has developed to address the wildlife conservation concerns have little ability to provide for one service provider over another. The service provider who operates under good stewardship principles finds their industry efforts limited by restrictive regulation and can not survive. Thus, the current system disaffects those guides who strive to be good stewards. Additionally, Alaska's unique wilderness atmosphere draws hunters and visitors from all over the world. These guests arrive envisioning a quality wilderness experience. The current situation regarding over crowded hunting guide use on State lands does not provide any protection to this important consideration.

Social Considerations:

Unlimited guide activity on State lands results in many cases of high numbers of guided hunts occurring near towns and villages vying for the same resources that the local people are dependant upon. Many proposals that come before the BOG reflect requests to limit the amount of guides and non-resident hunter activity that occurs in the near proximity to rural town and villages where subsistence uses of the wildlife resources is important. Recent BOG action addressing these concerns in the Kotzebue and Central Kuskokwim areas are prime examples of these local vs. non-local conflicts. The social atmosphere of these areas are thus, affected in a serious manner. Divisions between user groups are established, dependent big game food sources are diminished and rural communities loose focus on what the benefits of guided hunting can bring to their communities and can only see the negatives. These factors retard the development of economy from within these rural towns and villages by discouraging participation in the guide and outfitting industry which could be a significant resident industry. Additional, as we respond to wildlife conservation concerns, which in some cases are brought forward by overcrowding of guides on State lands, the resulting regulatory development to assure conservation also includes reducing general resident hunter opportunities.

Responding to these situations the F&G Wildlife Conservation Division has had to establish several, very costly public planning committees facilitated in rural communities to attempt to find some balance for these situations. These planning committees commonly are filled with contentious

atmosphere brought on to a great extent by the inability to limit the amount of guiding activity that occurs on State lands.

Public Safety Concerns

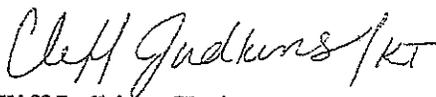
The lack of an effective manner to limit the number of hunting guides that can operate on State lands makes enforcement of existing regulations harder to enforce as there is not any effective manner to keep track of what guides are operating where and when. Limited enforcement staff and extremely large regions allow for heightened abuse opportunity for guide service providers that seek to operate outside of the law. An area system defining who is authorized when and where would provide the Alaska Wildlife Trooper Division a much better opportunity to enforce wildlife conservation law, public safety and industry oversight.

In Closing:

The BOG would like to recommend the development of an area system to limit the number of guides who can operate on any certain area of State lands should be not only developed with a land management theme but should also include provisions for wildlife conservation oversight from the Department of Fish and Game. We wish you well in this important endeavor and offer our assistance in whatever manner possible.

As an additional comment, the BOG continually receives negative testimony related to air taxi operations. We are faced with very similar challenges in trying to limit impact on wildlife and preserve some reasonable level of "hunt quality". Concerns over air taxi operations will continue to intensify, especially in the more subsistence dependent areas of the state.

Sincerely,



Cliff Judkins, Chairman

cc: Deputy Commissioner Ken Taylor, Department of Fish and Game
Mike Nizich, Deputy Chief of Staff, Office of the Governor

Guide Concession Program FAQ

January 2013

1. **Question:** What is the Guide Concession Program (GCP)?

Answer: The GCP will select qualified individuals to conduct big game commercial guiding on state land. The program's selection process would involve qualified individuals submitting an application with supporting documentation to the Division of Mining, Land and Water (DMLW), which would then be reviewed and scored by a panel of agency personnel. Concession permits would be awarded and managed by DMLW.

2. **Question:** Why do we need such a program?

Answer: Currently there are no limits on the number of guides conducting commercial big game guiding on state land. The Board of Game (BOG), the Big Game Commercial Services Board (BGCSB) and Representatives from the Big Game Guide Industry have identified a variety of issues and have requested DMLW to analyze and develop a program that would address problems occurring in the field including: lack of wildlife conservation, loss of quality of experience, conflicts between user groups, a lack of land stewardship and inadequate levels of enforcement.

3. **Question:** What legal authority does Department of Natural Resources (DNR) have to develop and manage a program like this?

Answer: The GCP will be authorized pursuant to Alaska Statutes (AS) 38.05.020 – Authority and duties of the commissioner, AS 38.05.035 – Powers and duties of the director, and AS 38.05.850, Permits.

Specifically the general grant in AS 38.05.035(4) gives the director of DNR the power to, “prescribe application procedures and practices for the sale, lease, or other disposition of available land, resources, property, or interest in them;” and AS 38.05.035(6) states that the director may, “under the conditions and limitations imposed by law and the commissioner, issue deeds, leases, or other conveyances disposing of available land, resources, property, or any interests in them.”

Furthermore AS 38.05.035(13)(b)(10)(e) states that: “Upon a written finding that the interests of the state will be best served, the director may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available land, resources, property, or interests in them. In approving a contract under this subsection, the director need only prepare a single written finding. In addition to the conditions and limitations imposed by law, the director may impose additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state.”

4. **Question:** What is a concession?

Answer: A concession is the number of permits available within a concession area. A concession area is a geographic area within the state of Alaska with boundaries defined by DNR. A concession permit is granted under AS 38.05.850 that authorizes non-

exclusive access to state land within a guide concession area and permits commercial big game guiding.

5. **Question:** How many and what types of concessions will be offered?
Answer: There are two types of concessions proposed, “Full Concession,” and “Limited Concession”. Currently the proposed number of state concessions is 208 Full Concession offerings and 90 Limited Concession offerings. There are different rules and restrictions for each type, please see page 9 of the GCP Management Framework Document for further information on full and limited concessions.
6. **Question:** Will an assistant guide be able to apply and obtain a concession permit?
Answer: No, only registered and master guides will be able to apply for and receive a concession permit.
7. **Question:** Will hunting guides who are not awarded concession permits be allowed to continue operating as hunting guides on general state land under either: a lease, a land use permit, a commercial recreation permit, a commercial recreation day use registration, or any other DNR/DMLW authorization?
Answer: No. As proposed, only concession award winners or their employees will be able to operate as hunting guides on general state land.
8. **Question:** How many guide concession permits will I be able to apply for?
Answer: At this time an applicant will be able to apply for three concession permits and be awarded a maximum of three. As proposed, each applicant can be awarded up to three concession permits, but only one per Guide Concession Area (GCA). The combination of those three concession permits could be either: three full or three limited, two full and one limited, or one full and two limited. If an applicant applies for and is awarded two concession permits within one GCA, that applicant will have to select one of the permits in lieu of the others. The non-selected permit will then go to the next highest scoring applicant.
9. **Question:** What are the categories in the scoring criteria?
Answer: There are four categories in the scoring criteria with each having multiple sub-categories. The four main categories are:
- 1) Demonstrated Experience as a Big Game Guide and Guide Business Owner
 - 2) Operating Strategies Used to Protect and Conserve the Natural Resources of the Concession Area
 - 3) Operations Plan for a Successful Business While Providing Quality Service to Clients
 - 4) Violations/Citations/Convictions/Default History

The answers will be given a point value and the panel assembled to review the applications will review and score each answer. The panel will be responsible for choosing the most qualified applicants based on the scores.

10. **Question:** Does size of development have a positive or negative effect on scoring?
Answer: We are working toward resource conservation and how an applicant addresses that depends on their operating goals and needs.
11. **Question:** Will I gain extra points because I have an established camp under a commercial recreation permit, land use permit or lease with the state?
Answer: No.
12. **Question:** Will the questions be required to be answered in essay style, true or false, or multiple choice?
Answer: Most questions will require a written explanation and supporting documentation for each answer will be required.
13. **Question:** Will there be a bidding process or a set price for each concession?
Answer: All fees amounts mentioned below are not final and are presented for the purposes of the GCP Management Framework Document. The goals of the GCP fee structure are to cover the cost of the GCP. The department will be requesting that all fees will be solely program receipted to the GCP and not to the state's general fund. All of the final fee amounts will be established in regulation. The proposed fees for the GCP are as follows:
- **Application Fee:** Every application must be accompanied by a proposed \$250 application fee. This fee is to cover the administrative costs for handling and preparing applications for the evaluation panel(s).
 - **Annual Fee:** All concession holders will be required to pay an annual fee for the duration of the concession permit. This fee will be based upon the actual program cost of running the GCP, including: staff salaries, administrative costs, calculated loss of revenue from decreased permit fees, inflation proofing for the program and accounting for concession vacancies. Currently, the annual program cost is estimated at \$1,168,000.00. The annual fees for full and limited concessions are different due to the level of administrative costs for each permit type. The proposed annual fee for full concessions (208 offerings) is \$2000.00 and is \$1000.00 for a limited concession (90 offerings) based on the preferred scoring option.
 - **Client Fee:** There is a proposed per client fee assessed annually. These fees would apply to non-resident clients. The client fee would be paid by the contracting guide of that client to the state. The proposed client fee is \$500 per client for those species that require a guide for non-residents (brown bear, Dall sheep, mountain goat) and \$250 per client for all other species. This fee is per client/per contracted hunt only, no matter the number of animals pursued by that client within that contracted hunt. For example, if a client is pursuing a brown bear *and* a Dall sheep, the client fee is \$500 for that contracted hunt. If a client is pursuing a brown bear *and* a moose the

client fee is also \$500 for that contracted hunt. If a client is pursuing a moose *and* a caribou the client fee is \$250 for that contracted hunt.

- **Liability Insurance:** Per 11 AAC 96.065, concession holders shall secure, and maintain in force, insurance during the term of the authorization.
- **Bonding:** After consideration of the potential risk to the state, per 11 AAC 96.060(a), the department may require bonding for GCP concessions. Bonds for any other authorizations such as land use permits or leases will still be necessary.

14. **Question:** Who will be on the Evaluation Panel and how will the applications be scored?
Answer: The evaluation panel will consist of agency personnel and the panel members will remain anonymous. The full and limited concession applicants will be scored and considered separately. There may be more than one panel, representing different regions of an agency's jurisdiction. The panel will select the highest scoring applicants by adding Forms A-C of the scoring criteria and subtracting points from Form D (see page 12 of the GCP Management Framework Document).

15. **Question:** What if there is a tie in the process?

Answer: Ties in scores for the same concession area and type will be settled in the following manner:

- If a GCA has the same number of concessions available as there are applicants tied with the highest score, these applicants will be offered a concession.
- If a tie occurs between applicants and there are not enough concessions to make an offer to all applicants with the same score, the tie will be broken by the scores on pre-determined questions from the scoring criteria. DMLW will determine which questions are the tie-breakers prior to the panel(s) reviewing of any applications. The applicant who had the highest combined score on the pre-determined questions will be offered a concession.
- If a tie has occurred on the combined scores of the pre-determined questions, then the highest and lowest score from those questions will be dropped and the median score used to determine the winner.
- If a tie remains after the steps above, a random lottery draw of the tied applicants will be used to decide the winner.

16. **Question:** If I am selected for a concession permit will I be allowed overnight camping in the area on state land?

Answer: Yes, upon award of the concession permit you will be authorized to camp within the concession area for up to 14 days. Camps or improvements staying in one location in excess of 14 days will be required to secure additional authorization from the appropriate

land owner. The process for obtaining an authorization may vary between state or federal land owners.

17. **Question:** How many years will I be able to keep the concession?

Answer: As proposed, the initial concession offerings will be staggered. All of the concessions in the state will be offered in the first year but one third of those will be authorized for four years, one third for seven years, and one third for 10 years. At the end of the four and seven year terms, the next concessions offered for those same areas will be authorized for 10 years. This means that once the first concession period is complete, all of the concessions statewide will be authorized for 10 years. There will be a review and renewal at five years required on the seven and 10 year concessions in their first term and then on every concession award thereafter. The review will consist of a records check for compliance with the concession permit requirements and regulations and a check for any changes in violation history. If the concession holder is in good standing and wants to continue the contract, a renewal for the second five years will be issued non-competitively.

18. **Question:** Why is there a five year review and renewal clause?

Answer: The review will consist of a records check for compliance with the concession permit requirements, regulations and check for any changes in violation history. It also gives the concession holder the opportunity to cancel the remaining term for any reason. If the concession holder is in good standing and wants to continue the permit, a renewal for the second five years will be issued non-competitively.

19. **Question:** What process will I have to go through once the awarded concession expires?

Answer: When the term is over you will need to re-apply through the same competitive application and selection process. No preference will be gained specifically for being the previous concession holder.

20. **Question:** Will the concession areas be transferable once issued to the winner?

Answer: No, concessions areas will not be transferable.

21. **Question:** How will new guides and smaller, yet already established guides be able to reasonably compete and be awarded concessions in the new GCP?

Answer: The GCP seeks to ensure that the opportunity exists for all types of operators to be able to successfully compete for a concession and that we have a fair and competitive process for all sizes of operations. Another concern stated in the *Owsichek* decision is that the original EGAs did not allow new entrants into the guiding industry. "These grants are based primarily on use, occupancy and investment, favoring established guides at the expense of new entrants into the market, such as *Owsichek*. To grant such a special privilege based primarily on seniority runs counter to the notion of, 'common use.'" In order to address these three concerns, the department has decided to create two types of concessions within many of the GCAs. The types are: full concession and limited concession (for a more information please see page 9 of the GCP Management Framework Document).

22. **Question:** What will happen to my leased site if I do not win a concession area?
Answer: If the lease holder is not selected to operate in the area, DMLW will provide an opportunity to modify the operations plan of the lease to allow for use other than big game guiding.
23. **Question:** How long will I have to remove my property from state land if I am not awarded a concession?
Answer: Award notifications and results would be available by early fall, 2014. If you were not a recipient of a concession you would have until December 31, 2014 to remove all personal property from state land. Each location will be reviewed independently to allow sufficient time to remove personal property.
24. **Question:** How will the state deal with predator control areas?
Answer: DMLW will be working closely with the Department of Fish and Game (ADF&G) and the BOG to address these issues. We are working together to develop the framework to not interfere with the ADF&G predator control management.
25. **Question:** How will this affect the transporters or other commercial operators?
Answer: The GCP does not address transporters and air taxis though there have been numerous public comments about issues and conflicts related to these operations. DNR understands and recognizes the role of transporters and air taxis in the broader system of hunting in Alaska. DNR is committed to further research and evaluation of the issues and need for potential management strategies surrounding this industry.
26. **Question:** If I am guiding on private land, but need to use public land for access, will I need a permit for access on the public land?
Answer: Access types and methods that fall under Generally Allowed Uses of State Land are not affected by this program. If your access method is not generally allowed, a permit may be required. If you do not hold a concession on state land, you will not be allowed to conduct big game guiding.
27. **Question:** Will the GCP be implemented on private or Native land?
Answer: No. The current management practices on private and Native lands will remain unaffected by the GCP. As proposed, the program will only be implemented on general state and DPOR lands. BLM is a potential partner in the GCP. If BLM decides to become a partner, then the GCP may be implemented on their lands as well.
28. **Question:** What is the timeline for the concessions to be implemented?
Answer: The department is looking to make applications available to the public January 1, 2014. The deadline for receiving applications would be April 1, 2014. Award notifications and results would be available early fall, 2014. GCAs would be effective by January 1, 2015. The time frame is preliminary and may change due to staffing and funding for the program.
29. **Question:** Will the public have another opportunity to give input on the terms of the concessions, the map boundaries and the number of guides per concession area?

Answer: In February of 2012, consistent with AS 38.05.945, the proposed decision was advertised and distributed for agency and public comment for a 68 day comment period beginning February 15th and ending April 23rd. Notice of the proposed decision was published on the DNR website, in the Anchorage Daily News, The Juneau Empire, and the Fairbanks Daily News-Miner on February 19, 2012. Three public meetings and four web based meetings were held during the comment period.

An additional comment period on the Management Framework Document will begin on January 23, 2013 through February 28, 2013. Public meetings will be held in Juneau, Anchorage, and Fairbanks. All meeting times and dates will be posted on the GCP website.

30. **Question:** What role do the BLM and DPOR have in the process?

Answer: This program will affect all tentatively approved and patented general state lands, as well as state managed tidelands, submerged lands, shorelands, and those state lands managed by DNR's Division of Parks and Outdoor Recreation (DPOR) where commercial guiding is allowed. A Memorandum of Understanding is currently under consideration between DNR and the Bureau of Land Management (BLM) to apply the GCP to their lands.

In June 2012, DNR formed an Interagency Steering Committee with representatives from Alaska Department of Fish and Game (ADF&G), DPOR, and BLM. The purpose of the committee is to cooperatively design and develop the framework of the GCP. DNR hosted multiple meetings with the cooperating agencies to decide on key issues brought forward by public comments and other agencies.

In addition to their participation on the Interagency Steering Committee, BLM is a potential landowner partner in the GCP. If BLM commits to the GCP, contracting guides who wish to operate on their lands will have to be the DNR concession permittee for that area. It is expected that the permits, stipulations, and fees that BLM currently requires of operators will remain, though the system of fee collection and administration may be streamlined amongst the agencies.

As a first step in potentially joining DNR as a partner in the GCP, BLM has begun their own process to address commercial hunting guide capacities for BLM lands in Alaska. BLM conducted a 60 day public notice and scoping period to investigate commercial hunting guide Special Recreation Permit capacities for BLM lands in Alaska. The scoping period began on July 9, 2012 and ended on September 9, 2012.

31. **Question:** Why do we need such a program in Kodiak since there are already tag drawings which limit the number of operators in the area?

Answer: The department has decided to implement this program statewide. We understand some areas are currently experiencing higher conflicts than others but we need to keep state wide continuity for the guiding community.

32. **Question:** Will the GCAs be made into Guide Use Areas?
Answer: The concession area boundaries are subdivisions of the Guide Use Areas. Decisions regarding the Guide Use Areas are under the control of the BGCSB. DMLW will only be making decisions with regards to the concession area boundaries.
33. **Question:** Is this really going to happen?
Answer: The department is actively working on building this program as a viable and helpful tool for the commercial big game guiding industry. We have the support of many in the industry in addition to the other agencies and boards involved. However, without additional staff and the necessary legislative funding to support this program, the department cannot commit to implementing such a program.
34. **Question:** Is the proposed client fee per day per client?
Answer: No, the proposed client fee is per client only. You would pay either the proposed \$250 or \$500 for each client you serve no matter how many days they were guided in the field.
35. **Question:** Are Alaska residents given preference over non-residents in applying for or being awarded a concession?
Answer: Alaska residents are not given preference over non-residents in either the application process or in the awarding of a concession (see question 37). However, as proposed in the Scoring Criteria, the amount of time spent in a local area while engaged in certain activities is given consideration.
36. **Question:** Why doesn't this program exclude non-residents from applying?
Answer: The Commerce Clause of the United States Constitution has been regularly interpreted by the Supreme Court of the United States to discourage in-state discrimination against non-residents. The clause can be invoked if state regulations appear to limit interstate commerce, or regulate it in a way that is prejudicial to other state's interests. Excluding non-residents from applying and participating in the guide concession program would clearly be in conflict with the Commerce Clause.
37. **Question:** How many assistant guides does a full concession permit allow?
Answer: A full concession permits the contracting guide to employ up to six assistant guides per awarded guide concession.
38. **Question:** How many assistant guides does a limited concession allow?
Answer: A limited concession permits the contracting guide to employ up to one assistant guide per awarded guide concession.
39. **Question:** Why are full and limited concessions proposed to be limited to six and one assistant guide(s) per concession respectively?
Answer: Concessions are proposed to be limited in the number of assistant guides in order to help meet the wildlife conservation aspect of the program. The number of concessions in an area has been determined by many factors, including: guided hunter pressure information from the Department of Commerce, Community and Economic

Development's (DCCED) Division of Corporations, Business and Professional Licensing "Occupational Licensing," public comment and input, as well as feedback from ADF&G biologists. If the number of assistant guides is not limited per guide concession, potential problems of hunter overcrowding and overharvest of game populations may continue.

40. **Question:** Is there a limit on other staff, besides assistant guides, that I can hire?
Answer: There are no limits on employees or staff that are not required to hold a professional license by statute (AS 08.54.605-AS 08.54.640). Examples of these types of staff include, but are not limited to: camp-host, packer, or cook.
41. **Question:** Is there a limit on the number of clients a full concession holder is allowed within a calendar year?
Answer: There is not a limit on the number of clients a full concession holder is allowed during a calendar year. A full concession holder will supply the department with the number of clients they plan to accommodate through the application and these terms may become binding.
42. **Question:** Is there a limit on the number of clients a limited concession holder is allowed within a calendar year?
Answer: A limited concession holder is limited to a maximum of four clients per calendar year per concession area.
43. **Question:** How will the department decide which GCAs will be selected for the four, seven, and 10 year initial terms?
Answer: The department has assigned what term of duration a concession is initially given based upon which ADF&G Region a GCA falls within.
44. **Question:** Which areas fall under four, seven, and 10 year terms?
Answer: GCAs that fall within ADF&G Regions I, II and V all have an initial term of four years. GCAs that fall within ADF&G Region IV all have an initial term of seven years. GCAs that fall within ADF&G Region III all have an initial term of 10 years (see Appendix F).

The Alaska Department of Natural Resources Guide Concession Program White Paper

The Problem

Since before statehood, Alaska's professional hunting guides and outfitters have provided a valuable service to visiting hunters and other outdoor enthusiasts by conducting safe, productive and efficient escort operations into the wilds of Alaska. The guide/outfitter industry is dependent upon the successful management of Alaska's wildlife and land resources, and unquestionably is one very important component in a network of resource dependent users that must contribute to, and participate in achieving the State's wildlife management and conservation goals.

Growth of the big game guide industry and its impact on wildlife populations led to creation of the Alaska Guide Licensing and Control Board in 1973. In 1976 a system of exclusive guide use areas (EGA) was created to address wildlife conservation, consumer protection, social consideration and industry sustainability. Although this system had its positive attributes, and supporters, it was found unconstitutional in 1988 by the Alaska Supreme Court in its Owsichek Decision. The court found the program to be "in contravention of article VIII, section 3 of the Alaska Constitution". The decision cited four major reasons in support of the finding, stating the Exclusive Guide Areas were: not subject to competitive bidding; provided no remuneration to the state; were of unlimited duration; and guides were able to transfer them for a profit as if they owned them. The court went on to say that the Department of Natural Resources (DNR) leases and concession contracts did not share those characteristics. Indeed the court further stated that "Nothing in this opinion is intended to suggest that leases and exclusive concessions on state lands are unconstitutional. The statutes and regulations of the Department of Natural Resources authorize leases and concession contracts of limited duration, subject to competitive bidding procedures and valuable consideration."

DNR has been asked to create an area based allocation system for commercial big game guides on state land. This paper details how such a program might be designed under existing departmental authority and the process to be followed. DNR seeks comments and suggestions from affected and interested individuals with respect to certain areas of program design or operation. Public comment will be accepted through January 21, 2010. A series of public informational meetings will be held throughout the state starting in Anchorage on December 8, 2009. A complete list of meeting places and times are listed on the project website, <http://www.dnr.alaska.gov/mlw/gcp/>. Following this public review process, and depending on adequate funding, DNR will promulgate regulations to implement the program. The public will have full opportunity to weigh in on the proposed regulations during that process as well. The regulation process will be the second major opportunity for the public to review and comment on program specifics being proposed in regulation.

Program implementation may follow adoption of the regulations. Applications will be accepted for concession areas and awarded to successful individuals through a competitive process. Those affected by selection decisions will have recourse through administrative appeals or state superior court at that time.

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

Certainly not all problems noted in the field between users, or the lack of respect for conservation or stewardship goals, or impacts to certain, highly sought after animals can be attributed solely to professional hunters. However, on January 11, 2008, in a letter to Commissioner Tom Irwin, the State of Alaska Board of Game (BOG) developed the problem statement linking these problems, at least in part, to the guided hunting industry, and asked for DNR's assistance in addressing those problems. The BOG clearly articulated its desire to bring about certain changes in the administration of the guiding of non-resident hunters throughout the state. On Page 2 of his letter Mr. Judkins states, "In short, it appears that development of a system limiting the amount of guided hunt activity that can occur on state lands, similar in nature to the existing DOI program, will effectively address the following concerns," and he goes on to list Resource Conservation, Land Stewardship, Social Considerations, and Public Safety as the concerns needing to be addressed.

In that letter Mr. Judkins points out difficulties the BOG faces in dealing with growing tensions between guided and non-guided hunters. He writes, "Since the loss of the former area system utilized by the guide industry, the BOG has received a continuous flow of proposals that ask to reduce or even eliminate the amount of wildlife harvested on State lands by guided hunters". Mr. Judkins goes on to point out that such proposals are "...variously supported by the public, impacted rural communities, local State Fish and Game Advisory Committees and Department of Fish and Game".

Those proposals are based primarily on the following concerns: in-the-field crowding; competition for food source game animals in rural areas; poor stewardship of land and water resources; and conditions which result in poor or inefficient enforcement of state game laws and regulations. The BOG has a clear desire to manage these issues through an area management approach rather than continue developing a complex set of regulations that limit guided hunter opportunity throughout the state.

At a recent meeting in Nome, Alaska on November 13, 2009, the BOG once again indicated its continued support for this program approach and ordered a letter written to DNR reflecting that continued support.

For the past two years DNR has attended meetings of the Big Game Commercial Services Board, appeared on a local Anchorage radio talk show, and attended a local meeting of the BOG's Anchorage Advisory Committee, all in an effort to increase awareness of the issues. During that time, several people (guides and members of the general public) have called, emailed, or visited

our DNR offices with questions, comments and suggestions. What is clear from this interaction is there is *some level of support* for a change in the way guided hunting is managed in the state, *but much diversion of opinion* on exactly how that change should be accomplished.

Authority and Responsibility

Based on statutory authorities enacted by the Alaska Legislature, the following agencies have responsibilities related to conservation and use of Alaska's game animals. The Department of Fish and Game (ADF&G) manages game populations for sustained yields. The State Board of Game (BOG) regulates the harvest of game. The Department of Public Safety (DPS), Division of Alaska Wildlife Troopers, enforces the State's game laws and regulations. The Big Game Commercial Services Board (BGCSB) is responsible for licensing and administration of licenses for registered big game hunting guides. The Division of Corporations, Business and Professional Licensing, within the Department of Commerce, Community, and Economic Development (DCCED), provides investigative services and makes recommendations to the BGCSB on guide licensing compliance issues. DNR manages state land and water for the use and enjoyment of all Alaskans, including commercial recreational uses such as guided hunting.

All of the above agencies play important roles in managing some aspect of the legal framework applicable to the big game commercial services industry in Alaska. This paper addresses the role of DNR's mission is "To develop, conserve, and enhance natural resources for present and future Alaskans". Natural resources managed by DNR include land based resources (trees, vegetation, minerals, sand & gravel), and water (appropriations, use of, or activities on or in). DNR is the agency tasked with regulating and administering the allowable uses of Alaska's public land and water, including, as necessary, limitations on commercial uses such as big game commercial services.

The DNR Commissioner has broad authority to manage state lands, create authorizations allowing certain activities, and determine terms and conditions for those activities. Depending upon the degree of activity, and permanency of any improvements they may wish to place on state land, DNR may use AS 38.05.020, AS 38.05.035, AS 38.05.070-.085, AS 38.05.850 and other statutes for authority to write land use authorizations to licensed guides. Thus, registered guides conducting hunts on state lands secure Land Use Permits (temporary base camp facilities for greater than 14 days), Commercial Recreation Permits (short-term temporary camp facilities for 14 days or less), Commercial Recreation Registration (*de minimus* day use activities), or land leases (permanent, lodge type structures) from DNR. These authorizations are limited in duration, require fees and other charges (remuneration to the state), are subject to competitive bidding (if DNR determines a competitive interest exists), and in the case of Land Use Permits, are not transferable. Land leases are transferable, with the approval of DNR, because they went through a public notice process, a written decision, and were subject to administrative appeal.

As the Alaska Supreme Court recognized in the *Owsichek Decision*, DNR's existing statutory authorizations provide a basis to create a program that directly addresses the deficiencies that the Court found to exist in the original EGA program. DNR, therefore, should be able to develop a legal and reliable structure for determining the number of big game commercial service operations that will be authorized to use state land, and the conditions of that use.

As noted, administrative regulations will be adopted through a public process itself regulated by the Administrative Procedures Act prior to implementation of this program. During this public review and comment period we will be discussing ideas, answering questions, and accepting comments on any and all aspects of this program. However, it is the regulation process that will set such criteria as fees, guide selection and scoring criteria, concession area boundaries and the number of guides allowed to operate in each, the makeup of the agency evaluation/scoring team, criteria for enhancement of stewardship and conservation of resources and other discreet program criteria.

Project Overview

DNR proposes a program that will select the best qualified individual to conduct big game commercial guiding on state land (and possibly federal land if federal agencies adopt the State's program and process). The process will involve qualified individuals submitting a prospectus with supporting documentation to DNR, specifically the Division of Mining, Land and Water (DMLW) Lands Section, which will then be reviewed by a panel of agency personnel. Qualified individuals are those that are licensed to provide commercial guiding services in the particular area they are applying for. Although there have been recommendations that industry personnel also be on the panel, there is concern that any input by industry personnel will be subject to accusations of bias. For that reason, only agency personnel will make up the panel. Agencies could include DNR, ADF&G, DCCED, DOL, DPS, State Parks and possible federal agencies if at some point federal lands are included in the concession areas.

The panel will select the most qualified individual based on the selection criteria and points awarded. Selected individuals will receive an authorization from DNR to conduct commercial big game guiding on state land. Individuals affected by that decision, and whom disagree with the manner in which it was derived, will be afforded the opportunity to administratively appeal the decision.

At this time, concession area boundaries and numbers of guides to be allocated for each area are proposed. The proposal at this time is to have at least 2 – 3 guides for each concession area. While DNR does have proposed concession areas and number of guides allocated for those areas, DNR is seeking additional public input regarding concession area boundaries and number of guides within each area. The maps containing this information are posted on the project website at (<http://www.dnr.alaska.gov/mlw/gcp/>).

We are also considering two levels of concession rights to be offered. In addition to the full rights package, we are considering, and would like public comment on, offering a secondary level of rights. The secondary level would perhaps require that the guide personally accompany his clients in the field, and would be limited to a specific number of clients, maybe 6 or 8. This option can provide entry opportunities for newer, smaller, more niche oriented guides that cannot, or perhaps do not want to compete for the full rights package. A new operator winning a limited rights (secondary level) package could then build up knowledge and experience in an area and increase his or her chances of competing for a full rights package in the future.

Any improvements, such as seasonal camps or temporary structures, would need to go through current established processes for authorization. For example a seasonal camp on state land would require a land use permit which would be a separate process. The intent of the program is for the concession awarded to include the authorization for spike camps as is similar to the current Commercial Recreation Permit.

The concession authorization would likely be valid for 5 years, and would be renewable for one consecutive 5 year term as long as the guide was in good standing and had complied with all terms and conditions of the original authorization. At 10 years, the individual would need to resubmit a prospectus and go through the competitive process again. This is necessary to meet the constitutional requirements as identified in the Owsichuk Decision. The program must be competitive and be limited in duration. Initially there may be authorizations issued for shorter time periods in order to stagger when the permits expire and when the competitive process must be completed again. This would disperse the administrative work throughout the years versus all permits expiring at the same time across the state.

What Is The Scope Of This Program?

The scope of this program is limited to development of a legal and reliable structure for determining the number of big game commercial service operations that will be authorized to use state land, and the conditions of that use, including development of a competitive process. This program will be administered statewide on all lands and waters belonging to the state, including tidelands, managed by the DMLW. It is important to note that all state lands subject to this program will remain open to all other allowable uses including resident and subsistent hunting, according to existing laws and regulations. Concessions awarded are not considered to convey an interest in state land, rather a right to enter upon state land for the purpose of conducting professionally guided (commercial) hunts.

The program may be administered on state park lands through a Memorandum of Agreement. Federal agencies may choose to recognize this program in the management and administration of guiding authorizations on adjacent federal lands, again, through a Memorandum of Agreement.

This program will not address issues and concerns associated with air taxi operators or transporters. Those questions may be addressed through a different forum at a later date.

DNR Approach to Management of This Program

DNR's mission is to "develop, conserve, and enhance natural resources for present and future Alaskans". DNR's long standing policy has been to work closely and productively with other resource agencies, interest groups, and the interested public to achieve the best possible outcome on proposed projects that impact our natural resources. DNR strives to create authorizations that allow for the use and enjoyment of our resources while minimizing impacts. In implementing this program DNR will recognize those commercial operators who can demonstrate, through words and actions, a commitment to the conservation of land, water, and wildlife resources, and who can do so on a consistent, repetitive basis.

Management Goals and Objectives

To create an area based system for allocation of commercial guiding services we have analyzed the deficiencies of the original, now defunct Exclusive Guide Area (EGA) program, primarily through the Owsichuk Decision which explains those deficiencies. Additionally, in consideration of the problems pointed out in the BOG letter of January, 11, 2008 we believe the following goals and objectives address problems associated with past efforts, and opportunities to improve delivery of public benefits through a managed commercial guiding industry.

Wildlife Management/Conservation

At the heart of an area based allocation system is the need to deliver results on wildlife management and conservation goals developed by the ADF&G and state Board of Game. In his January 11, 2008 letter (attached) BOG chair Cliff Judkins states that based upon the body of scientific evidence presented to the BOG by ADF&G biologists, "... science has made it clear that impacts on the wildlife resources by the guide industry have occurred." Citing the U.S. Department of the Interior's concern for the potential failure to achieve stewardship goals following the Owsichuk Decision, Mr. Judkins asserts that on federal land where DOI implements a managed guide program very few proposals regarding guided hunting have come before the BOG.

The intent of this program is to help achieve management and conservation goals that will benefit all Alaskan's and to help sustain an industry that provides an important service to non-resident hunters as well.

Land Conservation/Stewardship

DNR has long recognized and understood that some users of public lands do not place a high value on land stewardship. It is generally agreed that it is a relatively small proportion of total users that create problems for others and devalue the resources. It is also understood that no user group is more or less responsible than any other. It is a stated goal of DNR to conserve and enhance commonly owned resources for future generations of Alaskans, to this end DNR places a high value on land stewardship.

With respect to the guiding industry, DNR shares the BOG's experience in dealing with some operators who, along with their clients, have shown a disrespect for the commonly owned natural resources that they use, and depend upon for their success. To be clear, DNR has, over time, received and acted upon reports of incidents, the same as, or similar to those listed in the BOG's January 11, 2008 letter, which are related to "solid waste, human waste, garbage, fuels, and abandoned camps."

Creation of an allocation system where operators are chosen competitively based upon their past activity, intent to meet or exceed expected conservation goals, and whose continued success depends upon performance can only result in positive benefits to the owners of the resources. Successful applicants will be required contractually to accomplish the objectives presented in their winning prospectus. DNR will have better oversight and compliance opportunities with a limited allocation program.

Economic Return

Economic return to the state is an important consideration prior to, and during the implementation of this program. To be considered feasible there are two objectives to achieve: revenue sufficient to cover the cost of administering the program; and, in addition, provide a reasonable return to the state. Because complete details of program administration cannot be finalized until the conclusion of the public notice period, and conclusion of the regulation adoption process, cost estimates for the program have not been calculated.

It is anticipated that a flat fee will be assessed to all concession holders that will be designed to cover the program costs. A formula, based on final estimates of program costs and the number of concession holders, will be used to determine the actual dollar value of the flat fee. It is anticipated that cost and structure of this program will be discussed during the upcoming legislative session. If funded, the legislature will determine the initial level of support for the program, and that would be the starting point for use in the formula to calculate the flat fee.

Additional fees in the form of competitive bids or per-client charges will be addressed specifically in the regulation process. No decisions have been made regarding exactly how to assess and collect revenue from concession holders. DNR is asking for comments and suggestions in this regard. Please keep in mind the objectives listed above when commenting.

Initial funding from the legislature will be necessary to cover "start up" costs. Continued funding of the program, based upon annual revenues received, must be approved by the legislature.

Reduce User Conflicts

Clearly, spreading out the impacts of guided hunts will not totally solve the crowding or intense competition problems. There are other, well known factors that contribute to this problem as well. Significant guide on guide conflicts do not occur in all Game Management Units now. However, it is believed that allocating guided hunting opportunities will contribute significantly to the reduction of these problems where they do occur.

Administratively Feasible

A clear goal of this DNR is to create a program that is feasible administratively, as well as implementable. At this time we believe it is possible to design a program which is administratively feasible. However, to be implementable one important administrative tool must be added, and that is enforcement authority through written citations. Monitoring and compliance is the heart and soul of public land management. It has been proven time and again that a weak enforcement program leads to disrespect for our natural resources and poor conservation practices.

In this case DNR needs to be able to enforce the regulations adopted to implement this program. For example, if a camp is abandoned on state land the responsible party is contacted and given a certain amount of time to remedy the situation. If the party does not

comply with that order, a citation could be written whereby a penalty would be assessed, either lump sum or per day, until resolved. Only the ability to cite an offender is envisioned, not full law enforcement training for each employee, and no firearms for DNR employees administering this program.

Finally of course whether or not the program is implemented at all, and to what level it is implemented, depends solely upon the level of funding it receives.

Economic Development/Industry Sustainability

Big game guides have had a presence in Alaska since long before statehood. The industry provides a valuable service, primarily to out-of-state residents, to people needing assistance when traveling in Alaska's wilderness for hunting or other recreational experiences. Advances in technology and better business practices have enabled the guiding industry, in general, to extend their reach around Alaska and become very efficient operators. Big game guides are only one component, but a very important component of resource users in the state who can deliver positive results in helping state officials achieve resource management and conservation goals.

At the present time there are over 1,800 registered guides in the state of Alaska. Not all are active, and among those that are indeed active, not all are eligible to contract hunts. Rules presently in effect presently seem to allow or at least encourage overcrowding in areas having high value big game species, intense competition in those same areas, and make compliance and enforcement goals difficult to achieve. An area based system of guide services allocation is presumed to be a major step in achieving the public and social goals set out above.

Alternatives

As mentioned above, DNR staff has had many ad hoc discussions with interested parties regarding a possible allocation system. During those discussions many questions and issues have been raised, generally leading to "why not try this", or "what if" scenarios. Below is a list of what we believe are possible alternatives to the system being designed at this time.

These alternatives will be presented in bulleted, outline form to assist in providing clear, concise information. DNR is seeking public comment on these alternatives. Specifically, we would like to know the pros and cons of each option, from the commenter's perspective. We would like to be advised of information pertinent to any of these alternatives which, in the commenter's opinion, we may have left out. All relevant comments and suggestions will be considered in an attempt to fully understand the options, the impacts of those options, and how well they may, or may not help achieve our resource management and conservation objectives (as discussed above), and go the furthest to help alleviate the social problems noted above.

The alternatives listed are:

- The Null Alternative, or Do Nothing At All
- DNR Guide Concession Program

- 10% Non-Resident Allocation
- Permit/Draw
- Occupational Licensing Changes in Requirements/Limits
- Strict Limit on Number of Guide Licenses Issue
- Increase Qualifications for Guide License

1. Null –

- This alternative would be a commitment not to change any of the current permitting or other standards which affect the big game guiding industry.
 - Crowding and in-field conflicts will continue
 - Popular areas continue to see unchecked competition
 - Trophy animals are being taken with great efficiencies
 - Enforcement difficulties persist
 - Reductions in non-resident hunting opportunity will happen
 - May negatively affect the state's overall economy
 - Quality of hunts will continue to diminish
 - Will increase need for ADF&G staff to administer complex regulations needed to address issues raised
 - High costs to achieve Conservation & Stewardship goals
 - Does not directly address any of the issues that have been raised
 - The problems(s) will not go away
 - Provides maximum opportunity for new entrants into the business
 - No stability for the long term interest of guiding industry
 - Other boards or committees may effect changes to the industry

2. DNR Guide Concession Program –

- This alternative creates specific areas for commercial guide/outfitters to work in. These areas will be authorized by DNR thru a competitive process; these areas may exist in two configurations full rights and limited rights concessions.
 - Provides predetermined areas for guides to operate
 - Creates predictable work environments
 - Time needed to create implement new program
 - May not allow all guides the opportunity to get a concession
 - Concession holders may hire other guides
 - Provides predetermined areas on BLM, and state lands for guides to work within
 - Does not affect other private or commercial users
 - Provides more incentive for wildlife conservation and land stewardship
 - Increases the accountability of the commercial operators
 - Increased revenue to the state over current system
 - New program will take time to develop
 - Some guides working today will not be selected to a concession area
 - Upfront cost to the state
 - Additional administrative hurdles for the industry

- Full rights concessions will allowed concession holder the ability to operate with unlimited ability
- Limited Rights concessions will adhere to similar terms as the full rights concessions but will be greatly reduced in:
 - Number of employees
 - Number of clients
 - Requirement to guide clients on own

3. A set allocation for non-residents; for example 10%

- This alternative establishes specific harvest amounts which will be made available to non-resident hunters based on previous years harvest number. The number currently under consideration is 10% of the previous year's harvest.
 - Sets limits on harvestable surplus
 - Severely limits commercial opportunities for professional hunters
 - Provides for specific allocation of harvestable surplus be made available to non-residents
 - This is a simple option to implement
 - Severely limits the opportunities for commercial operators in Alaska
 - Severely limits non-resident hunters hunting opportunities for brown/grizzly bear
 - Significant reduction in revenue from non-resident license/tag sales
 - No connection to realistic wildlife management goals

4. Permit/Draw Statewide (most species) -

- This alternative establishes opportunity for hunters to compete for a limited amount of tags per species on a statewide basis.
 - Create limited opportunities throughout the state
 - Similar systems already in place
 - Marginal increased costs to expand statewide
 - Promotes equal opportunity
 - Requires F&G to monitor herds to assure harvest numbers are good
 - Similar systems are already in place in Alaska and elsewhere; concept could be expanded statewide with limited cost or staff increases
 - Cost of draw opportunity to applicant is minimal
 - Provides equal opportunity for everyone
 - Allows flexibility for ADF&G to adjust pressure by the # of tags available
 - Additional responsibilities for ADF&G
 - Unnecessary in most areas and reduces hunting opportunity/flexibility
 - Artificially creates demand
 - Reduces revenue to ADF&G for license and tag sales

5. Changes to Occupational Licensing requirements/limits

- This alternative reviews the Statutes and Regulations of DCCED – OL and the Big Game Commercial Services Board, who is the licensing body of the Guide/Outfitters. This alternative includes limiting the # of areas a guide can register for each year, or the term of the registration in addition to changing the size of some or all of the GUAs.
 - Limit the number of guide areas available to each guide
 - Change the size (reduce) the number of areas available
 - BGCSB has licensing authority to do this
 - Minimal additional cost to make these changes
 - Likely require guide to stay with choices for longer time
 - The Division of Occupational Licensing lacks personnel and resources to implement
 - May not reduce direct competition for an area
 - More guides will be compressed into smaller area

6. Strict limit on the # of guide licenses available.

- This alternative suggests the state place a limit on the number of registered guide licenses that would be available in the state. This alternative is not viable, and will not be discussed here because it has broader constitutional issues.

7. Greatly increase qualifications for guide license.

- This alternative would require a much high set of standards to obtain registered and Master guide licenses. This may include years of guiding, apprenticeship, biological knowledge of wildlife, handling animals for taxidermy. This would include written, oral and practical evaluations (similar to Namibia and Zimbabwe)
 - Greatly increases the quality of the hunt
 - Provides high quality experience for the client
 - Will take many years to address current issues
 - Will increase competitiveness of Alaska's guides on the world-wide market

Is It Feasible?

DNR was asked to evaluate the feasibility of creating an area based system for limiting or allocating specific numbers of commercial big game guides on state lands. This request is consistent with DNR's overall responsibility to solve problems, such as user conflict, or act upon opportunities that are consistent with DNR's mission. To date this analysis has centered upon legal, administrative, management and implementation considerations. Any program implemented by DNR will be based upon a set of administrative regulations adopted following this public review process, perhaps beginning in the spring 2010.

To decide on the administrative feasibility of such a program, some assumptions had to be made. For example, it is assumed that all licensed guide/outfitters, in good standing according to licensing requirements, are eligible to participate in the program. The program would be based

upon a competitive process that would begin with submittal of a prospectus type of document. Scoring criteria will be developed that evaluates qualified experience, ability to meet or exceed stewardship and conservation goals, appropriate and achievable business and operations plans, financial preparedness, record of violations. Scoring will be done by a panel of agency representatives. Decisions made by that panel will be administratively appealable.

Applicants will apply to operate in a specific concession area(s) consistent with regulations of the BGCSB and DNR. Concession area boundaries and the number of guiding opportunities to be offered in each will be adopted through the regulation process. Two levels of opportunities will be offered in each concession area: full rights to hunt consistent with current practices and the approved business and operations plans; and a limited rights opportunity designed to allow smaller, niche operators the opportunity to get into the system and establish experience and knowledge of the concession areas. Monitoring, compliance, and enforcement activities will take place among all the agencies having a role and responsibility for such action.

That is the general framework under which the program has been envisioned. Based upon those assumptions and considerations DNR has concluded that it could create, administer, and implement an area based guide allocation program. To be realistic, i.e. implementable, certain additional goals should be met. Those goals are:

- Appropriate “start up” funding is necessary to fund additional staff and cover implementation costs
- Budget structure created that recognizes the ability of this program to pay its own way, and provides for use of funding to continue program administration
- DNR be granted citation level enforcement authority to raise the rates of compliance with adopted regulations

At this point in time DNR is open to comments, concerns, and suggestions for how the details of this program might look. It is DNR’s responsibility to design and create an implementable program. However, to be implemented, this program, and the program details, will have to be adopted through a rigorous, public regulation adoption process. All affected and interested parties will be able to participate in the regulation adoption process.

During this open public review process comments may be submitted until the close of business on January 21, 2010. To be considered comments must be in writing and timely submitted. DNR has created a project website, <http://www.dnr.alaska.gov/mlw/gcp/>, where documentation may be reviewed, and comments may be submitted. Comments may also be submitted in writing by regular mail to the South Central Regional Office’s address which is on the website.

Following this public review process, and depending on adequate funding, DNR will promulgate regulations to implement the program. The public will have full opportunity to weigh in on the proposed regulations during that process as well. The regulation process will be the second major opportunity for the public to review and comment on program specifics being proposed in regulation.

The Economic Importance of Hunters Visiting Alaska

Alaska's Guided Hunting Industry 2015



Total Guide Industry Economic Output

\$87.2 million in total guided hunting industry economic activity including direct spending, wages and multiplier effects in 2015.

\$37.5 million

Total Labor Income

\$49.7 million

Goods & Services (Non-Payroll) Spending

New Dollars for Alaska's Economy



The guided hunting industry circulated **\$52.5 million** in the Alaska economy as labor income and spending for goods and services.

3,242

Guided Hunters

520

Traveling Companions

Guide Industry Spending with Alaska Businesses



\$29.7 million in direct guide and visiting hunter spending with businesses in Alaska. Multiplier effects generated an additional **\$20.0 million** in economic activity for Alaska's support sector.

A significant portion of guide spending occurs in rural areas of Alaska in the form of wages, air transportation, fuel, food, and supplies.

Jobs for Alaska



1,550 people

directly employed in the guided hunting industry.

\$22.5 million in direct wages and guide income.

Multiplier effects generated another **570 jobs** and **\$15 million** in wages for Alaska's support sector.

Guided Hunting Industry Employment, 2015



1,550 Direct Jobs



570 Indirect Jobs

2,120

Total Employment

Meat Sharing is a Long-Standing Tradition in Alaska.

In addition to the impacts of jobs, wages, and goods and services spending, hunting guides and their clients share a significant volume of high-quality game meat with Alaska residents every year. Recipients include Native communities, elders, needy families with children, organizations, and those who enjoy game meat but can no longer hunt. Game meat is a renewable resource that feeds Alaskans year after year.



230,000 pounds of game meat
was shared with Alaska residents in 2015.

\$1.1 million

is the estimated value of replacing
this game meat with beef.

\$760,000

the replacement value of game
meat shared with rural residents.

Recipients acknowledge the meat shared by guides and their clients provides nourishment for many families and is culturally important:

"We share a lot of meat with families that do not have a meat source. I look for people who live in the region where I guide to find those who really need it. I have flown over 100 miles to deliver meat to them when they are in need."

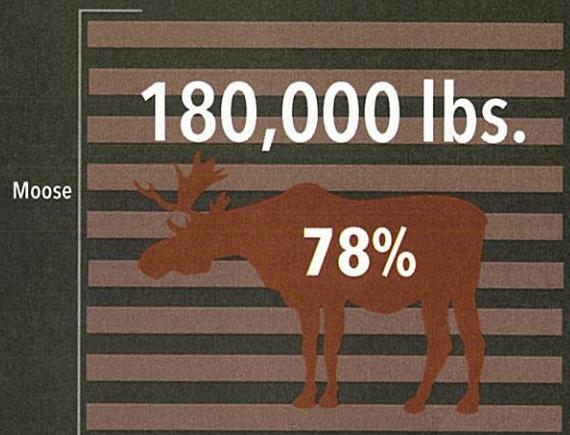
"The moose meat we share literally feeds a village."

"The priest at my church in Fairbanks is Yupik. He has really missed eating traditional subsistence foods since he moved from his village to Fairbanks. We share our meat with him."

"Often we share meat with elders in the villages we fly in and out of who can no longer hunt. They are tremendously appreciative."

"I just wanted to thank you for this wonderful goat meat. I am semi-retired and can no longer process game in the field, so this means a great deal to me. This meat will last me through the winter and saves me from paying the high price of meat from the grocery store."

Guide and Visiting Hunter Meat Sharing, 2015



State Revenue Generated by Visiting Hunters, Guided and Unguided 2015

\$5.3 million in total ADF&G Fish and Game Wildlife Fund revenue was generated by guided and unguided visiting hunter purchases of licenses and big game tags.

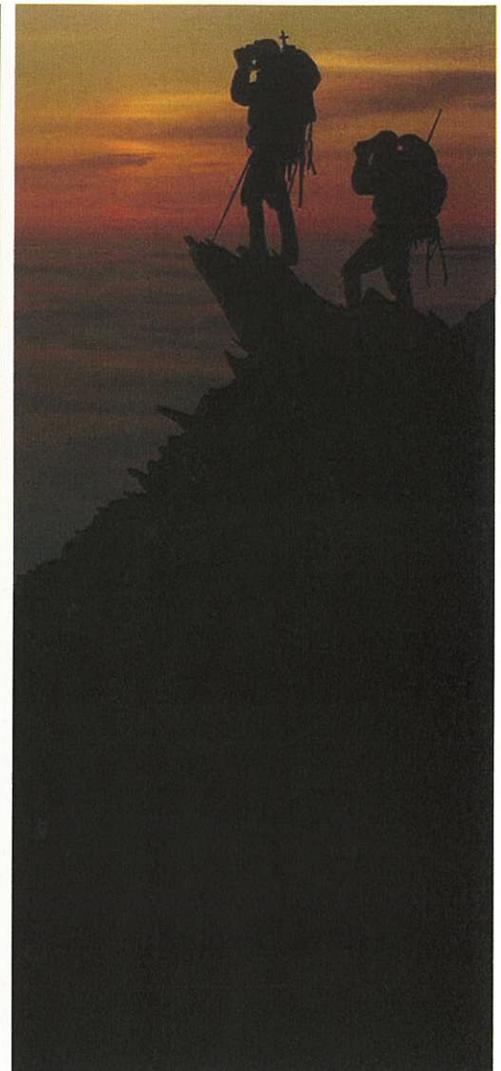


14,211 visiting hunters purchased Alaska hunting licenses totaling \$1.3 million.



14,085 big game tags purchased by visiting hunters, generating \$4 million in State revenue.

Not all hunters that purchase licenses actually hunted. Visiting hunters are required to buy licenses prior to applying for some hunts. An unknown number of hunters do not draw tags and therefore do not hunt.



Revenue for Wildlife Conservation in Alaska

Visiting hunters purchased **13%** of all Alaska big game hunting licenses and generated **72%** of ADF&G Fish and Game Wildlife Fund license and tag revenue in 2015.

ADF&G Fish and Game Fund License and Tag Revenue, 2015



\$7.4 Million
Total Fish and Game Fund License and Tag Revenue

\$2.1 million

Resident Hunters
28%

\$5.3 million

Visiting Hunters
72%

Visiting hunter license and tag revenue of **\$5.3 million**, when matched with Pittman Robertson funds, could generate as much as an additional **\$16 million** for qualified wildlife conservation projects.

Pittman-Robertson funds are matched with ADF&G Fish and Game Funds and used for wildlife conservation projects that benefit license holders and those who view wildlife. For qualified projects, the State of Alaska receives \$3 in Pittman-Robertson funds for every \$1 in license and tag fees.

ADF&G implemented higher license and tag fees in 2017. If the same number of licenses and tags is sold under the new fee structure, revenue to ADF&G's Fish and Game Wildlife Fund is estimated to **nearly double** to about **\$13.7 million**. These additional funds would be used to match additional Pittman-Robertson funds.

The **Alaska Professional Hunters Association** and **Safari Club International** supported legislation to increase license and tag fees to enhance wildlife conservation efforts in Alaska.



Summary of Guided Hunting Impacts in Alaska, 2015

Guided Hunters

Alaska residents	154
Nonresident US citizen	2,778
Foreign nationals	310
Total Guided Hunters	3,242
Estimated number of guided hunter traveling companions	520

Shared Meat

Pounds of meat shared by guides and their clients	230,000 lbs.
Estimated value of replacing shared game meat with beef	\$1.1 million

Guided Hunting Industry Related Employment

Direct employment	1,550 jobs
Indirect and induced employment	570 jobs
Total Employment (direct, indirect, and induced)	2,120 jobs

Guided Hunting Industry Related Labor Income

Direct labor income (payroll and guide income)	\$22.5 million
Indirect and induced labor income	\$15.0 million
Total Labor Income (direct, indirect, and induced)	\$37.5 million

Guided Hunting Industry Spending with Alaska Businesses

Guide spending with Alaska-based vendors	\$26 million
Hunter and companion pre/post hunt spending	\$3.7 million
Indirect and induced spending	\$20 million
Total direct, indirect, and induced non-payroll spending	\$49.7 million

Total Guide Industry-Related Economic Output, 2015 **\$87.2 million**

Summary of Visiting Hunter License and Tag Expenditures, 2015

All Visiting Hunter License and Game Tag Spending

# of licenses sold	14,211
License revenue	\$1.3 million
# of tags sold	14,085
Game tag revenue	\$4 million
Total Fish and Game Wildlife Fund revenue generated by visiting big game hunters	\$5.3 million
% of ADF&G Fish and Game Wildlife Fund generated by visiting hunter license and tag purchases	72%

Guided Hunter License and Game Tag Spending

# of licenses sold	3,242
License revenue	\$350,000
# of tags sold	4,570
Game tag revenue	\$1.6 million
Total State revenue generated by guided big game hunters	\$2 million

**Figures have been rounded.*

Information sources used in this report include: State of Alaska departments of Commerce, Community, and Economic Development; Fish and Game, and McDowell Group. This report was based on *The Economic Impacts of Guided Hunting in Alaska*, February 2014, McDowell Group. The 2014 study was based on industry data from 2012 and a registered guide survey conducted in 2013. A copy of the 2014 study can be found at: www.mcdowellgroup.net/publications



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Outline of Comments/Statement Regarding Guide Regulations History January 31, 2015

By: William P. Horn, Esq.

1. The State of Alaska regulated the establishment of guide area thru the 60's, 70's, and 80's.
2. Congress deferred to this State regulatory scheme when ANILCA was enacted in 1980. Specifically section 1307, which set forth various preferences for visitor services in the Park and Refuge units, exempted State regulated fishing and hunting guide services.
3. During the first 8 years of ANILCA implementation, the federal agencies deferred to the State guide area program and honored those State authorizations/permits to guide on federal land units.
4. In 1988, the Alaska Supreme Court declared unconstitutional the State guide area system as inconsistent with the Equal Use provisions. However, the decision outlined features, which if added to the guide area system, would make a guide area program constitutional. These included competition, reasonable time limits on permits, and State oversight of permit transfers.
5. New State legislation was drafted in 1989-1990 per the Court ruling but the legislation was not passed.
6. For three years there was a regulatory hiatus during which the State had no program and the federal agencies continued to wait for the State to act to fill the regulatory gap created by the 1988 ruling.
7. When it became evident that State action was not likely, the National Park Service (NPS) and U.S. Fish and Wildlife Service (FWS) took regulatory steps to create a federally administered guide area program on NPS Preserve lands and FWS Refuge lands. These two federal programs were first implemented in 1993-94 and have been in force and effect over the subsequent 20 years to fill the regulatory gap created by State inaction.
8. During this 20 year period, BLM accepted the regulatory gap and took no steps to create a program comparable to those set up by NPS and FWS. That hiatus is likely to end as BLM now indicates it intends to set up a similar federal program absent action by the State to do likewise.

9. The expansion of federal authority over guide services in Alaska is the direct result of State inaction. Passage of a State program will likely stop BLM from setting another federal guide program. Passage of a State program will also enable the State to go to NPS and FWS and seek to re-establish the State primacy on federal lands that existed until 1993-94.

10. Continued inaction by the State will lead to yet another expansion of federal authority and likely cement the guide programs of NPS and FWS.

2017 Session Operating Budget Amendment

Offered In: The House Finance Committee
To: HB 57/HB 59
Offered By: Representative Guttenberg

Department: Natural Resources
Appropriation: Administration & Support
Allocation: Mental Health Trust Land
Admin

Transaction Details

Title: Eliminate funding for public relations contracting.
Section: Section 1
Type: Dec

Line Items

Personal Services:	0.0
Travel:	0.0
Services:	-250.0
Commodities:	0.0
Capital Outlay:	0.0
Grants:	0.0
Miscellaneous:	0.0
	<hr/>
	-250.0

Positions

Permanent Full-Time:	0
Permanent Part-Time:	0
Temporary:	0

Funding

1092 MHTAAR	-250.0
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Explanation

The Trust Land Office published a request for proposals from public relations contractors, with a contract ceiling of \$250.0 per year. The TLO should not contract with any public relations firm. This amendment eliminates funding for TLO PR outsourcing.

2017 SESSION OPERATING BUDGET AMENDMENT PROPOSAL

OFFERED IN: The House Finance Department of Natural Resources Subcommittee

TO: HB 57 / HB 59

OFFERED BY: Representative Guttenberg

RECOMMENDED STATUTE CHANGE:

Repeal AS 27.30

EXPLANATION:

The Exploration Incentive Credit (EIC) has not been used since FY11 and does not appear effective in spurring mineral exploration. When it was last used, it only benefitted one beneficiary per year.

It costs DNR approximately \$2,500 per year to administer this credit program. In their January 2017 Indirect Expenditure Report, LFD recommended the legislature reconsider this EIC.

Natural Resources

Applicable Program

Mining, Land and Water

Indirect Expenditure Name

Exploration Incentive Credits (EIC) for Mining Activities

Department of Revenue Submission per AS 43.05.095

(1) Description of Provision

Provides exploration incentive credit for exploration activities.

(2) Type

Tax Credit

(3) Authorizing Statute, Regulation or Other Authority

AS 27.30.010

(4) Year Enacted

1995

(5) Sunset or Repeal Date

None

(6) Legislative Intent

For purpose of determining existence, location, extent, or quality of a locatable or leasable mineral or coal deposit.

(7) Public Purpose

For purpose of determining existence, location, extent, or quality of a locatable or leasable mineral or coal deposit.

(8) Estimated Revenue Impact

FY 2011 - \$2,517,412

FY 2012 - \$0

FY 2013 - \$0

FY 2014 - \$0

FY 2015 - \$0

(9) Cost to Administer

\$2,500 (approximate)

(10) Number of Beneficiaries / Who Benefits

One per year

Legislative Finance Analysis per AS 24.20.235

(1) Estimate of Annual Revenue Foregone by the State

\$0

(2) Estimate of Annual Monetary Benefit to Recipients

\$0

(3) Legislative Intent Met?

No

(4) Should it be Continued, Modified or Terminated?

Recommend reconsideration. The credit has not been used since FY11. The legislature may wish to revisit the credit

Natural Resources

Applicable Program
Mining, Land and Water

Indirect Expenditure Name
Exploration Incentive Credits (EIC) for Mining
Activities

Legislative Finance Analysis per AS 24.20.235

(4) Should it be Continued, Modified or Terminated? (cont.)

to ensure that it is effective in spurring mineral exploration.

2017 SESSION OPERATING BUDGET AMENDMENT PROPOSAL

OFFERED IN: The House Finance Department of Natural Resources Subcommittee

TO: HB 57 / HB 59

OFFERED BY: Representative Guttenberg

RECOMMENDED STATUTE CHANGE:

Repeal AS 38.05.160

Or, require legislative approval of any waiver the commissioner recommends.

EXPLANATION:

Because the department has never used this waiver, the waiver has not met its legislative intent. The commissioner's potential future use of this waiver could worsen the state's budget deficit. Requiring legislative approval would help to guard against that eventuality.

Natural Resources

Applicable Program

Oil and Gas

Indirect Expenditure Name

Waived Rent and Royalty for Shale Oil

Department of Revenue Submission per AS 43.05.095

(1) Description of Provision

The Commissioner may waive payment of royalty and rental during the first five years of the lease.

(2) Type

Discount

(3) Authorizing Statute, Regulation or Other Authority

AS 38.05.160

(4) Year Enacted

1959

(5) Sunset or Repeal Date

None

(6) Legislative Intent

Provide Commissioner with discretion in rental fees for future shale development.

(7) Public Purpose

Encourage the production of petroleum products from shale.

(8) Estimated Revenue Impact

FY 2011 - \$0

FY 2012 - \$0

FY 2013 - \$0

FY 2014 - \$0

FY 2015 - \$0

Note: no activity has required authorization of this rental and royalty relief clause.

(9) Cost to Administer

None

(10) Number of Beneficiaries / Who Benefits

None known

Legislative Finance Analysis per AS 24.20.235

(1) Estimate of Annual Revenue Foregone by the State

\$0

(2) Estimate of Annual Monetary Benefit to Recipients

\$0

(3) Legislative Intent Met?

No, as the program has not been used.

(4) Should it be Continued, Modified or Terminated?

Recommend continuation. While the provision has not been used, it costs nothing to administer and still could be

Natural Resources

Applicable Program

Oil and Gas

Indirect Expenditure Name

Waived Rent and Royalty for Shale Oil

Legislative Finance Analysis per AS 24.20.235

(4) Should it be Continued, Modified or Terminated? (cont.)

used in the future.

2017 SESSION OPERATING BUDGET AMENDMENT PROPOSAL

OFFERED IN: The House Finance Department of Natural Resources Subcommittee
TO: HB 57 / HB 59
OFFERED BY: Representative Guttenberg

RECOMMENDED STATUTE CHANGE:

Repeal AS 38.05.180(f)(6)

EXPLANATION:

Enacted in 2003, this provision benefits 6 producers and cost the state \$6.4 million in foregone revenue in FY15. Between FY11 and FY16, it cost the state \$69.1 million.

It is unclear how the state benefits from oil and gas production for which it receives no royalties or taxes. In their January 2017 Indirect Expenditure Report, LFD recommended the legislature reconsider this statute.

Natural Resources

Applicable Program

Oil and Gas

Indirect Expenditure Name

Royalty Relief for Cook Inlet Platforms

Department of Revenue Submission per AS 43.05.095

(1) Description of Provision

Royalty relief for Cook Inlet platforms.

(2) Type

Discount

(3) Authorizing Statute, Regulation or Other Authority

AS 38.05.180(f)(6)

(4) Year Enacted

2003

(5) Sunset or Repeal Date

None

(6) Legislative Intent

Provide monetary incentive as royalty relief from oil and gas producing platforms.

(7) Public Purpose

Incentives to lessees to continue to produce from Cook Inlet platforms which were not economically viable at a 12.5% royalty rate.

(8) Estimated Revenue Impact

FY 2011 - \$12,482,905

FY 2012 - \$14,855,924

FY 2013 - \$18,114,351

FY 2014 - \$14,373,165

FY 2015 - \$6,371,535

(9) Cost to Administer

(10) Number of Beneficiaries / Who Benefits

6 companies

Legislative Finance Analysis per AS 24.20.235

(1) Estimate of Annual Revenue Foregone by the State

\$6,371,535

(2) Estimate of Annual Monetary Benefit to Recipients

\$1,061,923

(3) Legislative Intent Met?

Yes

(4) Should it be Continued, Modified or Terminated?

Recommend reconsideration. It is unclear how the State benefits from oil production for which it receives no royalties or taxes.

2017 SESSION OPERATING BUDGET AMENDMENT PROPOSAL

OFFERED IN: The House Finance Department of Natural Resources Subcommittee
TO: HB 57 / HB 59
OFFERED BY: Representative Guttenberg

RECOMMENDED STATUTE CHANGE:

Repeal AS 38.05.180(f)(5)

EXPLANATION:

This provision has not been used since FY12, and appears to have served its purpose in restarting production from Cook Inlet leases. It is unclear how the state benefits from oil production for which it receives no royalties or taxes. In their January 2017 Indirect Expenditure Report, LFD recommended the legislature reconsider this provision.

Natural Resources

Applicable Program

Oil and Gas

Indirect Expenditure Name

Royalty Relief for Cook Inlet Small Discoveries

Department of Revenue Submission per AS 43.05.095

(1) Description of Provision

Royalty Relief for small Cook Inlet discoveries.

(2) Type

Discount

(3) Authorizing Statute, Regulation or Other Authority

AS 38.05.180(f)(5)

(4) Year Enacted

1998

(5) Sunset or Repeal Date

10 yrs. after restart of production

(6) Legislative Intent

Increase Cook Inlet oil and gas production from shut in wells and platforms.

(7) Public Purpose

Incentives to lessees to restart production from Cook Inlet leases that had been shut down prior to 1988.

(8) Estimated Revenue Impact

FY 2011 - \$844,851

FY 2012 - \$1,207,137

FY 2013 - Not available

FY 2014 - \$0

FY 2015 - \$0

(9) Cost to Administer

(10) Number of Beneficiaries / Who Benefits

12 companies

Legislative Finance Analysis per AS 24.20.235

(1) Estimate of Annual Revenue Foregone by the State

\$0

(2) Estimate of Annual Monetary Benefit to Recipients

\$0

(3) Legislative Intent Met?

Yes

(4) Should it be Continued, Modified or Terminated?

Recommend reconsideration. It is unclear how the State benefits from oil production for which it receives no royalties or taxes.