

12/16/09

Dear Legislators;

In the 2010 Legislative session; DNR (Dept. of Natural Resources) will be asking you to fund the Guide Use Area Concession Plan, (GUACP). We are asking the legislature to not fund this program. The direct results of this program are estimated to put 50%-80% of the Registered Guide Businesses out of business or severely harm them. Simple math is used to derive these numbers. If each guide gets 1 GUCA, (guide use concession area) then nearly 50% will get none. If each guide gets 3 GUCA's, then 75-80% will get none. These estimates are pretty close and do not take into account the economic viability of having only 1 or 2 GUAC. The GUAC plan is a statewide "solution" when there are only a relative few problem areas. If in-acted; this plan will devastate the guiding industry as we know it, while providing little proof that the state will benefit from such drastic action. This plan; contrary to what some would have you believe, is not based on resource conservation of the game or the land. What it will do, for a fact, is drive up the cost of a guided hunt to where only the very rich can afford a guided hunt and it will drive many of my prospective clients to a transported drop off hunt. So the transporter businesses make out like a bandit. Transporters and their clients already pay the State next to nothing.

Alaska Professional Hunters Association (APHA) has been crying like colic babies since the 1988 court decision that eliminated Exclusive Guide Use Areas. The Board of Game (BOG) and Fish and Game (F&G) are tired of hearing it and are supporting the Big Game Commercial Services Board (BGCSB) AKA Guide Board, request and recommendation to DNR, Division of Mining, Land and Water to create a Guide Use Area Concession Plan. With all of the State agencies supporting this proposed plan, how can it be a bad idea? Look closely at their stated reasons for support and you will see that all along **they had the authority, the tools and the resources to handle all these problems. They have not been doing their job.** And they want to take the easy way out to shut up the cry babies. I will admit that there are some areas that need some common sense solutions to real problems; but this GUACP is the wrong way to go about it.

Let us look at where each agency failed. These are undeniable truths. And you should hold them accountable for not doing their job. And ask them why they did not perform and address the problem areas.

Big Game Commercial Services Board. BGCSB (AKA Guide Board) The BGCSB is housed under the Dept. of Community Commerce and Economic Destruction. This Board was created in 2005 after intense and prolonged lobbying by Alaska Professional Hunters Association (APHA) with funds from many outside private hunt clubs. The BGCSB only has 2 guide members and they are both APHA members. The first mistake made was that no-one ever took a poll of the guides and asked if they would like a new exclusive guide area plan. Had that been done, the Legislature would never have re-created a Board that was twice sunsetted over this very issue. **Repeated request to poll the guides has been repeatedly ignored.** The BGCSB was also given the authority and I say the duty to regulate transporters and create transporter use areas. Transporters are the commercial operators typically associated with air taxis. However air taxis differ from transporter in 1 factor. Air taxis can not advertise the transportation of hunters and charge more than standard rate. Whereas transporters can advertise for hunters and charge extra or higher rates but they must be licensed by the BGCSB to do so. Air taxis are completely unregulated and can take any number of hunters anywhere they want. Transporters have a BGCSB license that is issued to the individual, or the corporation, and they may

hire any number of “assistant transporters” none of which are licensed or vetted from the process like assistant guides. Transporters can also take any number of hunters anywhere. At the very first BGCSB meeting the Board took the unprecedented actions of saying they had no intention to regulate transporters, nor did they think they could regulate them nor would they establish transporter use areas. This Board has been determined to ignore transporters entirely. **3 years later, as justification to ruining the guiding industry, they now say they will “tackle the transporter issue” AFTER they finish with the GUACP. This is not true.** This is how desperate the BGCSB and APHA have become. They are willing to eliminate 50+% of the guides so a few cry babies can be silenced. They are shooting themselves (guides) in the foot all to the enhancement of the transporters. Ask the BGCSB why they refuse to regulate transporters. Why they see no need to license assistant transporters and have them vetted for public safety reasons. Ask them why they are having trouble removing outlaw guides that lost their license and became transporters only to loose that license also. Yet they keep passing along the business with a new figure head each time they get busted. To address this issue properly; all parties need to be at the table with equal footing. And those parties are; transporters, air taxis and guides. And the Board may need to be spanked into action and they will need legislative help making all air taxis be licensed transporters.

Fish and Game (F&G) and the Board of Game (BOG) supports the DNR Guide Use Area Concession Plan. Their argument is that some areas are over crowded and game may be affected and that the wilderness hunting experience is ruined when there is too much competition. That the resource is “impacted”. So we need to restrict and eliminate many guides. Sound good, but is it true? Not always and not really. Look at what tools we have now. We already have inherent protections to prevent over harvest. We have season dates, bag limits, methods and means, drawing permit hunts to restrict actual hunters and we have registration hunts that restrict both hunters and maximum take. We have the 50 inch moose requirement and the full curl sheep and the bulls only regulations and many others that by design prevent over harvest. We can stagger user group seasons and dictate who goes where and when. These are fair solutions for all hunters, transporters and guides. All of the above management tools are tried and proven true or F&G has had it all wrong all along. **IF; F&G and The BOG wants to restrict harvest or hunter numbers they have all the tools they need right now.** Ask them why they have not used the tools and resources at hand to address any problems they perceive.

While DNR/MLW points to the BOG letter of support, it is assumed that the BOGs’ letter is about “negative” impacts to the resource by guided hunters. Yet, at the March 2009 BOG meeting; the Board pointed out that in Game Management Unit 17, guided non-resident hunters took 80% of the brown bears and that if guided non resident moose hunters were eliminated then the guides may leave the area and who would kill the bears? The BOG then went on to loosen the non-resident moose registration permit and expand the brown bear hunting season to protect the moose!! For the record; the non-resident moose registration permit was put in place because transporters were bringing in thousands of non-resident caribou hunters (directed to the area by F&G) who also came prepared to hunt moose. Moose hunter number skyrocketed. When the caribou herd crashed, because of horrible BOG decisions the transporters left and went to cause more problems in Nome and Kotzebue. The guides in GMU 17 were left with no caribou season, and a moose permit restriction that drove business away. Ask F&G why it is OK to send so many caribou hunters to crowd out an area in this case but not others. At the March 2009 BOG meeting, F&G stated that they still do not know how to manage a caribou herd with such explosive growth so as to prevent the crash that followed. The answer is simple and does not included ruining guide operations and crowding an area. The solution? Get the legislature to waive the caribou tag fees for the first 3 non-resident caribou and then require

the first 2 to be cow caribou for all hunters. And then only allow 1 bull to be killed after at least 2 cows have been killed. You do not control the herd by upping the limit to 2 bulls.

Ask F&G why they have not identified these “problem areas” and recommended solutions to the BOG. Is not that their job? Ask both the BOG and F&G; why they would recommend and support drastic reductions in guides while not also recommending to the BGCSB that they also get busy regulating transporters as the legislature intended and instructed? Why should guides alone pay the total price when no one but guides are actually doing these jobs? Guides are much more tied to an area than transporters.

Ask F&G and the BOG if all guides were eliminated if it would solve of the conflicts between resident and non-resident hunters. Ask them who will kill the bears and actively hunt wolves.

Ask them what happens when the GUACP goes into effect, how they are then going to divide the allocation between guided non-resident and transported non-resident. When a successful guide bids \$10,000 for a concession area; what or who is going to prevent 5 transporters from coming into the area and killing all the allocated non-resident moose? And then going elsewhere, leaving the area devastated and worthless? Who will be the intervening authority since no-one has accepted the responsibility yet? Ask Fish and Game what studies they have done on how much license and tag revenue they stand to lose from 50% fewer guides.

Fish and Wildlife Protection Troopers (FWP) I do not know where they stand, but they have repeatedly pointed out that they need more and better regulations to control and prosecute transporters. FWP will tell you that most violations are committed by resident hunters and unguided non-resident hunters; not guided hunters.

Dept. Of Natural Resources Division of Mining Land and Water (DNR/MLW) DNR issues guides a land use permit. If a guide takes a hunter on State land for 1 minute of 1 day he must have a permit. The guide includes this fee in the hunt price. Yet the transporter who lands on State water and land and drops 100s of hunters, pay absolutely nothing. And neither do their non-resident clients. Why is that? Don't unguided hunters do as much damage or more damage? YES! They leave trash everywhere and the transporter in many cases know it and lets it happen. They don't care to fly it out anyways but they can always blame the hunter. DNR has always had the authority to limit guide camps proximity to each other and has refused to do so. Why? Why have they prevented guides or transporters from establishing alternative landing areas to prevent crowding when access points are restricted?

DNR/MLWs Guide Use Area Concession Plan will require guides to cover all cost of implementation and administration. This will include reviewing the proposals guides send in, plus the money lost by DNR from camp permits no longer issued to other guides who have been put out of business, and DNR wants the successful guide to clean up the “outlaw guide camps” even though DNR took and kept the clean up bonds the guides were required to post when they got a land use permit. **Basically; DNR wants a cost plus contract with no incentive to save money or to allow a guide to make any money at all. The costs are unknown but the original estimates were extremely high. Guides are being asked to buy the knife and cut their own throats. This is ridiculous.**

All of this added cost will drive prospective guided clients right into the laughing, open arms of the unregulated transporters and air taxis.

Ask DNR to run the camp permit numbers and the revenue they make now from the guides. In many cases the minimum bid from the successful bidders will be much less. How will they justify the program then?

DNR has admitted several shortcomings of the GUACP

- 1) They admit that they will not be able to verify, confirm or substantiate the vast majority of information they request on the prospectus that guides submit when applying for an area. Therefore; this turns into a liars contest.
- 2) The stakes are high. And even with all scoring of the application being done by DNR/MLW or other State agency staff; they can not rule out or control or prevent bribery, coercion, blackmail or favoritism.
- 3) They admit they have never polled the industry and refused to do so to this day. They let APHA put their hand all over this plan with out any request for industry input as a whole.
- 4) DNR has not done any studies to determine what a GUA needs to be viable. No study on how many animals they will allow. No studies on what happens when the BOG changes the regulations.
- 5) They admit that a guide could come in and rape and area and leave for a 1 time shot.

In conclusion: Before you consider funding DNRs GUACP; please ask the BGCSB, the BOG, F&G and DNR why they have not used the tools they have now. And to justify morally and economically, their reason for putting 50-80% of the guides out of business and destroying the industry while doing nothing about transporters or real game management. All guides want is a fair deal where all parts of the industry are treated fairly and responsibly. The GUACP is not the solution. The only way to stop this for you, our legislators, to stop it by not funding it and prohibit money from being spent by DNR on this GUACP.

Real problems need real solutions. Here are a few of mine.

The BGCSB needs more tools in their box to regulate transporters and air taxis. Both have the potential to do the most harm the fastest. "Water Taxis" are the newest threat. FWP knows that in many cases they are providing guide services but the do not have the statutes to stop them.

Consider requiring guides for all non-resident hunters with allowances for non-residents to hunt with relatives as is the case with sheep, brown bear and goat right now. Then the guides would take care of non-residents and the transporters can concentrate on resident hunters and guide support.

And finally; tell the BOG, F&G, DNR and the BGCSB to do their job as the legislature intended with the tools they have and to quit picking on guides.

For further discussion and rebuttals please see the addendum below the signatures.

Thank you.

Sincerely;

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Addendum to the letter dated 12.16.09 and addressed to the Legislators.

DNR has published the “Guide Concession Program” “White Paper” in “draft” format.

It is interesting to note the specific reasons DNR is using for program justification. The following are direct quotes from the White Paper and rebuttals from our point of view.

On page 2, 1st paragraph “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 included: 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.”

Rebuttal: The first line, “With out a way....” tells you that the BGCSB has not done its job. They are the guide and transporter manager. BY STATUTE! The legislature created the BGCSB to manage guide activity. two previous “Guide Boards” have been sunsetted over this very same reason. They have now passed off to DNR their primary responsibility in managing guides and totally refused to manage transporters.

Now addressing DNRs specific reasons listed above one at a time.

- “Over crowding in the field... user conflicts....trophy and food source animals.” The Board of Game has the ability and responsibility to limit hunters when necessary. It seems that all State agencies have a black hole in their mind when it comes to recognizing unlimited, unregulated transporters and the conflicts they cause by dumping numerous hunters in small areas or on top of, permitted guide camps. What you must understand; when a plane flies in and drops off hunters, to locals, it is always a “guide”. The pilot is the “guide” when in reality it is just a transporter or air taxi. Removing al guides will not “solve” this problem.

Secondly; the BOG has for the most part restricted non-resident hunters to trophy animals only as the best way to restrict their harvest. The B.O.G. has always put residents in the front seat concerning harvest availability with longer seasons and fewer if any size restrictions.

- “Impacts to certain animal populations”. This goes without saying. If you hunt and kill something there will be an impact. The impact may be positive, negative or have no discernable effect. This is a worthless reason contributing nothing to the argument. And whose job is it to manage GAME and the impact it has? The B.O.G. and F.&G. Forget the positive benefit the B.O.G. and F&G have admitted to getting from guides. They act like guiding is a liability only when guiding pressure is really a tool to be used for positive game management. Again, failure to manage the tools they have.
- “Poor stewardship of public lands.” Poor stewardship by whom? Who manages the land? I believe DNR manages the land. They permit my camps. My permits are full of stipulations concerning what I can and can not do and how I must do it. Ask the Dept. of Forestry, how many illegal cabins there are on State land. They protect those illegal cabins from wildfire. Who left the hundreds of fuel drums at Texas Creek and all over the North Slope? Cutting some brush and maybe a few trees in the wilderness for a clearing to set up camp or hand

clearing a small spot for a safe landing area is bad? DNR is pointing the finger at themselves. Guides as a whole have done very little to damage the land or the resource when compared to others including all other hunters and users.

- “Inefficient enforcement actions due to poor record keeping” BY WHOM? Who did not enforce? Who can’t keep records? Anyone and everyone but the guides! This is another ridiculous argument trying to place blame on guides for their lack of competence. I have to keep all my records for 5 years. What do they do with all the paper work they make me fill out and submit? Throw it away?
- “Increasing demands for further restrictions on guided hunting activities.” Let us take a close look at this one. Increased demand by whom? Well the APHA lobbied the Legislature to create the BGCSB for the sole intent of establishing a program similar to this GUACP. Less than 5% of the guides originally requested this. The industry as a whole did not request this. Then the APHA- controlled BGCSB asked the BOG and F&G for support. Then the BGCSB asked DNR to come up with this plan. So the original and main player has been a small number of guides seeking to eliminate competition. Again, no mention is made about the competition transporters bring to the equation. Again no mention is made concerning resident preference with bag limits, season dates or size restrictions. No mention is made that the BOG and F&G can recommend and establish controlled use areas, limit access, establish methods and means, hold drawing and registration hunts, or limit restrict or deny non-residents the ability to hunt certain species in certain areas.

There is not one hunter in the world that would not like to see every other hunter eliminated from the field. Never has there been such a hunter in the history of mankind. Again, because people call anyone who flies a plane a “guide”; guides get blamed for much more than we are responsible for. Let us look at some real world examples. I have attended and exhibited at numerous Sport Shows around the country. Attendees stop by the booth marked “Alaska and proceed to tell me the story of their hunt. Some to brag and show me pictures of their “unguided trophy”. Some to tell me the horror stories about the “guide”. When asked who was the “guide”, they can not remember because all the “guide” did was fly them out, charge them more than agreed upon, leave half their stuff behind and never bring it as agreed and paid for, and then show up late to get them out. The “guide” did it. They had a transported hunt and refuse to admit they had no guide; they made their own plans that went awry. The fact is, the transporter frequently gets all the credits for guiding and the transport industry suffer none of the blame because “guides” did it.

My moose hunting operation is 30 miles from a village. An average year will see 0-7 local boats reach my camp; 2 boats will pass it and continue up river because they have jets. The locals start hunting 15 days before my clients and can shoot any size bull. They have 200 river miles of private land to hunt down river from my camp. They also have a 30 day season in November. My clients have 11 days to hunt for a 50+ moose or one with 4 brow tines on one side which is fairly rare. The locals seldom get out of the boat. We do. And we go into the woods and call and hunt. We kill moose in the woods. They kill moose next to the water. They will not go into the woods and hunt because they will not pack one out. Personally, I would do the same thing. When I guide, I will go into the woods because people paid me and I hire help to pack it out. In 17 years, I have never run into a local hunter in the woods or pulled into a slough and seen their boat. Never. Yet the locals have consistently called for guide elimination and restriction.

When you take a moose into the village to donate; you can not win. If the hunter gives all the meat away; you/they are dirty rotten horn hunters that do not respect the game. If you keep all the meat; they/you took food from their table. Locals commonly refer to transporters as “guides”. So when transporters brought in hundreds of hunters from Anchorage to this village of 150 people and used the runway to ferry them out; it was the “guides” that got the blame. (Let us clarify another misconception right here. When my hunter kills a moose, it is not my meat to donate or give away. It belongs to the hunter. If I were to demand that the meat be donated, F&WP would and could infer that I had received some kind of remuneration which is illegal.)

How can DNR recommend eliminating 50-80% of the guides and not address the lack of transporter control? Why has DNR refused to require transporters and, or, their clients to be permitted or pay a simple day use fee?

In the second Paragraph of page two of the White Paper DNR is explaining how Tom Irwin, Commissioner of DNR, was asked by the B.O.G. to develop a program and the reasons/concerns they felt it was necessary. “will effectively address the following concerns. Resource conservation; Land Stewardship, and Public Safety as the concerns needing to be addressed”.

- Let us get one thing straight right now. The Board of Game, F&G and the Legislature to a lesser degree are solely responsible for resource conservation. They alone make the rules that determine who, when and where a hunt takes place. To say that guides are responsible for the game in the area is ludicrous. Guides can not set seasons, bag limits, settle allocation issues or control the number of hunters (except the few that he takes). Guides can not control transporters or anything else. Conservation, as far as a guide operation is concerned, is self limiting. If the resource is scarce and hard to get, then a guide most likely will not book any or as many hunters unless he likes taking clients’ money for nothing. Over- hunting and continued hunting has always been by residents and transported non-residents who are unaware of the situation and rely on old information and old magazine articles. Eventually they leave and the guides are left with a destroyed area. Again, Land Stewardship is clearly the responsibility of DNR. Notice no specific examples are listed where a guide operation spoiled the land. Guides do not control land access or activities permitted, or number of people accessing the land. This argument is a sham.
- Concerning “Public Safety”. What areas of public safety are we talking about? The fact is, if you were to compare, as I have, you will find that guides are more regulated than doctors and lawyers. Guides are threatened by Statute and Regulation with drastically higher fines and jail time for minor infractions than any other profession. Years ago when I made the comparison between professions, I discovered you could be charged and convicted of practicing medicine any number of times and never get charged with anything more than a misdemeanor! The disparities may not be as wide these days but they still exist. I doubt a doctor or lawyer will get a year in jail and fined \$30,000 for not having their license in their wallet for a second offense. But a guide will. Now who has the greatest potential for damaging the public? Look at the Workman’s Comp rates. They are low for guided hunting. Look at the Liability Insurance rates for guides. They are low. So low they basically just cover underwriting costs. Look at insurance or bond requirements the Legislature has required for guides and transporters. DNR requires a guide to have \$300K in coverage while a transporter pays

nothing to DNR. They only have to have a \$100K bond, insurance or property worth \$100K because of a BGCSB regulation.

- Concerning DNRs “effort to increase awareness of the issues.” Let me state emphatically, DNR refused my repeated request to survey the general guide population. They intentionally refused to do so because they knew what the response would be.
- The rank and file DNR employees are being told/made to proceed with this program. A survey of the rank and file would tell a different story. They do not want to have to design, implement and manage this program. They have plenty of high, top priority projects now as it is, much more important than the GUACP. They know this will result in successful lawsuits against the State. And in the end it will be all for nothing.

Now here is the punch line. You have been informed as to the deficiencies of the different State Agencies’ reasons and concerns regarding a GUACP. There are no valid concerns that can not be fixed under the current various systems being used. We have proven to you that the very Agencies and Boards that support the GUACP, have in fact neglected to, and in some cases, refused to do their job to address these “concerns”. Blaming the guides is a ruse, a diversion, a falsehood. It is interesting to note two things. 1) Their statements of support lack any proof. 2) The statements have been carefully worded by including the concerns addressed in the “Owsich Decision” by the Supreme Court. However; simply stating that the program is in response to the Courts concerns does not make it true. The reasoning and justification they have used is patently false and unsupported. There will be successful lawsuits because the whole premise is false and rotten to the core. The truth is that; if they would each do the job they were assigned to do, appointed to do, or hired to do, we would not be having this discussion. The various State Agencies and Boards have almost all the tools they need right now. What the BGCSB needs is a prod from the legislature to immediately regulate transporters.

DNR has been clearly telling us all along; “If this GUACP is not funded it will not proceed.” This program is being justified for all the wrong reasons. The innocent is being blamed. You should not fund it for all the right reasons.

And remember; guides only guide. We do not sell the right to hunt; we do not sell land use authorization; we do not establish hunting seasons, bag limits or make allocations decisions. We only control what we as individual businesses do.

Sincerely;

Don Duncan and many other Master Guides, Registered Guides and Assistant Guides.