

Comments to the Big Game Commercial Services Board;

Dear Board Members;

Concerning adding “also” to the wording of 12AAC75.250 (a): I am at a loss to figure why this modification is needed. The words “also and” usually do not go side by side. It appears to be double speak to me myself and I. It would be nice to have an explanation of why this is needed and what the effect is intended to have. I am tired of trying to figure out and play lawyer

Concerning the Guide Use Area (GUA) Boundaries and the Guide Use Area Concessions (GUAC).

My first observation was the map files on the web sites are large enough to lock up a computer. A friend with a high speed computer connection could not view the page. Mine locked up. I had to go to DNR to view them. Many guides will not have that option.

The proposal to add wording for transporters -Requiring upland owner permission etc... is only needed when the upland owner is PRIVATE PROPERTY . If the loading or unloading occur on state land or public land and the upland is public land, State or Federal, this propose regulation is unneeded. If the upland owner has no policy in place concerning these matters then the Board has no business in the matter. If the Board wishes to see resident hunters get mad, then prevent them from hiring people to access their own public lands. We have enough residents disliking guides now, we do not need to add gas to the fire. Limiting access should be through existing hunting regulations or permits as we do now. Why should the Board seek to restrict public access to public lands? Protectionism? Has the Board looked past their nose and asked if the State and Federal “permission issuing office” are willing to take time to issue a permit? Or what long drawn out, costly process they can dream up to issue a permit?

My main comments will deal with the GUA Concession plans and not so much with the individual GUA lines on the map. This plan the Department of Community, Commerce and Economic Development (DCCED), Big Game Commercial Services Board (BGCSB) and the Dept. of Natural Resources (DNR) are embarking upon will make drastic changes to the industry. I suspect that over 50% of the current guides will be put out of business or severely hurt. The small part time guides will not be able to compete in the bidding process. They will wind up with out any area to guide in and be put out of business. I would like to see the studies from the Department of Community, Commerce and Economic Development (DCCED) and Big Game Commercial Services Board (BGCSB) that say this will be an overall positive change to the industry. Have any studies been done? Any estimates made? Not that I have heard. Surely, these drastic changes to the industry, to our livelihood, are not being done with out forethought to the consequences?

I find it preposterous to ask the guides to comment on this new proposed system when none of the above have been forth coming on what exactly this system is, how it will be administered and what the general and specific details are going to be. It is like asking

someone to buy their last car with out knowing what it is! The approach seems to me to be like shooting guides with a shotgun and letting God sort out the survivors.

Was there ever a survey of all the guides to see if this is what they want? Not that I know of. Why was that? The guides that I have talked with have all opposed this GUA Concession plan. Perhaps the DCCED and the BGCSB don't care what the industry as a whole really wants. Or they are afraid of the answer. This GUA concession plan and the creation of the Board itself was organized and promoted by a very few cry baby guides who want to be protected from competition. The majority of guides may not be happy with the situations in some places, but they do not want to be put out of business to fix it. The Board and the DCCED must be aware that less than 5% of guides belong to Alaska Professional Hunters Association (APHA). APHA represents only a small group of guides. Most guides 95% do not belong to them because they do not want to join for good reasons.

Where is the study stating that fewer guides will lead to fewer non-resident hunters and fewer license and tag sales that benefit the State?.

Where are the studies saying how many guides can be in a given GUA? And how many animals they can each take? And given the results of that study, will the results allow an economically viable operation to exist?

Board members should remember that during the late 1980s and early 1990s when the Guide Board was trying to establish Exclusive GUAs (EGUA); the good old boys that had the former EGUAs always demanded some kind of scoring system to determine who got the area. In that scoring system was always 20 points for having guided in the area the longest. Of course they would get their old unconstitutional area back because no one could out point them in the scoring system because of that 1 question. And because of that 1 question, the proposed EGUA never passed. And in fact, 1 Board was sunsetted, then another Board created and it was sunsetted over the issue. And this Board appears to going down the same path. I told this Board at the first meeting, that the only way the Board or State could create an EGUA system was to put it up for a straight bid. High bidder wins. DNR does not score Exxon and BP when they bid on an oil field lease. High bidder wins. In the case of EGUAs; again, I tell the Board; the only way this will survive the courts and pass constitutional muster is with a straight across the board high bidder wins. No scoring system. I predict that one or more guides that loose their current operating areas due to the point scoring will sue and prevail. Then what was accomplished? I'll tell you what. You will have put the industry in turmoil, for years. How can we do business ethically when we don't know what will happen in 1 or 2 years? It will be very costly and confusing. I guarantee there will be a lot of clients ripped off when guides loose their areas, bankrupted, put out of business and can't refund deposits.

In the 1990s when the guides were required to submit an operations plan for each GUA detailing where they hunted, how they got there, how many clients they would take and how many animals they would kill (and we paid \$50-100/ GUA); F&G was suppose to review the operation plans and see if there were enough animals available for all the guides asking for the area. If not, one or more guides would be kicked out based on the

scoring system until the allowable harvest level was reached. The inherent problem was a guide could say he would take the outrageous amount of 50 moose (10 more than the allowable harvest) and wind up getting the other guides kicked out when it went to the scoring system favoring the former EGUA holder. Guides paid these GUA operation plan fees 2-3 years. F&G never reviewed the first one. They did not want to be put in the middle. Eventually the State got sued and lost and was required to refund the money and or reduce the guide license fees over a period of years until the money was repaid. Remember that?

Now the Board has put the Dept. of Natural Resources (DNR) in the position of creating and solving all the problems the last 3 Boards have been unable to solve themselves. DNRs expertise is as a land manager, not a guide business manager or a game manager. Who thinks Fish & Game (F&G) wants to tackle the issue of how many animals 1-3 guide operations can take in a given area. Believe it or not, but F&G does not have a head count on every animal in Alaska nor can they get one. And who will be asked to pay for the studies and determinations required to implement the plans? Guides, that is who. Through increased license fees or "Operation Plan" fees.

I find it truly amazing that this Board has chosen to disrupt and destroy the guiding industry as we know it, while they have intentionally ignored the transporter side of the business. The reason for doing this is, the "Board is afraid the transporter will just go Part 135 and not be regulated at all"? Hogwash! It is in fact, a dereliction of duty. The legislature gave this Board the right and duty to regulate transporters and to create transporter use areas. Does the Board realize that many of the problems are between guide and transporter or transporter guides. The Board is ignoring a large part of the problem. Has the Board asked itself, how many guides will become transporters when they loose their guide area? Ever heard of a water taxi? Does the Board realize that transporters cause the most problems between area residents and non-residents? Look at the Nome - Kotzebue area caribou problems and conflicts.

When the guides are asked to bid on a guide use area; what should their bid reflect? It will and should reflect unlimited transported hunters. And in fact there may be increased numbers of hunters to an area because the guides who turned into transporters will need to take more hunters for the same amount of revenue. Ever think of that outcome? What happens when a guide is successful with a high bid and then the next year the Board of Game changes the regulations and effectively make the GUA not viable? What then? Better yet; when it happens "because" the area was flooded with transported hunters that swamped the area and caused the regulatory change. Transporter moves on to another areas because they are unrestricted and the guide, who is restricted to an area, is left destroyed!

I do not believe the DCCED, the BGCSB or DNR has any idea of how many consequences and the ramifications of the actions they propose to take. None have asked the guides as a whole via a written questionnaire to all guides. No studies have been done to my knowledge. And no real time or effort has been given to truthful, detailed thought on the ramifications; all of them!

Let us look at a probable outcome. Hunt clubs from all over the world will start negotiating with some guides and putting up front money; enough to make high bids and secure through contract with the guide, an EGUA. They can and will tie up all of the GUAs. Private hunt clubs spring up all across Alaska. Only the very wealthy need apply. Sold to the highest bidder. The Federal Refuge Areas may follow suit either due to regulation, public pressure or just for the money.

Other interesting questions you may want to ask yourself are:

Will all guides get one area before some guides get 2 areas.

Will the State of Alaska refund guide license fees, land use fees, etc... when they put a guide out of business.

Will the State direct the liability insurance company, workman's comp. or the plane insurance companies to refund monies paid when a guide is put out of business. We have to pay these non-refundable fees up front. And then the State takes away our guide use area? Then what?

What happens when a guide with an exclusive area doesn't hunt wolves or black bears because the money ain't good enough for him/her. Will another guide be allowed to come in? Or will the moose get murdered until the area is worth nothing?

How many guides, including assistant guides, have exited the business in the last year?

How many did not renew their license? A lot I expect. Ask.

What happens when a business has a hunting and fishing operation in the same area and the guide loses his hunting GUA? How many guides are in that boat? And how many of them will be put out of their fishing business also because it will not stand alone economically?

How many operations can survive economically with one GUA?

What are the chances of each guide getting at least one GUA? In other words, take the number of GUAs available and factor in how many guides allowed for each GUA and then divide by the number of guides. Will there be enough for at least one GUA/guide?

Where is the study? OR do we blindly drive full throttle off the edge of the cliff?

When will we know?

How much warning will we have; that we no longer should book hunters for an area we will lose? What should we ethically book now? Should we be honest now and tell them there is a chance that by 2010, we may not have the GUA in which the hunter is booking? Is it unethical to fail to do so. Is it not a material fact or possibility that should be mentioned?

I'll give you a real example. Byron Lamb was allowed to stay in business between the time of his 7 felony convictions in Dec. until the Board revoked his license the following April. During this time, he booked \$75,000 dollars worth of clients, took their deposits and in some cases took full payment and paid his attorney their money to appeal and keep him out of jail for a while, disposed of his assets and then pawned off the clients to someone else for the balance, if any, to other guides. The A.G. office of Consumer Affairs has to date, done nothing that I know of. Some of those guys got screwed. Big time. Because the Board did nothing for 4 months. Could the Board or should the Board

taken actions even before his conviction? The judge should have known, the A.G. office should have known! No one did anything. And we are lucky he didn't do worse! Want to do something that protects the industry, DO YOUR JOB IN A TIMELY MANNER! Byron Lamb was as good as convicted long before the trial. The evidence overwhelming. I know for a fact that some State charges were never brought because it would have been beating a dead horse. Everybody deserves their day in court; but once indicted they should be required to run the clients' money thru a holding account.

I'll give you another example. Jim Fejes. Every year, the FWP at the Dillingham airport would ask me if I saw something. The answer was yes. Not enough to identify in court but enough to investigate. Same day airborne, herding the game and shooting from the plane. It took years to bust this guy and after he was busted and convicted, they let him stay in business under appeal! You want me to name some more?

It seems to me that the regulations have shifted from actually busting someone for illegally hunting, (same day airborne, wanton waste, illegally guiding, illegally hunting, no land owner permission, no anything. And we let those guys go. Yet there are laws that constrict honest guides. And they suffer from illegal guides activities just like I did. He gets big game by violating the law but does not pay the consequences for years.

Here is something for the DCCED should investigate that might actually lead to a positive change for the industry. A guides' business liability insurance is usually written under high risk. And Alaskan guides are grouped with guides in other states. And consequently our rates are higher based on out of state injuries but calculated on treating the out of state injury in Alaska! This is what my insurance agent told me when I asked. Why is that?

In this post election atmosphere; after I heard all the candidates express hope that small business would be the ones to drag the economy back up; it is ironic that in this case; the State and this Board seek to put 50% or more of all the guides out of business.

What about private property rights. It appears to me that the State has taken it upon itself to mandate more or less who can guide on Native or Village Corporation lands. Considering these private land owners own and possess the right to allow or prohibit access by whomever they wish on their own lands; it would seem to me that they should be allowed to hire or permit the guide of their choice. I strongly recommend allowing any guide to guide on any large block of privately owned land as long as they have landowner permission. And as such, as long as the guide only conducts activities on those private lands in the area, the guide should not be charged or required to expend a GUA. These GUA boundaries and the GUA Concessions plan should be restricted to State and or Federal lands only. Astonishingly; the Board has already denied the private land owners the right to lease their lands to a guide when the land mass is less than 5000 contiguous acres and the other upland owner/s is different. There are plenty of hunting operations around the world that can and do conduct hunting activities on less than 5000 acres. While the intentions of the Board may not have been to deny Native Corporations the right to profit from land use by a guide when the land was less than 5000 acres; the Board

has definitely done so. More unintended consequences. This regulation should be modified to protect private property rights.

I ask the Board members that are not guides or transporters to start paying attention, look at the ramifications, ask questions and demand answers to what is being proposed. Quit going along with the rest just because you think this is what “we guides” want. The 2 Board member who are guides are members of APHA. They were appointed and came to the first meeting with an agenda to get back to EGUAs one way or another. Ask your self if you would like the State “helping” this much to radically change your business or bankrupt you. Please demand a survey of all guides with real questions on what and how they feel about these drastic changes.

I asked myself why anyone would want to do this? Money for the State from the bids is the only thing that makes sense. However, I believe it really comes from 2 main “problems”. Limited sheep hunting areas. That is where the most conflicts occur that generate complaints between guides. And lodge owners that want exclusive areas around their lodge. Mobile Transporters are not helping by dumping their clients off close to fix based guides. Now ask yourself; why are we addressing these limited conflicts with statewide solutions? Why are we “fixing the guide problems” while we completely ignore the guide-transporter conflicts and solely transporter problems?

I hate when the Government comes to help me when I don’t need that help, didn’t request it and don’t want it. SO; I have to speak up. You are messing with my livelihood, for no good reason I might add, and I will not sit idly by and let you destroy everything I spent 25 years building to benefit a few cry babies. APHA does not speak for me or the vast majority of other guides.

Why can’t we have a statewide teleconference so the vast majority of guides can have an opportunity to speak to the Board and hear what the Board is doing? Traveling to Anchorage and staying in Anchorage is expensive.

In view of the fact that under the proposed actions 50% or more of the guides will be put out of business; it would be appropriate for the Board to ask the legislature to create one more class of license with a 1 time lifetime fee. “Master Guide #136 Retired.” for example. Or better yet, “Master Guide #136 retired and bankrupted by the State”.

Sincerely;

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