

# **Proposed Decision: Guide Concession Program**

**ADL 230869**



**February 15, 2012**



**State of Alaska  
Department of Natural Resources  
Division of Mining, Land and Water**

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STATE OF ALASKA  
Department of Natural Resources  
Division of Mining, Land and Water  
PROPOSED DECISION  
**GUIDE CONCESSION PROGRAM**  
**ADL 230869**

**PROPOSED ACTION**

Article VIII (Natural Resources), Section I of the Alaska Constitution states, “It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.” The Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), has been asked and has received letters from the Alaska Board of Game (BOG), the Big Game Commercial Services Board (BGCSB), and from members of the guiding industry to consider the development of an area based allocation system for commercial big game guides on state land. DNR is proposing a Guide Concession Program (GCP) that will competitively select qualified individuals to conduct big game commercial guiding on state land. The program’s allocation process would involve qualified individuals submitting an application with supporting documentation to the DMLW Lands Section, which would then be reviewed and scored by a panel of agency personnel. Concessions would be awarded and managed by DMLW. A concession would grant access to the land within a guide concession area and permit commercial big game guiding. This program does not address any other commercial or private entities or any other non-participating landowners.

DMLW is currently working with the Bureau of Land Management (BLM) and DNR, Division of Parks and Outdoor Recreation (DPOR) on the potential of implementing the GCP on their lands. DMLW has conducted agency meetings with both landowners and is working towards Memorandums of Understanding that would outline how the GCP would apply to their lands. BLM staff has expressed interest and support of the GCP and are reviewing what its implementation on BLM land would require. DPOR staff are in the same process. If the GCP is implemented on these lands, it may be that only the concession permittees will be able to operate on BLM and DPOR lands.

**SCOPE & AUTHORITY**

**Scope:** This proposed decision is solely applicable and limited to the GCP in accordance with AS 38.05.035(e)(1)(A)(B), which is a subset of the power and duties of the director that applies to approving contracts and limiting the scope of administrative reviews and findings.

**Administrative Record:** Case file ADL 230869 constitutes the administrative record for the Guide Concession Program.

**Authority:** This proposed action will be authorized pursuant to: 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.

**Location:** This proposed decision will affect all tentatively approved and patented general state lands statewide. Memorandums of Understanding are currently under consideration between DMLW and BLM and DPOR to apply the GCP to those agency's lands.

**Responsible Agency:** The primary agency with direct management and responsibility of all general state lands is the DNR, DMLW. Under direction from the Commissioner, the DMLW manages both general and special use state lands within Alaska and has direct management responsibility for over 100 million acres of uplands, as well as state managed tidelands, submerged lands, and shorelands. The DMLW is directly responsible for accomplishing department and divisional missions within the State of Alaska.

## **BACKGROUND, PROBLEM STATEMENT, DISCUSSION, & ALTERNATIVES**

### **Background**

#### *Current Agency Involvement and Management of State Land, the Guiding Industry, and Wildlife.*

The commercial use and management of state land, the regulation of the big game guiding industry, and the management of Alaska's wildlife are currently managed by three different agencies and two different boards. The state agencies involved are DNR (land management), Department of Commerce, Community & Economic Development (DCCED) (licensing), and the Alaska Department of Fish and Game (ADF&G) (wildlife management). The two regulatory boards are the Board of Game (BOG) and the Big Game Commercial Services Board (BGCSB). Each of these groups currently plays either a direct or indirect role in how big game guiding in Alaska is managed.

#### DNR – Land Management

DNR is tasked with managing state lands in public trust for the benefit of all Alaskans and is authorized under Alaska Statute, Title 38, Public Land. As the landowner, it falls to DNR to manage and regulate the use of state lands. Currently, this is accomplished through the regulations of, "Generally Allowed Uses of State Land," and by a permitting or leasing process. The permits that big game guides can apply for include: Commercial Recreation Permits (CRPs), Land Use Permits (LUPs), and Leases. Each of these authorizations for the use of state land has a set of stipulations, fees, and regulations that go with them. Other requirements include Commercial Recreation Registration, which is a registration system that allows DNR to track the commercial use of state land by all industries. There are no limitations on the number or type of authorizations a guide may apply for and hold, as long as they are in good standing with DNR

and are current on their professional licenses. DNR has no enforcement authority for their authorization system.

#### DCCED- Professional Licensing

The mission of the DCCED, Division of Corporations, Business and Professional Licensing (CBPL) is to ensure that competent, professional and regulated commercial services are available to Alaska consumers. The DCCED is authorized under the Centralized Licensing Statutes AS 08.01-03. Within the DCCED is the licensing section, CBPL, which currently issues all of the professional licenses that big game guides must have in order to operate. The CBPL also has an Investigations section that reviews and investigates complaints concerning violations of the Statutes and Regulations that govern professional and business licenses. Investigations may include: fraud, malpractice, negligence, misconduct, ethics, and noncompliance of various licensing provisions. Under AS 08.01.087, the department has the authority to investigate and enforce the statutes and regulations under its jurisdiction.

#### Big Game Commercial Services Board (BGCSB) – Governing Big Game Guiding Industry

The Big Game Commercial Services Board is staffed by the Division of Corporations, Business and Professional Licensing. The BGCSB's authority is within AS 08.54.591 – 680, Big Game Guides and Transporters and the board also falls under the Centralized Licensing Statutes AS 08.01 - 03. Board members are appointed by the Governor and confirmed by the Legislature. The Big Game Commercial Services Board consists of two licensed Registered Guide-Outfitters, two licensed Transporters, two private landholders, two public members, and one member from the Board of Game. In the interest of the state's wildlife resources, the BGCSB adopts regulations governing the big game commercial service industry in Alaska. These regulations include the methods and fees for obtaining a guide license, the definitions of unlawful acts, requirements for hunt records, and the establishment of professional ethics standards for guides.

The Board works with the Department of Law and the CBPL investigations section and makes final licensing decisions and takes disciplinary actions against big game guides and transporters who violate licensing laws. The BGCSB meets twice annually, once in December in Anchorage and once in March in Fairbanks, though additional meetings may be called throughout the year as needed and may be by teleconference.

#### ADF&G – Wildlife Management

The basic mission of ADF&G is to protect, maintain, and improve the fish, game, and aquatic plant resources of the state. The Division of Wildlife Conservation (DWC) is the section of ADF&G that deals directly with all aspects of wildlife management and their mission is to conserve and enhance Alaska's wildlife and habitats and provide for a wide range of public uses and benefits.

The DWC has four core services and they are:

- population assessment and applied research
- harvest management and harvest information
- wildlife information, education, viewing, and permitting
- habitat enhancement and management

ADF&G is authorized under Alaska Statute, Title 16, Fish and Game.

The core service related to guiding is the harvest management and information service. Under this, DWC is tasked with maintaining and enhancing the harvest of wildlife resources for subsistence and general use, as well as commercial purposes such as guiding and trapping, according to plans and regulations. They also maintain and administer databases on hunting-related lotteries, drawings, scoring, and allocation. ADF&G works closely with the BOG and provides the biological and harvest information the BOG uses in consideration of regulatory and allocative decisions.

### Board of Game – Wildlife Conservation, Development, and Allocation

The Board of Game consists of seven members serving three-year terms. Like the BGCSB, members are appointed by the governor and confirmed by the legislature. Members are appointed on the basis of interest in public affairs, good judgment, knowledge, and ability in the field of action of the board, with a view to providing diversity of interest and points of view in the membership (see Alaska Statute 16.05.221).

The Board of Game's main role is to conserve and develop Alaska's wildlife resources. This includes establishing open and closed seasons, areas for taking game, setting bag limits; and regulating methods and means. The board is also involved with setting policy and direction for the management of the state's wildlife resources. The board is charged with making allocative decisions, and the Department of Fish and Game is responsible for management based on those decisions. The Board of Game's statutory authority to adopt regulations is described in AS 16.05.255. The regulations they create can be found under 5 AAC Chapters 84, 85, 92, and 99.

The board meeting cycle generally occurs from October through March. The board considers changes to regulations on a region-based schedule with every region being considered every two years. Board of Game meetings vary in duration from 5 to 11 days and occur in communities around the state. The board may also meet due to a court action, legislation or an emergency situation. The board uses biological and socioeconomic information provided by the Alaska Department of Fish and Game, public comment received from people inside and outside of the state, and guidance from the Alaska Department of Public Safety and Alaska Department of Law when creating regulations that are sound and enforceable.

### Summary

The guiding industry has three agencies and two boards whose actions and management impact their activities. DNR is the landowner who permits commercial use of state land and guides wishing to conduct their business on state land must go through the DNR permitting process in order to operate. Guide licensing and the government of the industry is carried out by the CBPL section of DCCED and the BGCSB, which functions as the regulatory and policy arm for guiding and transporting. Finally, the big game pursued by the guides and clients are regulated and managed by ADF&G and the BOG, who determine population objectives and set the seasons and bag limits for wildlife species. There is some overlap within the two boards as

the BGCSB is required to have a board member that is also on the BOG. It is also often the case that one member of the BOG is also a big game guide.

### *The Guiding Industry*

Alaska's professional hunting guide and outfitter industry has and will continue to provide a needed service to visiting sportsmen and women. These visitors are attracted to the state for its outstanding wildlife resources and provide the state with revenue from license sales and by contributing to local economies and businesses. License and big game tag revenue from non-resident and non-resident alien hunters averaged over \$5,000,000<sup>1</sup> per year from 2001 to 2010. Big game guiding not only contributes to the state's economy, but state law also requires that non-resident hunters be accompanied by a guide when hunting certain wildlife species. The mandatory guide requirement for Dall sheep, brown bears, and mountain goats is found in AS 16.05.407 and AS 16.05.408. The justification for requiring a guide for these three wildlife species has been explained thusly: "The laws were justified on the basis that nonresidents and nonresident aliens, as a class, tend to be less familiar with Alaska's unique dangerous game (brown bears and grizzly bears) and with game inhabiting uniquely dangerous terrain under severe weather conditions (Dall sheep and mountain goats), and they also tended to be unfamiliar with Alaska's complicated game laws, as compared to state residents."<sup>2</sup>

The guiding industry also has a history of state management and regulation. In 1973 the legislature created the Guide Licensing and Control Board (GLCB). The intended purpose of this board was to, "protect fish and game management," and, "to get competent people as guides in Alaska."<sup>3</sup> The board was assigned the tasks of establishing guide licensing regulations, defining unlawful acts, providing for the disciplining of guides, and generally regulating guide activity in the state. In 1974, the GLCB established an area system for limiting guides to operations within Exclusive Guide Areas (EGAs). At the beginning this system was only applied in a few game management units, but by the end of 1976, the board had extended the program and decided to grant EGAs to qualified guides anywhere in the state.

### *The Owsichek Decision*

This system of EGAs was found unconstitutional by the Alaska Supreme Court in 1988, in what is commonly known as the *Owsichek* Decision. The court found the program to be "in contravention of article VIII, section 3 of the Alaska Constitution," which is the common use clause. The clause states, "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." The decision cited four major reasons in support of the finding, stating the EGAs were:

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<sup>1</sup> *State of Alaska, ADF&G, 10 Year Recap (2001-2010) – Number Sold Sales Statistics for Sport Licenses, Stamps, and Big Game Tags Reported Sold; ADF&G website:*

<http://www.adfg.alaska.gov/static/license/pdfs/10yr2010gross.pdf>

<sup>2</sup> 2002 Op. Alaska Att'y Gen (Apr. 25)

<sup>3</sup> *Alaska Legislative Committee Minutes Microfiche No. 37, House Judiciary Committee, H.B. 1 at 20 (Feb. 2, 1973)*

- Not subject to competitive bidding and were exclusive
  - Area grants allowed one guide to exclude all other guides
  - Area grants were based primarily on use, occupancy, and investment, favoring established guides at the expense of new entrants
- Assignments were not based on wildlife management concerns
- Provided no remuneration to the state
- Of unlimited duration and were not subject to any other contractual terms or restrictions

The court went on to say that the DNR leases and concession contracts did not share those characteristics, and 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.”

There has long been some level of interest within segments of the commercial hunting industry to re-create a program similar to the old EGA approach, but one that satisfies the deficiencies pointed out in the *Owsichek* decision and which works within the constraints of DNR’s statutory authority. In 2006, former DNR Commissioner Mike Menge initiated a review of whether the department’s authority was in fact sufficient to create such a program. In directing department staff to accomplish this task, Commissioner Menge recognized that the lack of direct funding would limit DNR’s ability to implement such a new program, should it be found viable.

DMLW staff, working with the Department of Law (DOL), concluded that the department does have sufficient authority to create and manage a program that distributes big game guiding use of state lands. With monetary support from the Legislature, the department has committed to developing the necessary elements of a new guide concession program.

The first drafts and concepts of what a DNR led program could look like were published and presented to the public in a White Paper and other supporting documents in December of 2009. This scoping effort was intended to get feedback from the public, other agencies, and members of the guide industry. Informational meetings were held in Anchorage, Fairbanks, Juneau, Tok, Dillingham, Kodiak, and Kotzebue. In order to give industry members who live outside of Alaska a chance to contribute, a meeting was also held in Little Rock, AR, in conjunction with the Western States Land Commissioner Association meeting. The public and agency comment period was open from December 8, 2009 through March 31, 2010. Comments generated during this time period have been considered in the formulation of this proposed decision. DMLW responses to these comments are in Appendix A, with the information organized by topic and issue. Many of the comments received resulted in changes

to the proposed program and an extensive review and edit of the scoring criteria and guide concession maps.

## **Problem Statement**

Currently there is no process by which commercial use of state land is allocated among big game hunting guides and there are no limits on the number of DMLW authorizations a guide can have on state land. This method of management has led to overcrowding and overutilization in some areas and underutilization in others. A number of related issues have been identified by members of the guide industry, the Big Game Commercial Services Board, and the Alaska Board of Game, including: a decreased incentive to practice wildlife conservation, decreased quality of experience for guided clients, conflicts between user groups, an overall lack of land stewardship, and difficulties in enforcing game laws. The Commissioner of DNR has been asked, as the manager of state lands, to consider, develop, and propose a program that would address these issues. The management and distribution of these commercial uses may reduce overall participation by licensed guides and for that reason it is also important to consider the issues brought forward in the 1988 Alaska Supreme Court ruling, *Owsichek v. State of Alaska*, which found a system of exclusive guide areas unconstitutional.

DNR may not be able to effectively address all of the issues noted but the management of commercial uses of state land for big game guiding connects into DNR's overall mission to manage state lands for multiple use and for the maximum use and benefit of Alaskans. DNR has and continues to consult with other agencies during the development of this program, including: ADF&G, DCCED, DPOR, DOL, and BLM. The mission of the GCP program is to encourage land stewardship, support wildlife conservation, and to promote a healthy guiding industry to benefit the people of Alaska.

## **Discussion**

What follows is an in-depth discussion of the GCP. If this program is not implemented for any reason, including a lack of funding, there are currently no other DMLW proposed changes to existing state permitting or leasing processes affecting the big game guiding industry.

The GCP is an effort by DMLW to propose a program that addresses the main issues that have been identified throughout the program development process and from the *Owsichek* decision. The GCP process was started in 2006 and the issues discussed below have been brought forward through letters and comments from individuals, interest groups, boards, and from the 2009 public scoping process. The issues identified below have been evaluated and addressed by either a specific program design element or by creating a process that serves to incorporate resource information into the program. The issues DMLW has addressed with the GCP have been separated into two main categories:

- Issues identified by the public, guide industry, and regulatory boards

- Issues identified in the *Owsichek* decision related to the EGA system

## Public, Guide Industry, and Regulatory Boards

### *Lack of wildlife conservation*

There is a segment of the guiding industry that does not take wildlife conservation into consideration when planning out the number of clients they take or the number of hunts they plan and offer. The GCP addresses this issue in the Scoring Criteria in several ways. First of all, applicants are given credit if they can demonstrate how they have conserved wildlife and minimized their impacts to wildlife resources (Criteria 2). In that same Criteria, applicants are also given credit for tracking wildlife populations, using wildlife population factors to determine how many clients they will serve, demonstrated meaningful communication with wildlife managers, and for participating in state sponsored predator control efforts. Second, in Criteria 3, applicants have to provide a detailed operating plan that includes the number of clients and types of hunts that will be offered. The plan will be scored on whether or not the proposed operation is biologically feasible and then the plan itself, such as the number of clients proposed, will become binding terms in the contract.

### *Loss of quality of experience*

DMLW has heard many comments relating to the quality of experience that guides are able to offer clients. It is important to note that quality of experience in this case relates to several factors. First, there is the perception that, in popular hunting areas, there are too many guides operating, there are too many camps, and the subsequent overcrowding leads to unhappy clients. Part of Alaska's attraction to hunters is its wilderness character and remoteness and guides want to provide a positive experience to their clients. Second, quality of experience can relate to the services and support provided to clients. Some comments received by DMLW are direct criticisms of guides that contract too many clients, use too many assistant guides, and do not adequately ensure their clients' comfort and safety. Finally, quality of experience can relate to the hunting ethics guides use in the field. Numerous comments received during the scoping process focused on ways to score applicants that would reward ethical guides who follow game laws and employ stewardship principles in their business. The GCP has several elements that attempt to address these issues. First, the number of concessions offered in most areas is less than the number of guides currently registered to operate in that GUA (see the Guide Concessions – Mapping section below, for a full discussion on the number of concessions per area). These restrictions will reduce the number of guides in the most crowded areas, where the impacts to quality of experience have been high. Second, guides operating a full concession will be restricted to three assistant guides and those operating limited concessions are allowed only one assistant guide, again resulting in fewer personnel in the field. To address services and support to clients, the Scoring Criteria asks that applicants provide detailed operations plans, describing for example, how many clients they plan to serve, what kind of camp(s) they will have, what the guide to client ratio will be, and what safety measures and emergency

procedures are in place. Finally, to address stewardship and ethical concerns, the Scoring Criteria requires applicants to demonstrate their stewardship principles and has a section that deducts points for violations, citations, convictions, and default history.

### *Conflicts between user groups*

One of the issues identified by the BOG is that there are conflicts between guides and residents in some areas. The negative perceptions result from interactions between residents and guides or guided hunters in the field, in local towns, or along transportation corridors. Conflicts occur over hunting areas, landing strips, meat care, trespass, and the perceived over-harvest of game animals. The GCP Scoring Criteria addresses this issue in several ways. In Scoring Criteria 1, Sub-factor B, applicants are required to describe how they train their employees and educate clients on local customs, traditions, and courtesies. Criteria 3 asks applicants to document how their business practices demonstrate cooperation with local communities. They also have to describe their methods of handling conflicts with other user groups. The solution offered by the GCP is to reward those guides and businesses that respect other users and identify and address conflicts between users.

### *Lack of land stewardship*

Another issue that has been raised by members of the public is a perception that there is a lack of land stewardship in the field. Industry members report examples of trail degradation from motorized vehicle use, poorly maintained camps with inadequate waste storage, and guides who stay longer in one location than permitted or who utilize camps that are permitted to other guides or are in trespass. DMLW is very familiar with these issues and has addressed them when possible. However, DMLW does not have enforcement authority and cannot issue citations for permit non-compliance or trespass issues. The GCP addresses land stewardship through the scoring criteria and through the program design and restrictions. Scoring Criteria 1 through 3 all have questions that directly pertain to land stewardship, such as awarding points for past land use authorization performance, requiring applicants to provide documentation of previous land stewardship activities, and asking applicants to provide a plan for the future of the area they plan to operate within. There is also a question in Scoring Criteria 4 where points will be lost by applicants who have been in non-compliance or default with any public land agency. The GCP will also seek limited enforcement authority over program regulations.

### Owsichuk Decision

There are four main reasons that the earlier EGA program was found unconstitutional and in violation of the common use clause of the Alaska Constitution. They are enumerated and discussed below:

**I. EGAs were not subject to competitive bidding and were exclusive**

The court reasoned that because the assignment of EGAs was based on use, occupancy and investment, the areas were in essence granted solely on the basis

of seniority. The court found that granting such a special privilege based primarily on seniority ran counter to the notion of common use. The court found that this would clearly favor established guides at the expense of new entrants. Moreover the EGA system allowed one guide to exclude all other guides from leading hunts in “his” area.

**II. EGA assignments were not based on wildlife management concerns and therefore could not be justified as a wildlife management tool like other constitutional restrictions on common use (such as hunting seasons and bag limits)**

The court found the board based their assignments of EGAs on use, occupancy and investment (see reason number one).

**III. The EGA program provided no remuneration to the state**

Specifically the court pointed out the absence of any rental or usage fee associated with the granting and use of an EGA.

**IV. EGAs were grants of unlimited duration and were not subject to any other contractual terms or restrictions and were transferred as if owned**

The governing statutes for the EGA program allowed holders of EGAs to sell their improvements. Furthermore, the GLCB routinely would transfer an EGA to the purchaser of those improvements or the EGA holder’s designated successor. The court found that this practice allowed a guide to effectively sell his EGA as if it were a property interest.

The GCP has been designed to address issues with big game guided hunting on state land. In doing so, most of the issues raised by the court in *Owsichek* have also been addressed through elements of the program design, such as full and limited concessions, the design of the fee structure, and permit stipulations and terms. Each of the *Owsichek* deficiencies and the GCP solutions are further elaborated upon below.

**I. Competitive Bidding, Entrance of New Guides to the Industry & Exclusivity**

In the first scoring criteria published by DMLW in 2009 during the scoping process, it was proposed to have a competitive bid in the scoring criteria to address the concerns of *Owsichek*. Applicants would bid the amount they were willing to pay annually for a concession and the highest bidder would gain the full amount of points for that question. The competitive bid was almost entirely rejected in the public comments received. There were many concerns over fairness between large and small operators, concerns that large outside corporations would form agreements with guides and buy up concession areas for their client’s exclusive use. In response to the public comments, the bid was removed from the scoring criteria. However, the whole application process is in itself designed to be competitive. Applicants are scored on their experience and their documented records on a variety of subjects. The GCP is designed to select qualified individuals for each concession and the process proposed is a competitive one.

DMLW recognizes that there are many types of guide operations in the state. The GCP seeks to ensure that the opportunity exists for all types of operators to be able to compete for a concession and that we have a fair competitive process for all sizes of operations. Another concern stated in the *Owsichek* decision is that the original Exclusive Guide Areas (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, DMLW has decided to create two types of concessions within many of the GCAs. The types are: “Full Concession,” and “Limited Concession.” There are different rules and restrictions for each type and a full discussion of those details can be found beginning on page 21.

The original EGA system of area allocation gave guides exclusive use of the assigned area. This is one of the faults found unconstitutional in the *Owsichek* decision because EGA grants allowed a guide to exclude all other guides from leading hunts in an area. That exclusivity was determined to fall within the category of grants prohibited by the common use clause. When evaluating the number of concessions to offer within a GCA, DMLW decided that in all areas where there was more than 5,000 contiguous acres of state land, there would be a minimum of two concessions offered. There are 34 GCAs (11% of the total) having only one concession offered due to a combination of: a lack of state land, a record of few contracted hunts, low numbers of guides registered for the area, or from the identification of a biological issue. Even though only one concession is offered, the program as proposed addresses all of the other concerns the court had with EGAs.

## II. *Wildlife conservation*

The development process of the GCP has relied heavily on the cooperation and involvement of ADF&G, DWC. ADF&G has been engaged in program design discussions and will be directly involved in the program as it is implemented. ADF&G biologists have reviewed the GCP maps and have provided feedback on area wildlife populations and have assisted DMLW in identifying areas where other issues occur such as social conflicts or land stewardship problems. It is expected that ADF&G personnel will participate on the evaluation panel and will provide biological information to assist in scoring applicant’s operating plans. There are many aspects of the scoring criteria aimed at addressing wildlife conservation, such as giving credit to applicants who can demonstrate that they track wildlife populations in their area and use stewardship principles to determine the number of clients they serve. There are also program design elements that address wildlife conservation. The number of concessions in an area has been determined by many factors, including feedback from ADF&G biologists. The program will build flexibility into the concession numbers and will be able to add or subtract opportunities where necessary to assist ADF&G in meeting management goals.

## III. *Remuneration to the state*

The original EGAs provided no monies to the state and it was an issue that state land and wildlife resources were being used with no remuneration provided. As designed the GCP is

expected to generate sufficient revenues to not only pay for all costs associated with the administration of the program, but provide additional revenue back to the state. See the detailed discussion of the fee structure under: Fee Structure, page 17.

#### *IV. Unlimited duration and the lack of other contractual terms and restrictions and transferability*

The *Owsichek* decision found that EGAs were unconstitutional in part because they had no restrictions on how long a guide area could be held by any one guide, making the EGAs essentially monopolistic. In contrast, the GCP concessions have a well defined duration. In the initial offering, the concession authorizations will be staggered so that approximately one third of them are authorized for four years, one third for seven years, and one third for 10 years. Once that initial stagger is complete, all concessions will be authorized for 10 years and subject to review and renewal at five years. The renewal at five years is not automatic or competitive but is subject to a review of compliance and violation history.

To address the lack of contractual terms and restrictions that concerned the court in *Owsichek*, each concession awarded will consist of an authorization between DMLW and the recipient. The authorization will have terms and conditions, such as payment schedules, annual reporting requirements, and if appropriate, may also incorporate terms from the applicant's proposed operating plan. DMLW reserves the right to eliminate, add or otherwise change any stipulations of an authorization at any time during a concession term.

There were several public comments stating that the GCP concessions should be transferable. Individuals regard the concessions as business investments and in order to maximize their economic return, they believe that they should be able to sell their investment at the end of their use period. However, DMLW and the Department of Law do not view a concession as a conveyance of interest in state land; concessions are not a "right," to an area that can be transferred or sold. Instead they are grants of access to state land for the purpose of commercial use and they must be competed for by interested parties. In the *Owsichek* decision, the buying and selling of EGAs like they were property rights was determined to be an unconstitutional, monopolistic attribute. GCP concessions will not be transferable.

#### **Alternatives**

The GCP is the course of action that DNR is proposing in order to address the issues brought to our attention. However, there are a number of possible alternatives to the GCP that address some of the problems, each to varying scope and degree. Five alternatives that we considered are beyond the authority of DMLW/DNR and would fall to other agencies or boards to implement. Four of the alternatives considered, including the null, or change nothing alternative, fall under DMLW authority and are evaluations of the different ways in which the GCP could be implemented. These alternatives are not exhaustive but are several of the options that have been identified through public comments and agency discussions. The full evaluation of these alternatives is in Appendix B.

## **PROGRAM DESIGN**

### **Application Process**

#### **To Apply**

Each person wishing to apply for a concession will be required to meet a set of minimum requirements and submit an application that includes an application fee, the responses to Forms A-D of the Scoring Criteria, and all supporting documents (hunt records, violation reports, criminal history, etc). Applications will be received by mail or hand delivery to DMLW and must be submitted by the published deadline. Submissions must be made in hard copy and in a digital .pdf format. In the initial implementation of the program, applicants may apply for and be awarded up to two concessions. This is to reduce the administrative burden of reviewing and scoring applications during the initial phase when the program is implemented statewide. In future offerings, applicants may be able to apply for additional concessions.

#### **Minimum Requirements**

In order to be considered for a concession, applicants must meet several minimum requirements. First, they must have a current state of Alaska business license. Second, they must be a current master or registered guide in good standing with the CBPL and the BGCSB (applicants with suspended licenses or who are on probation due to disciplinary actions are not eligible to be awarded a concession). Third, they must be certified to conduct hunts in the Game Management Unit (GMU) that the concession area they are applying for falls within. Fourth, applicants must be in good standing on any land use authorizations with DMLW, DPOR, and BLM. Good standing includes at least that the applicant, for the land owners above, is not currently in trespass status and is not delinquent on any fees owed. Fifth, applicants must be registered for Commercial Day Use Activity on state land if applicable. Lastly, the applicant must provide proof of current commercial liability insurance.

#### **Scoring Process & Evaluation Panel**

Once the application deadline closes, all of the applications will be reviewed to ensure that the minimum requirements are met and that the application is complete, with all supporting documentation. The applications will then be grouped by concession area and type of concession applied for (full or limited, see page 21). The full and limited concession applicants will be scored and considered separately. The scoring of applications will be conducted by an evaluation panel of agency personnel. There may be more than one panel, representing different regions of an agency's jurisdiction. Panel participants may be employees of: DNR, ADF&G, DCCED, Department of Law, Department of Public Safety (DPS), and the BLM. The panel(s) will use a standardized scoring system when reviewing and scoring applications. The review panel members and the scoring standards will remain confidential.

The evaluation panel will select the highest scoring applicant(s) based on the scoring criteria (see Appendix D) and points are awarded out of a maximum of 300 points. In order to be

awarded a full concession, applicants must earn a minimum score of 230. Applicants will be scored on their responses to Forms A-D of the Scoring Criteria, except for that subset of limited concession applicants where only Form A, Sub-Factor A, and Form D are required (Limited Scoring and Award Alternatives 1 and 3, see page 23). The members of the evaluation panel will score each application independently and the average of these scores will be used to determine the score for each individual scoring criteria. For example, an applicant will receive a score from each panel member on Form A. All of those scores will be averaged together and that will be the final score for Form A. The sum of all of these average scores for all forms, minus the averaged deductions from Form D, will be the applicant's final score. Concessions will be offered to the highest scoring applicants within each GCA and according to the number and type of concessions offered. See the discussion of Full and Limited Concessions for a description of concession types, beginning on page 21. If a concession offer is not accepted, the next highest scoring applicant will be considered eligible for an offer.

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

1. If a concession area has more than one available concession and the two highest scores are the same, both applicants will be offered a concession.
2. 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.
3. If a tie has occurred on the combined scores of the pre-determined questions, then the winning applicant will be selected by lottery.

Once the scores have been determined for all GCAs, the results will be published in a single notice sent to all applicants statewide. Individual applicants may request their complete scores but only the total scores of concession winners will be published. The results will be published on the DNR Guide Concession website and letters will be sent to all applicants.

Once concession winners are published, applicants may file an appeal of the results within twenty days of the publication. An applicant may only appeal the results for a concession area and type that they applied for. The appeal process does not stay the implementation of the concession awards.

## **Fee Structure**

There were many public comments received regarding fees and the GCP. Comments were made on several financial aspects of the proposed program, including comments related to the previously proposed bid, to the economic feasibility of the whole program, to whether or not a guide would be able to afford to operate, and to loss of revenue to the state. All comments

were considered and several changes to the fee system were made as a result, including the removal of a bid and an increase of the per client fee.

All fees amounts mentioned below are not final and are presented for the purposes of this proposed decision. The goals of the GCP fee structure are to cover the cost of the GCP and provide a reasonable return to the state. DMLW 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, following the Final Decision for this program. The proposed fees for the GCP are as follows:

1. **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).
2. **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 \$1,000,000.00. 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 (215 offerings) is \$4000.00 and is \$2000.00 for a limited concession (85 offerings) based on the preferred scoring option. See discussion of Limited Concession Scoring and Award Alternatives on page 23.
3. **Client Fee:** There is a proposed per client fee assessed annually. These fees would apply to both resident and non-resident clients. The proposed client fee is \$750 per client for those species that require a guide for non-residents (brown bear, Dall sheep, mountain goat) and \$500 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 \$750 for that contracted hunt. If a client is pursuing a brown bear and a moose the client fee is also \$750 for that contracted hunt. If a client is pursuing a moose and a caribou the client fee is \$500 for that contracted hunt.
4. **Liability Insurance:** Per 11 AAC 96.065, concession holders shall secure, and maintain in force, insurance during the term of the authorization.
5. **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.

## **Concession Authorizations**

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.

DMLW has decided to make the initial three GCA groups by using the existing ADF&G Regions. ADF&G divides all of their Game Management Units (GMUs) into Regions I, II, III, IV, and V. The first group, where the initial concessions will be offered for four years, will consist of all GCAs that fall within Regions I, II, and V (approximately 66 concessions). The second group, whose initial concession duration will be seven years, will be all GCAs in Region IV (approximately 118 concessions). Finally, the last group will be all GCAs in Region III (approximately 116 concessions) and the concessions will be for 10 years. These groupings were made based on the number of concessions that fell within each ADF&G Region.

Once the results of the scoring process have been published, those applicants offered a concession will have 45 days to sign a permit with DMLW, agreeing to the terms of the concession. Authorizations will be binding and at the minimum will be subject to the following:

1. Authorizations and/or concessions will not be transferable.
2. There will be annual requirements that will include but are not limited to: an annual report, insurance, client fees, commercial recreation day use registration, and an annual concession fee.
3. Authorizations will be revocable and are subject to review and renewal at year five of the 10 year authorization. The renewal is not guaranteed but will be non-competitive. Revocations may be appealed.
4. Where appropriate, the answers that pertain to what the applicant is proposing to do for the next 10 years, given in Scoring Criteria 3, Sub-Factor D, Operations Plan, will be incorporated into the stipulations and terms of the final contract. These terms will be amendable.
5. All other land use authorizations must be current and remain in good standing.
6. Concessions must be used; the holder of a concession is required to conduct big game guiding activity unless there is a land or wildlife conservation concern. Concessions where hunts are not conducted may be subject to revocation for non-use.

## **Concession Vacancies**

There are several cases where concessions may go vacant. The first case is if a concession that is offered does not get applied for. For instance, one GCA may have two full concessions

offered and only one application is received. In this instance, the vacant concession will be offered again in the next scheduled offering.

The second case is if a full concession is awarded that falls vacant for any reason (e.g. death, default, revocation) within the first year of the authorization, it may be offered to the next highest scoring applicant from the previous scoring results. In the case of a limited concession, vacancies in the first year will be awarded either to the next highest scoring applicant or by lottery, according to the original award method. If vacancies occur after the first year, the concession will be offered at the next scheduled offering, which should occur every three years once the stagger period for concessions is complete (see Duration, page 22).

### **Partnership with BLM and DPOR**

BLM and DPOR are potential partners in the GCP. If those land managers decide to commit to the GCP, all hunting guides who wish to operate on their lands will need to show that they hold the applicable GCP concession authorization. In addition, there may be other authorizations, stipulations and fees that these landowners may require of concession holders in order to operate.

### **Guide Concession Areas - Mapping**

#### **History**

The original guide concession map areas and numbers were drafted during a BGCSB Board Meeting in March of 2008 and input was received from all meeting attendees. The BGCSB then approved these maps and forwarded them to DMLW as proposed GCAs. The resulting maps were published during the 2009 - 2010 GCP public comment period along with all other information pertaining to the proposed program. Comments received during that review were categorized by topic and issue and the maps were adjusted to reflect many of the concerns and issues raised (See Appendix A).

In addition to adjusting the maps based on public comments, DMLW staff reviewed the proposed areas and numbers of guides based on data obtained from DCCED. DMLW requested the following:

- Number of licensed assistant, class A assistant, registered, and master guides in 2009 & 2010
- Number of guides registered for each Guide Use Area (GUA) for 2009 & 2010
- Number of actual contracted hunts by GUA 2009 & 2010
- Number of contracted hunts per guide 2009 & 2010 (names or guide license # not required or needed)
- Number of clients broken down by type of species taken 2009 & 2010

- The same historical information for the operating years of 1990 & 2000

We received the requested data on June 9, 2011 with an exception of data from 1990, which was unavailable (Appendix C).

## **Decision Process**

After reviewing the data received from DCCED, DMLW staff re-considered the map concession boundaries, the number of concessions within each GCA, and the proposed full and limited types of concessions. Several adjustments were made and it was decided to implement the two types of concessions. It was also decided, to ensure a fair and competitive experience for both the guide and client, that all areas with more than 5,000 contiguous acres of state land would have at least two concession opportunities. There are a few GCAs that have only one concession offered due to a combination of: a lack of state land, a very low number of contracted hunts, low numbers of guides registered for the area, or from the identification of a biological issue.

Another factor considered was that BLM and DPOR have shown interest in joining in the department's efforts in establishing the GCP. The interest of BLM and DPOR increases the amount of land guides could access in each area and therefore the number of offered concessions should reflect the increased acreage. In cases where the number of hunts conducted was large, concession areas with large amounts of BLM or DPOR managed lands were given an increased number of opportunities tentative to BLM & DPOR signing a Memorandum of Agreement with DMLW.

In addition to internal DMLW review, ADF&G Area Biologists were given the GCA maps to review. DMLW requested that the biologists review the number of proposed concessions within each GCA and provide feedback related to biological population information for the area and any known social issues or conflicts. The maps were also provided to BLM and DPOR staff for review. The agency comments were reviewed by DMLW staff and final adjustments to the maps were made.

GCA concession numbers will be flexible. In cases where there is a biological issue identified by ADF&G, the number of full or limited concessions can be amended to address concerns. The process for amending concession numbers in response to biological issues will involve ADF&G personnel and potentially the BOG if allocation of wildlife resources is involved. Concession numbers may also be amended by DMLW if the need arises to address land stewardship or other concerns.

## **Guide Concession Areas – Types of Concessions**

### **The Full Concession**

The full concession is the primary type of concession that will be offered. Full concessions will consist of the following:

## General Terms

1. Access is granted to general state lands within a designated Guide Concession Area for the purpose of conducting big game guided hunts.
2. On DMLW lands: the ability to utilize short term portable camps within the same concession area for periods of up to 14 days in one location. Stipulations similar to those in the existing Commercial Recreation Permit (CRP) will apply. Other participating agency lands are subject to those agency's permitting requirements.
3. Access to other agency lands such as BLM and DPOR may be granted with additional authorizations from the landowner.

## Restrictions

1. Full concession holders will be allowed up to three assistant guides per concession. These may be assistants with any class of license including master, registered, class-A, or assistant guides. 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.
2. If a base camp of longer than 14 days is desired, the concession holder will be required to obtain the appropriate land owner authorization and will be subject to each agency's or landowner's regular permitting process and fee structure. There is no limit on the number of base camps or authorizations that a full concession holder may apply for.

## Duration

1. 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 thereafter. The review will consist of a records check for compliance with the concession permit stipulations and program regulations and a check for any changes in violation history. 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.

## **The Limited Concession**

The limited concession is the secondary type of concession that will be offered and there are approximately 85 statewide. In order to address the concerns of smaller operators and to allow entry to new guides, DMLW is considering three alternatives for what method will be used to award the limited concession opportunities. The general terms and the duration of the

concessions are the same for all of the alternatives and are the same as those listed above for full concessions.

#### Restrictions

1. Limited concession holders will be allowed one assistant guide per concession. 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.

### **Limited Concession Scoring and Award Alternatives**

#### Alternative 1: Minimum Score and Lottery Draw

The first award alternative is to require applicants to reach a minimum score of 35 in order to be eligible for a concession. All applicants meeting the minimum score would then be placed into a random lottery draw for the concession of interest. The minimum requirements that applicants would be scored on would be the same as found on the application cover sheet for full concessions and applicants would also be required to complete Sub-Factor A of Form A and all of Form D, Violations, from the scoring criteria. DMLW proposes that the minimum score to enter the drawing is a 35 (there are 45 points total available from Sub-Factor A). This ensures that any guide applying for a limited concession meets the basic requirements to be a contracting guide and can demonstrate knowledge and experience in the area for which they are applying. The lottery draw ensures that all qualified applicants have an equal chance at winning a limited concession.

#### Alternative 2: Highest Scoring Applicants

The second alternative for awarding limited concessions is identical to the method of awarding a “Full Concession,” as outlined above, The Application Process. All applicants will submit applications addressing Forms A-D and the highest scoring applicant(s) will be awarded the concession. The sole use of this method of award may limit the ability of guides new to an area to compete for a concession.

#### Alternative 3 (Preferred): Combination of Lottery and High Score

This alternative for awarding limited concessions is to have a combination of Alternatives 1 and 2. There are approximately 85 limited concessions offered statewide and roughly half would be awarded to the highest scoring applicant and the other half by a lottery of those applicants meeting the minimum score of 35. It is intended that the determination of which limited concessions are awarded by score or lottery will result in an even distribution statewide. By using both systems to determine limited concession winners, DMLW is able to address both the concerns of smaller operators and the problems brought up in the *Owsichek* decision with the previous EGAs.

**ENFORCEMENT:**

For the GCP to be administratively feasible, DMLW must be granted limited enforcement authority over the program. This means that DMLW must be given citation authority over regulations specific to the GCP.

Currently DMLW can monitor commercial recreation operations on state land (including hunting camps) but has no citation authority on those lands. Citation authority is an indispensable tool in helping to create compliance with applicable land use regulations and permit stipulations. Citations would only be issued under the regulations developed specifically for the GCP.

**LEVELS OF APPEAL:**

The final decision to implement the program, or not, will be appealable by interested parties. Subsequent decisions about scoring and awarding concessions, if any, will be appealable and addressed more specifically during the regulations drafting process. All initial appeals will be to the Commissioner of the Alaska Department of Natural Resources. Appeals will not stay the implementation of the program or the awarding and operation of concessions.

**PROPOSED DECISION**

**Recommendation**

Managing big game guiding activity on state lands in accordance with the guidelines and management set forth herein will help to encourage sound wildlife conservation, good stewardship of lands, reduce user conflicts, increase the quality of experience for all involved, and promote a healthy guiding industry to benefit the people of Alaska. After consideration of the Guide Concession Program and other alternatives brought to the division’s attention, DMLW finds the proposed GCP, as outlined above, to be consistent with the Department of Natural Resources management authority and is in the best interest of the state.

I find this decision is consistent with applicable state laws, agency regulations, department policies and management authority and is in the best interest of the state.



Date: 15 FEB 2012

Brent Goodrum  
Director, Division of Mining, Land, and Water  
Department of Natural Resources

## **THE PROCESS & NOTICE**

**Agency Review:** Agency review will be concurrent with public review.

**Public Review:** Public review will begin February 15<sup>th</sup>, 2012 and end April 23<sup>rd</sup>, 2012. There will be three public meetings held during the comment period, one in Anchorage, Juneau, and Fairbanks, locations and times to be announced. Please check the program website regularly for all information updates and meeting times, locations, and dates.

**Comment Process:** During this open public review process comments may be submitted until 5:00 pm on April 23<sup>rd</sup>, 2012. 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, email or fax to:

**State of Alaska**  
**Department of Natural Resources**  
**Division of Mining, Land and Water**  
**Attn: Guide Concession Program**  
**550 W. 7<sup>th</sup> Ave., Suite 900C**  
**Anchorage, AK 99507**  
**Email: [dnr.mlw.gcp@alaska.gov](mailto:dnr.mlw.gcp@alaska.gov)**  
**Fax: (907) 269-8913**

## **APPENDIX A - ISSUE RESPONSE SUMMARY**

### **Comment Count by Topic Report**

- (1) Topic/Issue:** **11 AAC 96.025 Generally Allowed Uses on State Lands / Special Use Land Designations Excluded from Generally Allowed Uses**
- Comment Summary Statement:** **How are lands excluded from generally allowed uses, under 11 AAC 96.025, accounted for in the Guide Concession Program (GCP).**
- Response:** Thank you for your comment. 11 AAC 96.020(a) refers to uses and activities that are generally allowed on state land managed by the Department of Natural Resources, Division of Mining, Land, and Water (DNR, DMLW) that do not require a permit. 11 AAC 96.025 provides conditions for these generally allowed uses listed in 11 AAC 96.020(a). Use and activities that may be restricted in legislatively designated areas, or special management category or status are described in 11 AAC 96.014. These lands within these areas are commonly known as special use lands. Generally Allowed Uses (GAUs) will exist simultaneously statewide with the GCP. These GAUs are still in effect for all concessionaires, just as they are in effect for all other users. Where special use land restrictions are in effect, they will remain in effect for GCP concessionaires as well.
- Number of Commenters (letters):** 1
- 
- (2) Topic/Issue:** **12 AAC 75.210(e) and 75.260(c) / Retention of Hunt Records**
- Comment Summary Statement:** **The requirement to provide copies of hunt records for the past 10 years conflicts with 12 AAC 75.210 (e) and 12 AAC 75.260 (c) which requires the retention of hunt records for four years.**
- Response:** Thank you for your comment. The Big Game Commercial Services Board (BGCSB), under 12 AAC 75.210 (e) and 12 AAC 75.260 (c), requires guides to retain hunt records for a minimum of four years. These are BGCSB regulations and do not apply to DMLW. Within the Scoring Criteria for the GCP, DMLW requests hunt records for the past 10 years in order to review the documentation that shows the applicants experience as a big game guide within the Guide Concession Area (GCA) that the applicant is applying for.
- Number of Commenters (letters):** 1
- 
- (3) Topic/Issue:** **Additional Elements to Consider for Proposed Program / Ability for Assistant Guide to Bid**
- Comment Summary Statement:** **Commenters expressed the need for assistant guides to have the ability to bid on GCAs.**
- Response:** Thank you for your comment. Currently in Alaska a guide must hold a Registered or Master Guide license in order to be a contracting guide and operate a guided hunting business. Therefore, in order to qualify for the Guide Concession Program, a guide must be licensed as a Registered or Master guide, and be in good standing, with the BGCSB, as well as certified by Occupational Licensing to guide in the Guide Use Area (GUA) for which applying for. Requirements can be found in AS 08.54.610 and 12 AAC 75.100 and 75.110. Assistant guides can gain experience in Guide Use Areas and once they are a Registered or Master Guide they can apply for a GCA.
- Number of Commenters (letters):** 3

**(4) Topic/Issue:** **Additional Elements to Consider for Proposed Program / Appeal Process**  
**Comment Summary Statement:** **Commenters questioned if an appeal process exists for the Proposed GCP and some commenters provided suggestions for the appeal process, including a two step appeal process starting with the selection panel and then if needed an administrative appeal.**  
**Response:** Thank you for your comment. Individuals who have meaningfully participated in the development of the program and/or applied for a concession will have standing to appeal. Those who disagree with the implementation of the GCP or the review panel's decision(s) will be afforded the opportunity to administratively appeal the decision(s). This right to appeal will be set by regulation. Judicial appeal to the Alaska Court System will then be available if the administrative appeal results in a denial of the appellant's appeal(s).  
**Number of Commenters (letters):** 4

**(5) Topic/Issue:** **Additional Elements to Consider for Proposed Program / Exclude Specific Areas from Commercial Use as Appropriate**  
**Comment Summary Statement:** **Commenters suggested that the State of Alaska provide a mechanism to exclude specific areas from commercial use within GCAs, where appropriate.**  
**Response:** Thank you for your comment. The scope of the GCP encompasses all general state lands, including submerged lands and waters. Potentially DNR, Division of Parks and Outdoor Recreation (DPOR) and Bureau of Land Management (BLM) may be GCP partners. If so, DPOR and BLM lands will be included in the GCP as well. The GCP does exclude all Mental Health Trust lands, University of Alaska lands and DPOR lands (for the time being). No other areas of state land are proposed to be excluded from the GCP.  
**Number of Commenters (letters):** 1

**(6) Topic/Issue:** **Additional Elements to Consider for Proposed Program / Fee Sharing Amongst Affected Alaskans**  
**Comment Summary Statement:** **One commenter recommended that the revenue from the concession fees is shared with the affected boroughs so that boroughs can use the revenue to respond effectively to hunter search and rescue efforts.**  
**Response:** Thank you for your comment. DMLW recognizes the costs involved in search and rescue efforts and the importance of search and rescue; however it is not within DMLW's ability to allocate funds to municipalities. Revenue from the GCP is intended to be receipted back into the GCP and/or to the state general fund.  
**Number of Commenters (letters):** 1

**(7) Topic/Issue:** **Additional Elements to Consider for Proposed Program / Include Method for Guide to Make Investments**  
**Comment Summary Statement:** **Commenters recommend adding a method to the proposed program that provides guides longevity in the GCA so that guides can make a financial investment in their business which will result in an incentive to conserve resources and provide quality services to their clients.**  
**Response:** Thank you for your comment. DMLW recognizes the desire for guides to have the ability to make investments in awarded GCAs. The "Owsichek v. State" Decision

("Owsichek v. State") stated that Exclusive Guide Areas (EGA) were unconstitutional for four reasons including 1) not subject to competitive bidding, 2) provided no remuneration to the state, 3) were of unlimited duration; and 4) guides were able to transfer the EGAs for a profit as if they owned them. These elements had to be addressed in the GCP so that the program is constitutional. The Scoring Criteria for the competitive application process has been designed to award more points to guides with experience in the GCA applied for, in an effort retain guides that make commitments in the GCA and practice sound resource conservation.

**Number of Commenters (letters):** 4

**(8) Topic/Issue:**

**Additional Elements to Consider for Proposed Program / Number of guides and how they are selected**

**Comment Summary Statement:**

**Commenters discussed the process DMLW used to determine the number of guides to be assigned to each GCA in the GCP. Many suggested that the number of guides be determined on a case-by-case basis for each specific GCA.**

**Response:**

Thank you for your comment. Originally the number of guides in each GCA was established by members of the guiding industry during a March of 2008 BGCSB meeting. Those maps were then accepted and endorsed by the BGCSB and forwarded to DMLW for consideration. Those maps were then slightly changed or altered by DMLW prior to the 2009 - 2010 public review. On June 30 and July 1, 2011 revisions were made by the department using information obtained from Occupational Licensing listing the number of guides and hunts conducted specific to each Guide Use Area, comments received, and guidelines established by the "Owsichek v. State" Decision". The maps were made available to the Alaska Department of Fish and Game (ADF&G), BLM and DPOR prior to being finalized by DMLW. Please see the attached maps for changes.

**Number of Commenters (letters):** 7

**(9) Topic/Issue:**

**Additional Elements to Consider for Proposed Program / Post Season Reports**

**Comment Summary Statement:**

**Commenters recommend that the proposed program include a graded post-season report that includes conservation, hunter effort, illegal activity, accident and fee oversight information as well as anecdotal information about predator and prey wildlife populations, recruitment numbers, and range and nutritional concerns. Commenters suggest following the National Park Service grading method: satisfactory, unsatisfactory, and marginal.**

**Response:**

Thank you for your comment. DMLW is proposing to require post season reports from guides to ensure concession holders are complying w/contract terms (stipulations, conditions, etc) on an annual basis.

**Number of Commenters (letters):** 3

**(10) Topic/Issue:**

**Additional Elements to Consider for Proposed Program / Provide Credit Report and Criminal Records**

**Comment Summary Statement:**

**One commenter recommended requiring applicants to provide current criminal records and credit scores.**

**Response:**

Thank you for your comment. DMLW will ask applicants to provide documentation of violations, accidents and incidents in Scoring Criteria 3, Sub-Factor A and Scoring Criteria 4. This is inclusive of a Department of Public Safety (DPS) "any persons

report” under AS 12.62, including fish and wildlife violations. In Scoring Criteria 3, Sub-factor E applicants must submit financial documentation of their proposed guiding operation going back five years. At this time there is no credit report required from applicants.

**Number of Commenters (letters):** 1

**(11) Topic/Issue:** **Additional Elements to Consider for Proposed Program / Qualified Bidders**

**Comment Summary Statement:** **Two commenters stated that limiting the application for GCAs to a single industry is unconstitutional and that DMLW must take steps to assign categorical classes of qualified bidders.**

**Response:** Thank you for your comment. As proposed the GCP is meant to select qualified big game hunting guides holding the appropriate licenses. This program is not intended to have a direct effect on other commercial or private users of state land.

**Number of Commenters (letters):** 2

**(12) Topic/Issue:** **Additional Elements to Consider for Proposed Program / Resolve Overcrowding with Camp Buffers / Register Camps**

**Comment Summary Statement:** **Commenters recommend that in areas with overcrowding issues, camps should be registered, on a first come, first serve basis, and there should be a required minimum distances between the camps.**

**Response:** Thank you for your comment. Camp locations will be determined by permit holders and submitted to DMLW as part of the LUP application process. This process is separate from, but complementary to, the proposed GCP.

**Number of Commenters (letters):** 5

**(13) Topic/Issue:** **Additional Elements to Consider for Proposed Program / Restrict Use of ATVs**

**Comment Summary Statement:** **Two commenters noted the destruction of state land by the use of All Terrain Vehicles (ATVs) and recommend establishing a statewide policy regarding accessing state lands by motor vehicles and restricting the use of ATVs by guides.**

**Response:** Thank you for your comment. DMLW recognizes the potential of harmful effects to the environment from the over use of All Terrain Vehicles (ATV). Policy making and creation of regulations for the use of ATVs on State land is outside the scope of this program. Please refer to the scope of the program outlined in the Proposed Decision. However, the Scoring Criteria does incorporate two questions for the applicant to answer regarding minimization of impacts from ATV use. These questions can be found under Scoring Criteria #2, Sub-factor A.

**Number of Commenters (letters):** 2

**(14) Topic/Issue:** **Additional Elements to Consider for Proposed Program / Review GMU Hunting Regulations**

**Comment Summary Statement:** **Commenter encouraged DMLW to look at the existing hunting regulations related to non-resident allocation in Game Management Unit (GMU) 9, 17, 18, 19, 21, 22, 23, 24, and 26 as well as the conflict that is occurring within GMU 20. The restrictions relating to non-resident allocation in these GMUs result from conservation and social atmosphere related concerns.**

**Response:**

Thank you for your comment. The implementation and enforcement of hunting regulations is beyond the jurisdiction of DMLW. This is the responsibility of the Alaska Board of Game (BOG) and ADF&G. BOG's main role is to conserve and develop Alaska's wildlife resources. This includes establishing open and closed seasons, areas for taking game, setting bag limits; and regulating methods and means. The BOG is also involved with setting policy and direction for the management of the State's wildlife resources. The BOG is charged with making game allocation decisions, and the ADF&G is responsible for management based on those decisions. The 's authority to adopt regulations is described in AS 16.05.255 and the regulations can be found under 5 AAC Chapters 84, 85, 92, and 99. The ADF&G manages, protects, maintains, and improves the fish, game, and aquatic plant resources of the state in the interest of the economy and the general well-being of the state (AS 16.05.020). For this reason, DMLW has discussed your comment regarding hunting regulations and non-resident allocations in certain Game Management Units (GMU) with ADF&G and is working closely with them to determine the appropriate number of guides for GCAs in these GMUs.

**Number of Commenters (letters):** 1

**(15) Topic/Issue:**

**Additional Elements to Consider for Proposed Program / Scoring of Criteria**

**Comment Summary Statement:**

**Commenters made overall remarks related to how the GCP criteria should be scored. Suggestions included using a panel to review range of points for each criterion, having multiple choice questions, re-organizing criteria into five categories (each worth a percentage of total points) and reallocating points among categories.**

**Response:**

Thank you for your comment. DMLW has reviewed the comments related to the Scoring Criteria and made adjustments to many areas of the last version of the scoring criteria. Please review the Proposed Decision and Scoring Criteria that is currently under public review and provide comments.

**Number of Commenters (letters):** 5

**(16) Topic/Issue:**

**Additional Elements to Consider for Proposed Program / Suggested Model**

**Comment Summary Statement:**

**Commenters suggested modeling the GCP after the DPOR (Alaska State Parks) commercial use permit system, Department of Transportation (DOT) and Public Facilities program at Lake Hood, and the existing concession regulations for DPOR. Commenters noted that the DPOR commercial use permit system is a good model because it provides the applicant information on exactly what is required, as opposed to the GCP. The commenter noted that it is not clear what DMLW is looking for on the application. Regarding the program at Lake Hood, the commenter noted this is a good model for a mechanism for an applicant competing for a GCA to pay a leaseholder a fee to make improvements, where DMLW has allowed lodge improvements to be constructed.**

**Response:**

Thank you for your comment. DMLW has reviewed your comments on existing concession programs and other state permitting programs to consider what, if any, elements will be incorporated into the GCP. Additionally DNR has been working with ADF&G, BLM, DPOR and others to incorporate relevant aspects of other programs into this GCP.

**Number of Commenters (letters):** 4

**(17) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / Active Guides--Score higher for Guides who Guide**

**Comment Summary Statement:** **Commenters noted that Scoring Criteria should provide higher points for active guides who actually guide and are present with clients in the field, rather than guides that book clients/prepare for the hunts and have assistant guides do the actual guiding in the field.**

**Response:** Thank you for your comment. As currently proposed in the GCP, there are two questions under Scoring Criteria #1, Sub-factor A: Experience as a Big Game Guide that ask (1) the number of days per year spent in the field within the GUA the applicant is applying for and (2) the number of days per year spent in the field total for all GUAs. "In the field" is defined as being present in a main or spike camp directly interacting with the client.

**Number of Commenters (letters):** 16

**(18) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / Assistant Guide Issues/Limit Number of Assistant Guides that may work per Guide**

**Comment Summary Statement:** **Commenters noted that assistant guides should be limited under the GCP. Many suggested limiting assistant guides to two or three per registered guide/concession.**

**Response:** Thank you for your comment. DMLW has discussed your comment with ADF&G and is working closely with them to determine the appropriate number of guides and assistant guides for each GCA. The Proposed Decision limits a Full Concession to no more than three assistant guides and a Limited Concession to no more than one assistant guide.

**Number of Commenters (letters):** 17

**(19) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / Award More Points to Residents (resident vs. non-resident issues)**

**Comment Summary Statement:** **Commenters suggested that more points be awarded to Guides that are Alaska residents, developing a state resident preference in the GCP.**

**Response:** Thank you for your comment. Although not directly rewarded for being Alaska residents, applicants who spend more time in the area they apply for (either commercially or personally) are eligible to receive additional points. See Scoring Criteria 1, Sub-factor A, question 2. See also Scoring Criteria 2, question 4 and Sub-factor C; Scoring Criteria 3, Sub-factor C, question 1.

**Number of Commenters (letters):** 12

**(20) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / Ethical Guides Need Protection**

**Comment Summary Statement:** **The new program/selection process should recognize and select guides who are ethical and honest, which result in better game management and wildlife protection.**

**Response:** Thank you for your comment. DMLW is developing the program for that reason. DMLW has considered those commercial operators who can demonstrate, through words and actions, a commitment to the conservation of land, water, and wildlife resources, and can do so on a consistent, repetitive basis. Additionally, DMLW will have better oversight and compliance opportunities through the 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.

**Number of Commenters (letters): 3**

**(21) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / Guides Inactive for Conservation Reasons**

**Comment Summary Statement:** **Commenters noted that inactive guides (those who register but do not hunt in any given year) who are inactive for conservation concerns should be given full credit for that year's experience in the Scoring Criteria.**

**Response:** Thank you for your comment. Scoring Criteria 2, Sub-factor A, question 3(a) asks for information on how an applicant gathers information about wildlife population trends in the GUAs they guide in. Question 3(b) asks what wildlife population factors an applicant uses in determining how many clients they will guide. Revisions to the Scoring Criteria will be available for review and comment in the Proposed Decision, which will be public noticed in 2012.

**Number of Commenters (letters): 2**

**(22) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / Include Veteran Preference**

**Comment Summary Statement:** **Commenter noted that veterans are at a disadvantage because they are not gaining big game guiding experience while serving their country, yet are learning applicable skills in the military. Commenter proposes veterans be awarded a 5 point preference in the Scoring Criteria.**

**Response:** Thank you for your comment. DMLW acknowledges that veterans may be at a disadvantage in gaining guiding experience within a Guide Use Area due to military duties that require them to be absent from the state for long periods of time. At this time DMLW has decided not to add veteran's preference points to the Scoring Criteria. Please review and comment on the Proposed Decision which is scheduled to be public noticed in 2012.

**Number of Commenters (letters): 1**

**(23) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / Issues Regarding Guides holding both State and Federal Concessions**

**Comment Summary Statement:** **Commenters were opposed to guides holding federal concessions also being able to apply for and hold state concessions.**

**Response:** Thank you for your comment. All Registered or Master Guides licensed with the BGCSB, and are in good standing, are eligible to submit a application to DMLW to conduct big game commercial guiding activities on state land, whether or not they have a federal concession. Under AS 08.54.750(b)(1) a registered guide-outfitter may not register for, or conduct big game hunting services in more than three guide use areas during a calendar year. Because of this requirement guides who are selected for a state GCP and who hold other concessions may have to make decisions of where they wish to operate.

**Number of Commenters (letters): 7**

**(24) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / Large Operations vs. Small Operations and Scoring Criteria**

**Comment Summary Statement:** **DMLW's proposed Scoring Criteria/GCP puts small guide operators at disadvantage/favors large operators. Small operators must still be awarded concessions.**

**Response:** Thank you for your comment. As proposed the GCP offers two levels of concession rights, as described in the Proposed Decision. The intent of offering two levels of concession rights (full rights and limited rights) is to provide entry opportunities for newer, smaller, more niche oriented guides that either cannot or do not want to compete for the full rights package. A new operator winning a limited rights concession package could then build up knowledge and experience in an area and increase their chance for competing for a full rights package in the future if they choose to.

**Number of Commenters (letters):** 8

**(25) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / Level of Development Needed to Facilitate Proposed Business**

**Comment Summary Statement:** **Commenter noted that the 'Level of Development needed to Facilitate Proposed Business' should be added to Scoring Criteria. Sample questions were provided.**

**Response:** Thank you for your comment. DMLW has added questions to the Scoring Criteria associated with equipment, infrastructure and facilities. These considerations are addressed in Scoring Criteria 3, Sub-factor B, Question 5 and Sub-factor C, Question 1 and Sub-factor D, Questions 5-12. Revisions to the Scoring Criteria are available for review and comment in the Proposed Decision, which will be public noticed in 2012.

**Number of Commenters (letters):** 1

**(26) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / License Requirements**

**Comment Summary Statement:** **Commenters noted that registered guides must hold specific, current licenses to be applicable for the GCA such as a new Registered Guide License, Contracting Guide License, Alaska Business License, Master Guide License, Workman's Compensation Insurance, etc. Other commenters suggested recreating the outfitter license designation or restructuring the registered guide license with different fee levels so that guides that do not contract hunts pay the same fees as assistant guides.**

**Response:** Thank you for your comment. As currently proposed in the GCP, copies of licenses such as Guide/outfitter, Business, Guide Use Area, Federal Aviation Administration, U.S. Coast Guard are requested. DMLW does not have the regulatory authority to make changes to the licensing or fees of Registered Guides. That authority lies within the BGCSB.

**Number of Commenters (letters):** 3

**(27) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / Limit to Residents / Require Guides to be Alaskan Residents**

**Comment Summary Statement:** **Commenters noted that Alaska residency should be a requirement of all**

**applicants for the GCP. Non-resident guides should not be eligible.**

**Response:**

Thank you for your comment. All Registered or Master Guides licensed with the BGCSB, and are in good standing, are eligible to submit a proposal to DMLW to conduct big game commercial guiding on state land. Alaska Statute 08.54.610, administered and enforced by the BGCSB, provides the requirements to be met for a Registered and Master Guide License. These requirements do not require a guide to be a resident of Alaska; rather the license requires an applicant to have Alaskan big game hunting experience. Moreover, such a blanket prohibition on out of state residents being excluded from work within another state industry has consistently been held to be unconstitutional under the Commerce Clause and/or Privileges and Immunities clause of the United States Constitution.

**Number of Commenters (letters):** 16

**(28) Topic/Issue:**

**Additional Scoring Criteria/Alternative Scoring Criteria / More Points Should be Awarded to Guides that have More Experience in a GCA.**

**Comment Summary Statement:**

**Commenters noted that more points in the Scoring Criteria should be awarded to year-round local resident guides who have more experience in a GCA applied for. Commenters also noted that experience should be measured in number of hunts or number of days guiding, as opposed to the number of years guiding in the Guide Use Area.**

**Response:**

Thank you for your comment. As a direct result of these comments, changes have been made to the Scoring Criteria. Scoring Criteria 1, Sub-factor A, question 1 asks how many days per year a guide spent in the field per GUA and total for all GUAs per year. "In the field" is defined as being present in a main or spike camp directly interacting with the client. Question 2 asks for other relevant non big game guiding experience (either commercial or personal) within the GUA the applicant is applying for.

**Number of Commenters (letters):** 9

**(29) Topic/Issue:**

**Additional Scoring Criteria/Alternative Scoring Criteria / Personal Interviews should be Element of Process**

**Comment Summary Statement:**

**Commenters noted that personal interviews with the selection panel should be part of selection process for GCP.**

**Response:**

Thank you for your comment. DMLW has considered personal interviews as an element of the selection process. However, due to the anticipated volume of applicants, DMLW has decided personal interviews are not administratively feasible. The Proposed Decision addresses the selection panel and will be available for public comment in 2012. DMLW encourages the public to review the Proposed Decision and provide comments.

**Number of Commenters (letters):** 4

**(30) Topic/Issue:**

**Additional Scoring Criteria/Alternative Scoring Criteria / Points for Guides Investment in GUA**

**Comment Summary Statement:**

**Commenters noted that guides who have made investments in a specific Guide Use Area over the years (such as having an established camp, or having constructed lodges on long-term leases) should receive higher points in the Scoring Criteria for that area. The GCP should promote and foster guide longevity in the GUAs.**

**Response:** Thank you for your comment. DMLW recognizes the desire for guides to have the ability to make investments in awarded GCAs. Guides can make investments, however, DMLW believes that experience in a Guide Use Area (GUA) is equally or more valuable than investments in a GUA. Allocating more points to guides that have experience in a GUA promotes guide longevity within that GUA and allows for better competition during the selection process.

**Number of Commenters (letters):** 6

**(31) Topic/Issue:** **Additional Scoring Criteria/Alternative Scoring Criteria / Points should be Awarded for Attending BGCSB Meetings**

**Comment Summary Statement:** Commenter noted that additional points should be awarded for those guides who have attended and participated in the BGCSB meetings and the Semi-Annual Board of Game (BOG) meetings.

**Response:** Thank you for your comment. As currently proposed in Scoring Criteria 2, Sub-Factor A, question 4(b) applicants are awarded points for submitting proposals to and/or testifying on Predator Control at BOG meetings. In Sub-factor C, points are awarded to applicants who participate in a myriad of committees, board and organizations dealing with the management of natural resources in Alaska and/or any hunting, shooting or related state program. This includes attendance and participation in BGCSB and BOG meetings. Proof of participation will be required with application.

**Number of Commenters (letters):** 1

**(32) Topic/Issue:** **Alaska Professional Hunting Association / Relationship with DMLW and General Comments regarding APHA**

**Comment Summary Statement:** Commenters remarked on the Alaska Professional Hunting Association's (APHA) comments, actions, and goals with respect to the GCP. Many of the comments reflected that the APHA did not accurately represent the guide industry's interests/voice as a whole.

**Response:** Thank you for your comment. DMLW is aware that the Alaska Professional Hunting Association does not represent all guides within the industry. All public comments are given equal weight and merit, regardless if they are submitted from an organization or from an individual.

**Number of Commenters (letters):** 13

**(33) Topic/Issue:** **Award of GCAs / Number of Concessions Awarded**

**Comment Summary Statement:** Commenters expressed their opinions on the number of concessions that should be awarded to each guide. Suggestions ranged from one to four concessions per applicant, with the majority of commenters suggesting three concessions.

**Response:** Thank you for your comment. The proposed GCP allows an applicant to apply for two GCAs and be awarded two GCAs.

**Number of Commenters (letters):** 10

**(34) Topic/Issue:** **Award of GCAs / Process of Concessions Awarded**

**Comment Summary Statement:** Commenters made suggestions related to the process in which concessions are awarded by DMLW. Several suggested letting guides rank their top GCAs

**into 1st choice, 2nd choice, etc. Others noted a live auction or final drawing process.**

**Response:** Thank you for your comment. A review panel, consisting of agency personnel, will review all applications and supporting documentation. The review panel will select the most qualified individual based on the selection criteria and points awarded. When a guide is awarded an area, they will be given time to decide if they wish to accept the area.

**Number of Commenters (letters):** 11

**(35) Topic/Issue:** **Award of GCAs / Renewal of GCA**

**Comment Summary Statement:** **Commenters expressed opinions on how often GCAs are renewed. Most suggested a 10-year term, or a five-year term with five-year renewal option. One commenter noted that guides with infractions/violations should not be eligible for GCA renewal.**

**Response:** Thank you for your comment. The concession authorization would be valid for up to 10 years subject to a review and renewal five years into the 10 year term. If the concession holder is in compliance with the terms of the authorization, then the concession award may be renewed. At 10 years, the individual would need to resubmit an application and go through the competitive process again. This aspect of the program is necessary to meet the constitutional requirements, as identified in the "Owsichek" Decision ("Owsichek v. State"), that the program must be competitive and limited in duration. Violations and infractions will be considered in Scoring Criteria 4 where points are deducted.

**Number of Commenters (letters):** 7

**(36) Topic/Issue:** **Award of GCAs / Revocation**

**Comment Summary Statement:** **Commenter noted that DMLW should have a way to retract concession permits from guides with infractions/violations.**

**Response:** Thank you for your comment. The five year re-evaluation period allows DMLW to evaluate the concession holder's compliance with the terms of the authorization, including reviewing violations. If the concession holder is found out of compliance, the authorization can be revoked at any time.

**Number of Commenters (letters):** 1

**(37) Topic/Issue:** **BGCSB / Problems with BGCSB**

**Comment Summary Statement:** **One commenter criticized the BGCSB stating that they deal with complex issues that require more time, thought, and research than is allocated. A second commenter suggested sunsetting, overhauling or creating a new organization.**

**Response:** The BGCSB was established by legislation under AS 08.54.591, with duties of the board outlined in AS 08.54.591 - 08.54.600. The BGCSB is under a separate statutory authority than DNR/DMLW and is therefore outside of DNR/DMLW's jurisdiction or the scope of the GCP decision.

**Number of Commenters (letters):** 2

**(38) Topic/Issue:** **BGCSB / Regulatory Authority**

**Comment Summary Statement:** Commenters questioned if the BGCSB should be the primary regulatory authority developing and administering this GCP, as opposed to DNR.

**Response:** Thank you for your comment. While the BGCSB does have important responsibilities in regulating the hunting guide industry, DNR/DMLW is the agency tasked with regulating and administering the allowable uses of Alaska's public land and water (AS 38.05.020, AS 38.05.035, AS 38.05.070-0.85, AS 38.05.850), including, as necessary, limitations on commercial uses such as the big game guiding industry.

**Number of Commenters (letters):** 8

**(39) Topic/Issue:**

**BOG / Responsibilities**

**Comment Summary Statement:** Commenters expressed the need for clarification on the responsibilities of the BOG with respect to this program and managing wildlife in the state.

**Response:** Thank you for your comment. BOG's main role is to conserve and develop Alaska's wildlife resources. This includes establishing open and closed seasons, areas for taking game, setting bag limits; and regulating methods and means. The BOG is also involved with setting policy and direction for the management of the State's wildlife resources. The BOG is charged with making game allocation decisions, and the ADF&G is responsible for management based on those decisions. The authority to adopt regulations is described in AS 16.05.255 and the regulations can be found under 5 AAC Chapters 84, 85, 92, and 99.

In a letter to DMLW (1/11/08), the BOG described comments received from the guiding industry regarding problems associated with resource conservation, industry stewardship, social conflicts, and public safety concerns. The BOG acknowledged that it can only respond to these comments by creating and adopting complex regulations and would rather manage the issues through an area management approach. The BOG cited the "Owsichek" Decision ("Owsichek v. State") and pointed out that the Judge Rabinowitz stated in this decision, 'Nothing in this opinion is intended to suggest that leases and exclusive concessions on state lands are unconstitutional.' The decision further stated that the ability to develop such a system was available to DMLW. It is for these reasons that DMLW/DMLW is developing a program to address the issues raised by the public and not the BOG.

**Number of Commenters (letters):** 3

**(40) Topic/Issue:**

**Current Program / Enforcement is Difficult**

**Comment Summary Statement:** Under the current program, enforcement is nearly impossible and guides come from all over the country. DMLW has only recently started to address the issue through some active management practices.

**Response:** Thank you for your comment. For the GCP to be administratively feasible, DMLW must be granted enforcement authority over the program. This means that DMLW must be given citation authority over violations specific to the GCP. Currently DMLW monitors commercial recreation operations on general state land (including hunting camps) for adherence to permit stipulations and conditions, but has no citation authority on those lands. Only the ability to cite an offender for GCP specific regulations and stipulations is envisaged for the program. This does not include citation authority outside of the GCP or arming any DMLW employees with firearms for any enforcement purposes.

**Number of Commenters (letters):** 1

**(41) Topic/Issue:**

**Current Program / Guides are Already Regulated by Other Agencies**

**Comment Summary Statement:**

**Commenters expressed that guides, land, and wildlife are already regulated by as many as six different agencies and adding more government bureaucracy/rules through another program will not resolve the issues.**

**Response:**

Thank you for your comment. Multiple agencies through statutory authorities enacted by the Alaska Legislature do have responsibilities related to conservation and use of Alaska's game animals. While it may appear that there are too many agencies involved, all of the agencies play important roles in managing some aspect of the legal framework applicable to the big game commercial services industry in Alaska and have specific jurisdictions as mandated by statute. ADF&G manages game populations for sustained yields. The BOG regulates the harvest of game. The DPS, Division of Alaska Wildlife Troopers, enforces the State's game laws and regulations. The 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. DMLW manages state land and water for the use and enjoyment of all Alaskans, including commercial recreational uses such as guiding. All of these agencies play important roles within state guiding industry and their function would be too burdensome for one agency to provide. Additionally, their services provide a balance when conflicts arise between multiple users.

**Number of Commenters (letters): 3**

**(42) Topic/Issue:**

**Current Program / No Issues or Conflicts**

**Comment Summary Statement:**

**Commenters noted they have not experienced any remarkable conflicts or overcrowding under the current program.**

**Response:**

Thank you for your comment. DMLW acknowledges that significant conflicts do not occur in every Guide Use Area; however allocating guided hunting opportunities is anticipated to contribute to the reduction of conflicts where they do occur. Currently DMLW issues an unlimited number of land use and commercial recreation permits to guides who want to operate on state land. The process is not competitive, involves a simple application process, and requires fairly minimal fees. Permit stipulations do include terms for land stewardship and permits are revocable at the will of the state. The current system does not address: wildlife management concerns, quality of hunting experience, overcrowding or user conflicts, or enforcement issues.

**Number of Commenters (letters): 6**

**(43) Topic/Issue:**

**Current Program / Over Crowding of Guides**

**Comment Summary Statement:**

**Under the current program, commenters noted there are too many guides and overcrowding in several guide use areas is an issue.**

**Response:**

Thank you for your comment. It is the intent of the proposed GCP to reduce crowding problems, where they occur, by allocating commercial guided hunting opportunities. Conflicts occur over hunting areas, landing strips, meat care, trespass, and the perceived over-harvest of game animals. The GCP addresses these conflicts within the new Scoring Criteria. In Scoring Criteria One, Sub-factor B, applicants are required to describe how they train their employees and educate clients on local customs, traditions, and courtesies. They also have to describe their methods of handling conflicts with other user groups. In Criteria 3, the entire Sub-

Factor C asks applicants to document how their business practices demonstrate cooperation with local communities. The solution offered by the GCP is to reward those guides and businesses that respect other users and identify and address conflicts between users in productive and successful ways.

**Number of Commenters (letters):** 16

**(44) Topic/Issue:**

**Current Program / Poor Guide Quality**

**Comment Summary Statement:**

**Under the current program, guides have a low standard of ethics and limited hunting experience in the state, providing poor value for hunters.**

**Response:**

Thank you for your comment. One of the purposes of the proposed GCP is to select the best qualified individuals to conduct big game commercial guiding on state land. The competitive aspects of the program are designed to reward hunting and land conservation ethics and encourage continuing land stewardship.

**Number of Commenters (letters):** 1

**(45) Topic/Issue:**

**Current Program / Poor Stewardship of Resources**

**Comment Summary Statement:**

**Under the current program, game populations are being depleted and good stewardship is not being practiced.**

**Response:**

Thank you for your comment. The intent of the GCP is to help achieve management and conservation goals developed by ADF&G and the BOG. One of the purposes of the proposed GCP is to select the best qualified individuals to conduct big game commercial guiding on state land. The competitive aspects of the program are designed to reward hunting and land conservation ethics and encourage continuing land stewardship.

**Number of Commenters (letters):** 6

**(46) Topic/Issue:**

**Current Program / Violations are a Problem**

**Comment Summary Statement:**

**Under the current program, violations are an issue. Many people misuse the land and game resources; violaters should be pushed out of the system.**

**Response:**

Thank you for your comment. One of the purposes of the proposed GCP is to select the best qualified individuals to conduct big game commercial guiding on state land. Additionally, the competitive award system is expected to promote an incentive to minimize violations because Form D of the Scoring Criteria deducts points for violations.

**Number of Commenters (letters):** 3

**(47) Topic/Issue:**

**Exclusive Guide Use Areas / Guides Managed Resources Properly under Exclusive Guide Use Areas**

**Comment Summary Statement:**

**Prior to the 1988 Court Decision eliminating exclusive guide areas, guides managed their own areas. Over harvesting and game stewardship was not an issue with exclusive guide use areas.**

**Response:**

Thank you for your comment. The exclusive guide use system had its positive attributes and supporters, but it was found unconstitutional in 1988 by the Alaska Supreme Court in the *Owsichek* Decision. The intent of the GCP is to help achieve ADF&G and the BOG wildlife management and conservation goals and select guides

that have stewardship practices through the creation of an allocation system where guides are chosen competitively based upon their past activity, intent to meet or exceed expected conservation goals, and whose continued success depends upon performance.

**Number of Commenters (letters):** 2

**(48) Topic/Issue:**

**Exclusive Guide Use Areas / Lack of Resource Conservation**

**Comment Summary Statement:**

**When Exclusive Guide Use Areas were in effect, some outfitters did not use good resource conservation and game populations were negatively affected.**

**Response:**

Thank you for your comment. The intent of the GCP is to help achieve ADF&G and the BOG wildlife management and conservation goals and select guides that have good stewardship practices through the creation of an allocation system where guides are chosen competitively based upon their past activity, intent to meet or exceed expected conservation goals, and whose continued success depends upon performance.

**Number of Commenters (letters):** 1

**(49) Topic/Issue:**

**Exclusive Guide Use Areas / Reinstate Exclusive Guide Use Areas**

**Comment Summary Statement:**

**Exclusive Guide Use Areas should be reinstated so guides are more proactive in conservation and resource protection.**

**Response:**

Thank you for your comment. The exclusive guide use system had its positive attributes and supporters, but it was found unconstitutional in 1988 by the Alaska Supreme Court in the *Owsichek* Decision. The intent of the GCP is to help achieve ADF&G and the BOG wildlife management and conservation goals and select guides that have stewardship practices through the creation of an allocation system where guides are chosen competitively based upon their past activity, intent to meet or exceed expected conservation goals, and whose continued success depends upon performance.

**Number of Commenters (letters):** 3

**(50) Topic/Issue:**

**Existing Concession Programs / Federal Program**

**Comment Summary Statement:**

**Commenters referenced their issues and concerns regarding the Federal Program and current DOI system. Some commenters were opposed to using the DOI program/Federal Program as a model while others noted it has worked for the most part.**

**Response:**

Thank you for your comment. DMLW reviewed the USFWS and NPS programs when designing the GCP. Some elements of the federal programs have been incorporated into the GCP, along with elements from public comments. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

**Number of Commenters (letters):** 9

**(51) Topic/Issue:**

**Existing Concession Programs / NPS Program**

**Comment Summary Statement:**

**Commenters noted the failures of the existing National Park Service**

**Concession Program with respect to the narrative submission and fee component. Commenters are opposed to modeling this guide concessions program after the NPS Program.**

**Response:** Thank you for your comment. DMLW reviewed the USFWS and NPS programs when designing the GCP. Some elements of the federal programs have been incorporated into the GCP, along with elements from public comments. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

**Number of Commenters (letters):** 2

**(52) Topic/Issue:**

**Existing Concession Programs / USFWS Program**

**Comment Summary Statement:** Commenters noted the existing U.S. Fish and Wildlife Program. One suggested using it as a model, the other two noted its drawbacks such as restrictive permit stipulations and complex application process.

**Response:** Thank you for your comment. DMLW reviewed the USFWS and NPS programs when designing the GCP. Some elements of the federal programs have been incorporated into the GCP, along with elements from public comments. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

**Number of Commenters (letters):** 5

**(53) Topic/Issue:**

**Geography/Maps / Afognak General Comments; GCAs - General Comments; GMU 20A Number of Guides; GUA 01-02 Number of Guides; GUA 06-01 Number of Guides; GUA 08-29 General Comments; GUA 09-11 Boundary; GUA 09-11 General Comments; GUA 09-11 Number of Guides; GUA 09-19 Boundary; GUA 09-19 Number of Guides; GUA 09-25 Boundary; GUA 09-25 Number of Guides; GUA 13-01 General Comments; GUA 16-04 Boundary; GUA 17-03 General Comments; GUA 17-04 Boundary; GUA 17-04 General Comments; GUA 17-05 General Comments; GUA 17-06 General Comments; GUA 19-04 Boundary; GUA 19-04 Number of Guides; GUA 19-06 Number of Guides; GUA 19-07 Number of Guides; GUA 19-15 Boundary; GUA 20-03 Boundary; GUA 20-03 General Comments; GUA 20-03 Number of Guides; GUA 20-04 Boundary; GUA 20-04 General Comments; GUA 20-04 Number of Guides; GUA 20-05 Number of Guides; GUA 20-07 Boundary; GUA 22-07 Number of Guides.**

**Comment Summary Statement:** Commenters commented on GCAs boundaries, number of guides for specific GUAs, boundaries of GUAs, and general comments on GUAs.

**Response:** Thank you to everyone who commented on the proposed GCP Concession Maps. We have reviewed the proposed maps extensively and have made changes. Our process for editing the maps had several steps. DMLW staff requested information from the Division of Occupational Licensing and were given the following data from 2000, 2009, and 2010: the number of guides registered in each Guide Use Area (GUA); the number of contracted hunts by GUA; the number of contracted hunts per guide per GUA; number of clients served by species. These data, along with all of the public comments were used to evaluate the number of concessions in each GCA and to evaluate anything other issues brought forward in the public comments. Consideration was also given to land status and ownership in each GCA. For general state land, it was decided that to ensure a fair and competitive experience for both guides and clients, every GCA in which there are 5,000 or more contiguous acres would have a minimum of two guide concessions offered. In GCAs with BLM lands, the number of concessions may change with the development of a

cooperative agreement with BLM. There is also the possibility of a cooperative agreement with DPOR that will result in the GCP applying to state park lands. These maps were also reviewed by ADF&G and further adjustments were made based on biological population information.

**Number of Commenters (letters):** 71

**(54) Topic/Issue:**

**Land Ownership / Concession Regulations on Native Lands**

**Comment Summary Statement:**

**Commenters expressed that the State must consider Native lands/boundaries in the proposed program. Concession permits on Native lands must be awarded to a Native Alaskan.**

**Response:**

The scope of the project, as stated in the Proposed Decision, limits the program to state lands, including submerged lands and waters. The delineated GCAs encompass multiple land use designations such as federal lands, Alaska Native Claims Settlement Act lands, native allotments, and municipal or other private parcels. A guide awarded a GCA is not exempt from federal, state, municipal regulations, statutes, and ordinances, including Native lands. Therefore the award of a GCA to a guide does not give the guide the right to trespass on private land, including Native land.

**Number of Commenters (letters):** 2

**(55) Topic/Issue:**

**Land Ownership / Concession Regulations on State Park Lands**

**Comment Summary Statement:**

**Commenters noted that this DMLW concession program should be compatible with regulations for DPOR lands. Hunts should not be allowed in state parks.**

**Response:**

A guide awarded a GCA is not exempt from federal, state, municipal regulations, statutes, and ordinances, including DPOR land. However, through a Memorandum of Agreement with the DPOR, the GCP could be administered on state park land.

**Number of Commenters (letters):** 4

**(56) Topic/Issue:**

**Levels of Concession Rights / Allow Limited Rights Guides to Hire Assistant Guides**

**Comment Summary Statement:**

**Commenter noted that guides with limited rights should be allowed to hire assistant guides under the proposed program.**

**Response:**

Thank you for your comment. When finalizing the levels of concessions in the GCP, DMLW has considered your comments regarding guides with limited concessions having the ability to hire assistant guides. Currently limited concession holders will be allowed up to one assistant guide per awarded limited concession.

**Number of Commenters (letters):** 1

**(57) Topic/Issue:**

**Levels of Concession Rights / Conservation-based Approach**

**Comment Summary Statement:**

**Commenter urged a conservation based caution in developing limited rights concession that may prove to have limited sustainability based on conservation aspects.**

**Response:**

Thank you for your comment. When finalizing the levels of concession rights in the GCP, DMLW has reviewed the element of limited rights concessions with respect to resource conservation.

Number of Commenters (letters): 1

**(58) Topic/Issue:**

**Levels of Concessions / Full Rights Concession**

**Comment Summary Statement:** Commenters support using only the full rights concession model for purposes of resource stewardship and long-term industry sustainability.

**Response:** Thank you for your comment. DMLW recognizes that there are many types of guide operations in the state. The GCP seeks to ensure that the opportunity exists for all types of operators to be able to compete for a concession and that we have a fair competitive process for all sizes of operations. Another concern, born out of the *Owsichek* decision, is that the original Exclusive Guide Areas (EGAs) did not allow new entrants into the guiding industry. Because of *Owsichek*, the GCP also needs to ensure that there is opportunity for new guides to gain entry into the industry on state lands.

Number of Commenters (letters): 2

**(59) Topic/Issue:**

**Levels of Concession Rights / Limited Concession for Brown/Grizzly Bears**

**Comment Summary Statement:** Commenter suggests DMLW carefully look at the areas being considered for limited brown/grizzly concessions with respect to intensive management area listing and predator management.

**Response:** Thank you for your comment. When finalizing the levels of concessions in the GCP, DMLW reviewed the area that was proposed as a limited brown/grizzly only concession. Based on wildlife conservation, DMLW does not propose any concessions that are species specific.

Number of Commenters (letters): 2

**(60) Topic/Issue:**

**Levels of Concession Rights / Secondary Level Adds Confusion or Problems to the Process**

**Comment Summary Statement:** Commenters are opposed to limited rights or a 'secondary level' of rights because it will cause problems with guides being able to accompany each client into field, doesn't coincide with mapping process, and is contrary to state objectives of wildlife conservation and minimizing guide conflict.

**Response:** Thank you for your comment. DMLW reviewed the advantages and disadvantages of having two types of concessions within the GCP. For a full discussion of the concession types and rationale, please see the Proposed Decision. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

Number of Commenters (letters): 8

**(61) Topic/Issue:**

**Levels of Concession Rights / Secondary Level may Work on Case by Case Basis**

**Comment Summary Statement:** Commenter suggested that a secondary level of concession rights may be feasible in large areas with multiple species, but will not work in areas with limited non-resident permits unless it is species limited.

**Response:** Thank you for your comment. DMLW reviewed the advantages and disadvantages of

having two types of concessions within the GCP. For a full discussion of the concession types and rationale, please see the Proposed Decision. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

**Number of Commenters (letters):** 1

**(62) Topic/Issue:**

**Levels of Concession Rights / Support Two Levels of Concession Rights**

**Comment Summary Statement:**

**Commenters are supportive of having two levels of concession rights offered in the DMLW GCP as limited rights better support smaller guide operators.**

**Response:**

Thank you for your comment. DMLW reviewed the advantages and disadvantages of having two types of concessions within the GCP. For a full discussion of the concession types and rationale, please see the Proposed Decision. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

**Number of Commenters (letters):** 10

**(63) Topic/Issue:**

**Management Intent/Program Goals and Objectives / Administratively Feasible**

**Comment Summary Statement:**

**Commenters questioned the feasibility of the program from an administrative perspective (cost of appeals, court cases, program development, enforcement and financing).**

**Response:**

Thank you for your comment. The GCP will require support from the Legislature to implement. In 2006, former DNR Commissioner Mike Menge initiated a review of whether the department's authority was in fact sufficient to create such a program. In directing department staff to accomplish this task, Commissioner Menge recognized that the lack of direct funding would limit DNR's ability to implement such a new program, should it be found viable. DMLW staff, working with the Department of Law, concluded that the department does have sufficient authority to create and manage a program that allocates and distributes big game guiding use of state lands. With monetary support from the Legislature, the department has committed to developing the necessary elements of a new guide concession program.

As designed the program is expected to generate sufficient revenues to not only pay for all costs associated with the administration of the program, but provide additional revenue back to the state's general fund or be receipted back to the GCP. Direct economic benefits of the GCP to the state will be realized in three different ways. The first is through an application fee per concession applicant. This amount has not yet been determined. The second way is through an annual fee for all concession winners. The third and final way the state will receive direct economic benefit is through a client fee which will be assessed and collected annually.

**Number of Commenters (letters):** 3

**(64) Topic/Issue:**

**Management Intent/Program Goals and Objectives / Conservation of Resources**

**Comment Summary Statement:**

**Commenters expressed that DMLW should primarily focus on conservation of wildlife when developing this concession program and Scoring Criteria.**

**Response:**

Thank you for your comment. The intent of the GCP program is to help achieve management and conservation goals developed by the ADF&G and the BOG. The GCP addresses wildlife conservation through the Scoring Criteria and through

coordination and communication with ADF&G. First of all, applicants are given credit if they can demonstrate how they have conserved wildlife and minimized their impacts to wildlife resources (Criteria 2). In that same Criteria, applicants are also given credit for tracking wildlife populations, using wildlife population factors to determine how many clients they will serve, demonstrated communication with wildlife managers, and for participating in state sponsored predator control efforts. Second, in Criteria 3, applicants have to provide a detailed operating plan that includes the number of clients and types of hunts that will be offered. The plan will be scored on whether or not the proposed operation is biologically feasible and then the plan itself, such as the number of clients proposed, will become binding terms in the contract.

**Number of Commenters (letters):** 23

**(65) Topic/Issue:** **Management Intent/Program Goals and Objectives / Economic Impacts of Program**

**Comment Summary Statement:** **Commenters noted the proposed Guide Concessions Program will have detrimental economic impacts to guides and the State in terms of lost revenue, higher cost of hunts, additional expenses and impact to existing guide investments. Commenters stated the program is not economically feasible for guides to operate their businesses. The program would also hurt small or young guide operators, potentially forcing them out of the industry.**

**Response:** Thank you for your comment. DMLW acknowledges that the GCP has the potential to have an adverse economic impact to some guides. However, the current system does not address many of the issues brought forward from the BOG, BGCSB, and members of the guiding industry, such as: wildlife management concerns, quality of hunting experience, overcrowding or user conflicts, and enforcement issues. Several alternatives to the GCP are discussed in detail in the Proposed Decision and DMLW encourages the public to review the program and provide feedback on all potential solutions to the issues.

As designed the program is expected to generate sufficient revenues to not only pay for all costs associated with the administration of the program, but provide additional revenue back to the state's general fund or be receipted back to the GCP. Direct economic benefits of the GCP to the state will be realized in three different ways. The first is through an application fee per concession applicant. This amount has not yet been determined. The second way is through an annual fee for all concession winners. The third and final way the state will receive direct economic benefit is through a client fee which will be assessed and collected annually.

Improvements that have been previously permitted on state land such as cabins or other infrastructure will be subject to the terms and stipulations of the existing authorizations. In the event that the owner of improvements does not win a concession, the owner will be responsible for the disposition of the improvements according to the existing permit or lease terms or may have to change their activities to another authorized use that is not big game guiding.

DMLW recognizes that there are many types of guide operations in the state. The GCP seeks to ensure that the opportunity exists for all types of operators to be able to compete for a concession and that we have a fair competitive process for all sizes of operations. The GCP does this through offering two types of concessions, the full and limited. For a full discussion of the concession types and rationale, please see the Proposed Decision.

**Number of Commenters (letters):** 37

**(66) Topic/Issue:** **Management Intent/Program Goals and Objectives / Industry Sustainability**  
**Comment Summary Statement:** **DMLW must develop the GCP to best protect sustainability and viability of the guiding industry in the long-term.**  
**Response:** Thank you for your comment. Alaska's professional hunting guide and outfitter industry has and will continue to provide a needed service to visiting hunters. These visitors are attracted to the state for its outstanding wildlife resources and provide the state with revenue from license sales and by contributing to local economies and businesses. The GCP is intended to improve the quality of big game guided hunting on state land while enhancing wildlife and land conservation.  
**Number of Commenters (letters):** 9

**(67) Topic/Issue:** **Management Intent/Program Goals and Objectives / Reduce User Conflicts / Consider All Users**  
**Comment Summary Statement:** **Commenters expressed that the Guide Concessions Program should aim to reduce the current conflicts within the guiding industry and other users (residents, subsistence users) of the area.**  
**Response:** Thank you for your comment. DMLW recognizes that there are conflicts between users in some areas. The negative perceptions result from interactions between residents and guides or guided hunters in the field, in local towns, or along transportation corridors. Conflicts occur over hunting areas, landing strips, meat care, trespass, and the perceived over-harvest of game animals. The GCP Scoring Criteria addresses this issue in several ways. In Scoring Criteria One, Sub-factor B, applicants are required to describe how they train their employees and educate clients on local customs, traditions, and courtesies. They also have to describe their methods of handling conflicts with other user groups. In Criteria 3, the entire Sub-Factor C asks applicants to document how their business practices demonstrate cooperation with local communities. The solution offered by the GCP is to reward those guides and businesses that respect other users and identify and address conflicts between users in productive and successful ways.  
**Number of Commenters (letters):** 37

**(68) Topic/Issue:** **Miscellaneous Comments and Commenter Background Information / Thank you for your comment**  
**Comment Summary Statement:** **Commenters provided information on their personal backgrounds (e.g. number of years of guiding experience), thanked DMLW for efforts to date, discussed other public comments, provided summaries of the *Owsichek Decision (Owsichek v. State)*, and discussed additional background information on other agencies such as the BGCSB and ADF&G.**  
**Response:** Thank you for your comments. We received numerous comments in support of DMLW's efforts to develop the GCP and also numerous comments in support of retaining the current DMLW land use permit system. DMLW appreciates the commenters' history with guiding in Alaska, their experience, perspective, and opinions.  
**Number of Commenters (letters):** 65

**(69) Topic/Issue:** **Owsichek / Fail to Address Issues**

**Comment Summary Statement:** Commenters noted that DMLW has failed to address the points raised in the *Owsichek Decision (Owsichek v State)* with the GCP, including allocate resources among currently established registered guides without consideration of the other potential commercial or noncommercial users.

**Response:** Thank you for your comment. The issue in the *Owsichek v. State* case was to decide whether two statutes, AS 08.54.040(a)(7) and .195, comport with article VIII, section 3 of the Alaska Constitution. The statutes authorized the Guide Licensing and Control Board to grant hunting guides 'exclusive guide areas.' The *Owsichek* Decision stated that Exclusive Guide Areas were unconstitutional for four major reasons including 1) not subject to competitive bidding; 2) assignments were not based on wildlife management concerns and therefore could not be justified as a wildlife management tool; 3) provided no remuneration to the state; and 4) EGAs were grants of unlimited duration and were not subject to any other contractual terms or restrictions (such as effectively selling an EGA as if it were a property interest). The court went on to say 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.' The four major reasons the court cited to support its finding have been addressed in the GCP. The GCP has a competitive application process, has been developed with the ongoing involvement of ADF&G, provides remuneration to the state, and concessions are of limited duration (and are not transferable). Additionally, all state lands subject to this program will remain open to all other allowable uses including resident and subsistence 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.

**Number of Commenters (letters):** 5

**(70) Topic/Issue:** *Owsichek / Fee Bidding*

**Comment Summary Statement:** Commenter noted that the *Owsichek Decision (Owsichek v. State)* did not specify that fee bidding was required in the program. The *Owsichek Decision* separates bidding from payment of remuneration or fees. A second commenter stated there is limited legal risk in dropping fee bidding from the program.

**Response:** Thank you for your comment. The *Owsichek Decision (Owsichek v. State)* did not specify fee bidding as a requirement of a concession program; however the decision did state as a major reason, among other reasons, that Exclusive Guide Areas were unconstitutional because they were not subject to competitive bidding and they provided no remuneration to the State. Comments received regarding the bid were almost entirely opposed to the concept. After consideration of the comments received DMLW removed the bid. DMLW encourages the public to review and comment on the Proposed Decision that will be public noticed in 2012.

**Number of Commenters (letters):** 1

**(71) Topic/Issue:** *Owsichek / Valuable Consideration*

**Comment Summary Statement:** Commenter stated that in the case of a state contract with a private individual connected to the use of public resources, "valuable consideration," ultimately is defined as consistent with public interest and public trust doctrine.

**Response:** Thank you for your comment. The mission of the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), is to provide for the appropriate

use and management of Alaska's state owned land and water, aiming toward maximum use consistent with the public interest. This mission is part of the statutory requirement for multiple purpose use, described in Alaska Statute (AS) 38.05.285. Multiple purpose use includes management of the commercial use of state land and DMLW has been asked to consider the development of an area based allocation system for commercial big game guides on state land.

**Number of Commenters (letters):** 1

**(72) Topic/Issue:**

**Process / Alternatives Considered**

**Comment Summary Statement:**

**Commenters expressed that DMLW should consider other alternatives besides the GCP. Alternative solutions to the problems/issues with the current program should be explored.**

**Response:**

Thank you for your comment. DMLW has considered alternatives to the GCP and a full discussion of these can be seen in the Proposed Decision. DMLW reviewed alternatives to the overall GCP and also considered alternatives within the GCP framework. All of the alternatives have the potential to address some of the issues that have been identified but the GCP is the preferred alternative because it has the potential to address the majority of the issues effectively.

**Number of Commenters (letters):** 5

**(73) Topic/Issue:**

**Process / Authority/Legality of Concession Program**

**Comment Summary Statement:**

**Commenters stated that DNR does not have the authority to create and manage the GCP. DNR's organizational intent is to manage state land, not wildlife or people. Others noted that limiting access to state lands to exclusive concession applicants is unconstitutional.**

**Response:**

Thank you for your comment. Multiple agencies through statutory authorities enacted by the Alaska Legislature have responsibilities related to conservation and use of Alaska's game animals. The ADF&G manages game populations for sustained yields. The BOG regulates the harvest of game. The DPS, Division of Alaska Wildlife Troopers, enforces the State's game laws and regulations. The BGCSB is responsible for licensing and administration of licenses for registered big game hunting guides. The Division of Corporations, Business and Professional Licensing, within DCCED, provides investigative services and makes recommendations to the BGCSB on guide licensing compliance issues. Through statutory authority DNR manages state land and water for the use and enjoyment of all Alaskans, including commercial recreational uses such as big game guiding. Depending upon the degree of activity, and permanency of any improvement on state land, DNR/DMLW 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. The Alaska Supreme Court recognized, in the *Owsichek* Decision (*Owsichek v State*), that DNR's existing statutory authority provides a basis to create a program that directly addresses the deficiencies that the Court found to exist in the original Exclusive Guide Area program. All state lands subject to the program will remain open to all other allowable uses including resident and subsistence 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.

**Number of Commenters (letters):** 10

**(74) Topic/Issue:**

**Process / Availability of Supporting Materials**

**Comment Summary Statement:** Commenters would like the supporting materials mentioned in the White Paper to be made available to the public by DMLW.

**Response:** Thank you for your comment. Historical documents including the *Owsicheck vs. State Decision* and letters from the Big Game Commercial Service Board, BOG, and Former Governor Sarah Palin are posted on DMLW's GCP website and are available for the public to review. Please contact DMLW if material mentioned in the White Paper is not posted on DMLW's website.

**Number of Commenters (letters):** 4

**(75) Topic/Issue:**

**Process / Public Comment Period**

**Comment Summary Statement:** Commenters noted the public comment period for the GCP should be extended and that public should have a reasonable opportunity to express support/opposition to the program.

**Response:** Thank you for your comment. The public comment period was extended through March 31, 2010. That extension brought the first public comment period to a close. The public will have an additional opportunity to comment on the GCP during the public comment period for the Proposed Decision. The public notice for comment on the Proposed Decision is anticipated to occur in January of 2012.

**Number of Commenters (letters):** 10

**(76) Topic/Issue:**

**Process / Public Participation in Process; Handling of Previous Comments/Input**

**Comment Summary Statement:** Commenters noted the lack of public participation in the process and/or were opposed to the manner in which previous public comments were handled. Several suggested an industry survey of all guides be conducted in addition to collecting Alaska Professional Hunters Association input. Others noted meetings have been frustrating because comments/decisions made at meetings did not get incorporated into final draft program/mapping.

**Response:** Thank you for your comment. DMLW has made multiple efforts to create awareness of the GCP and to solicit comments on the program. Starting in 2007, DMLW attended BGCSB meetings, appeared on a local Anchorage radio talk show, attended local meeting of the BOG's Anchorage Advisory Committee, and held a series of informational meetings throughout the state. DMLW received input from the public via phone, email, in-person and through the official public comment process. All comments have been reviewed and given equal consideration into incorporation into the Proposed Decision. An effort has been made to catch comments previously made on the GCA mapping that was not captured in the draft maps.

**Number of Commenters (letters):** 33

**(77) Topic/Issue:**

**Process / Review of Other Programs and Integration of Other Program Elements**

**Comment Summary Statement:** Commenters noted that DMLW should review other established programs and other state models when developing this GCP.

**Response:** Thank you for your comment. DMLW has reviewed existing concession programs such as those implemented by the Department of the Interior (BLM, National Park Service, U.S. Fish and Wildlife Service) and other state programs where guided

hunting is an industry.

Number of Commenters (letters): 3

**(78) Topic/Issue:**

**Process / Use of Public Funds**

**Comment Summary Statement:**

**Commenters expressed concern about the use of public funds to develop/administer the GCP. Many noted that public funds should not be used to subsidize concession permit management for the commercial (for-profit) hunting industry. Costs of the program should be made public.**

**Response:**

Thank you for your comment. Initial funding from the legislature will be necessary to cover the start up costs. The initial level of support will be determined by the legislature. The proposed fees for the GCP are: (1) A \$250 application fee that will cover the administrative costs of reviewing applications; (2) a flat annual fee based upon the actual cost of running the GCP, including staff salaries, administrative costs, calculated loss of revenue from decreased permit fees, and inflation proofing for the program. This fee has not been calculated as staff and funding is to be determined. Annual fees for the full and limited concessions may be different depending on final administrative cost calculations and; (3) a client fee assessed annually per client/per contracted hunt, no matter the number of animals pursued by that client within a contracted hunt. The client fee would be paid by the contracting guide of that client to DMLW. The proposed fee is \$750 per client for those species that require and guide for non-residents (brown bear, Dall sheep and mountain goat) and \$500 per client for all other species. All fees will be set in regulation. As designed the GCP is expected to generate sufficient revenues to not only pay for all costs associated with the administration of the program, but provide additional revenue back to the state's general fund.

Number of Commenters (letters): 6

**(79) Topic/Issue:**

**Program Alternatives / A Set Allocation for Non-Residents**

**Comment Summary Statement:**

**Commenters suggested limiting non-residents to a set allocation of hunt concession permits. A 10% allocation of all big game permits to non-residents was recommended by all commenters.**

**Response:**

Thank you for your comment. DMLW considered the alternative of a set allocation for non-residents. This alternative would set aside a percentage of the harvestable surplus for non-residents, potentially statewide, and the vehicle for this system would likely be drawing permits for all species. An advantage of this alternative is that it provides a more predictable allocation of game to non-residents and allows guides to plan their businesses. The disadvantages of this alternative include: this limits business opportunities for hunting guides and outfitters as it would reduce overall non-resident hunting opportunity; this would not allow for increases in non-resident opportunity in areas where wildlife populations fluctuate and the harvestable surplus increases significantly; and this alternative also does nothing to encourage land stewardship and would also reduce revenue to ADF&G from license and tag sales. This alternative does nothing to address enforcement concerns. There is a full discussion of all the alternatives considered in the Proposed Decision.

Number of Commenters (letters): 5

**(80) Topic/Issue:**

**Program Alternatives / Changes to Occupational Requirements/Limits**

**Comment Summary Statement:**

**Commenters suggested limiting the number of areas a guide can register for,**

**having less guides per Guide Use Area, and decreasing the size of the Guide Use Areas.**

**Response:**

Thank you for your comment. The authority to manage Guide Use Areas (GUAs) falls under the Big Game Commercial Services Board (BGCSB). It is important to note that the BGCSB statutes (AS 08.54) authorize the board to license and regulate the activities of providers of commercial services to big game hunters. The statutes do not authorize the board to limit the number of licenses issued or limit the number of guides within a GUA, but the board does have authority over the requirements to get a license (AS 08.54.600), over the boundaries of GUAs and some details of use area registration (08.54.750). The alternatives to the GCP that fall under the BGCSB authority are considered in detail in the Proposed Decision.

**Number of Commenters (letters): 7**

**(81) Topic/Issue:**

**Program Alternatives / Permit/Draw**

**Comment Summary Statement:**

**Commenters encouraged DMLW to consider using a structured drawing permit/lottery system to award a limited number of tags. One commenter argued against enlarging the draw permit system citing a negative impact on the quality of guided hunts.**

**Response:**

Thank you for your comment. The allocation of wildlife resources is under the authority of the Alaska Board of Game (BOG) and their regulatory process. The advantages and disadvantages of changing the allocation system of wildlife resources to non-residents are discussed in detail in the Proposed Decision. This is an alternative that is not within the authority of DMLW.

**Number of Commenters (letters): 18**

**(82) Topic/Issue:**

**Program Alternatives / Strict Limit on the Number of Guide Licenses Available**

**Comment Summary Statement:**

**Commenters stated that the State should stop issuing, or limit, the number of licenses for registered guides in Alaska.**

**Response:**

Thank you for your comment. The issuance of professional licenses in the guide industry falls under the authority of the BGCSB. It is important to note that the BGCSB statutes (AS 08.54) authorize the board to license and regulate the activities of providers of commercial services to big game hunters. The statutes do not authorize the board to limit the number of licenses issued or limit the number of guides within a GUA, but the board does have authority over the requirements to get a license (AS 08.54.600), over the boundaries of GUAs and some details of use area registration (08.54.750).

**Number of Commenters (letters): 18**

**(83) Topic/Issue:**

**Proposed Program / Do Not Support the Proposed Program**

**Comment Summary Statement:**

**Commenters expressed their opposition to the GCP as it is currently proposed.**

**Response:**

DMLW received comments from 31 individual commenters that stated opposition to, or lack of support, for the GCP. DMLW will be considering all comments on the GCP. The public will have an additional opportunity to comment on the program in 2012. All comments will be considered prior to finalizing the program.

**Number of Commenters (letters): 36**

**(84) Topic/Issue:** **Proposed Program / Support Proposed Program**  
**Comment Summary Statement:** **Commenters expressed their support for the GCP.**  
**Response:** Thank you for your comment. DMLW received comments from eight commenters that stated they supported the GCP. DMLW will be considering all comments on the GCP. The public will have an additional opportunity to comment on the program in 2012. All comments will be considered prior to finalizing the program.  
**Number of Commenters (letters):** 10

**(85) Topic/Issue:** **Proposed Program / The Proposed Program will Improve Current Conditions**  
**Comment Summary Statement:** **Commenters noted that the proposed GCP will improve current conditions, enhance hunting experience, and help solve overcrowding issues on State lands.**  
**Response:** Thank you for your comment. DMLW received comments from six commenters that stated they thought the GCP would improve the existing conditions in the field. DMLW will be considering all comments on the GCP. The public will have an additional opportunity to comment on the program in 2012. All comments will be considered prior to finalizing the program.  
**Number of Commenters (letters):** 6

**(86) Topic/Issue:** **Proposal Introductory Questions / Additional Questions**  
**Comment Summary Statement:** **Commenters suggested adding the question to the introductory portion of the Concession Application, 'Are you certified by the BGCSB to guide for the big game species you are intending for in the unit for which you are applying?'**  
**Response:** Thank you for your comment. The BGCSB does not certify guides for specific species, they certify guides for operating in specific Game Management Units. Therefore no such certification will be required by DMLW. The Proposed Decision will be available for public comment in 2012. DMLW encourages the public to review the Proposed Decision and provide comments.  
**Number of Commenters (letters):** 3

**(87) Topic/Issue:** **Proposal Introductory Questions / Provide Documentation or Proof with Answers**  
**Comment Summary Statement:** **Commenters noted that applicants should be required to provide proof of the claims made in application and proof of insurance and bonding capacity.**  
**Response:** Thank you for your comment. DMLW has requested that applicants provide proof of their answers and claims throughout the Scoring Criteria and under the Minimum Requirements section. DMLW has decided to require each concession applicant to provide proof of coverage for commercial liability insurance. The amount is to be determined but will likely be commensurate to what is required currently for DMLW Land Use Permits. DMLW does not anticipate bonding for the GCP itself; however concession winners will still need to apply for land use permits within their concessions that will still be subject to bonding requirements. In addition, DMLW reserves the right to implement other bonding requirements for the GCP in the future. The Proposed Decision will be available for public comment in 2012. DMLW encourages the public to review the Proposed Decision and provide comments.  
**Number of Commenters (letters):** 2

**(88) Topic/Issue:**

**Proposal Introductory Questions / Question Number 2**

**Comment Summary Statement:**

**Commenter questioned what documentation/legal decision DMLW relied on to allow only an individual with an occupational license to bid.**

**Response:**

Thank you for your comment. The GCP is a program that is being proposed as a method to address issues identified by several boards and the guiding industry. The program is specific to the guide industry and as such, concession offerings are limited to those individuals who are licensed in that industry. One of the purposes of the GCP is to ensure that commercial guide operations are conducted by professionals that can demonstrate experience, competence, and stewardship in their field. One of the boards that has requested DMLW to implement the GCP is the BGCSB. It is important to note that the BGCSB statutes (AS 08.54) authorize the board to license and regulate the activities of providers of commercial services to big game hunters. The statutes do not authorize the board to limit the number of licenses issued or limit the number of guides within a GUA, but the board does have authority over the requirements to get a license (AS 08.54.600), over the boundaries of GUAs and some details of use area registration (08.54.750).

**Number of Commenters (letters):** 2

**(89) Topic/Issue:**

**Proposal Introductory Questions / Question Number 3**

**Comment Summary Statement:**

**Commenter noted that Introductory Question #3 should also ask, if applicants are currently registered or permitted for activity with the Borough.**

**Response:**

Thank you for your comment. DMLW will likely include a stipulation on the concession contract that is similar to the, "Other Authorizations," stipulation on current DMLW Land Use Permits. That stipulation reads, "The issuance of this authorization does not alleviate the necessity of the permittee to obtain authorizations required by other agencies for this activity." The complete list and details of terms, stipulations, and regulations for concession contracts will be published and available for comment during the regulatory creation process.

**Number of Commenters (letters):** 1

**(90) Topic/Issue:**

**Proposal Introductory Questions / Question Number 4**

**Comment Summary Statement:**

**Commenters noted that Introductory Question #4 should be removed along with bid criteria and suggested replacing it with an annual concession fee or a client based fee.**

**Response:**

Thank you for your comment. DMLW has decided to remove the bid from the application and scoring criteria and a full discussion of the proposed fee structure is within the Proposed Decision.. The Proposed Decision will be available for public comment in 2012. DMLW encourages the public to review the Proposed Decision and provide comments.

**Number of Commenters (letters):** 2

**(91) Topic/Issue:**

**Proposal Introductory Questions / Question Number 5**

**Comment Summary Statement:**

**Commenters noted that more information should be given on bonding requirements (e.g. how much and what is it required for) and applicants should be required to submit proof of bonding and insurance.**

**Response:** Thank you for your comment. DMLW has decided to require each concession applicant to provide proof of coverage for commercial liability insurance. The amount is to be determined but will likely be commensurate to what is required currently for DMLW Land Use Permits. DMLW does not anticipate bonding for the GCP itself; however concession winners will still need to apply for land use permits within their concessions that will still be subject to bonding requirements. In addition, DMLW reserves the right to implement other bonding requirements for the GCP in the future. The Proposed Decision will be available for public comment in 2012. DMLW encourages the public to review the Proposed Decision and provide comments.

**Number of Commenters (letters):** 3

**(92) Topic/Issue:** **Review Panel / Ability to Conduct Quality Review**

**Comment Summary Statement:** **Commenters are concerned about the Selection Panel's ability to conduct a fair and quality review of concession applications. Commenters noted it would be too time consuming and complex to verify each applicants' information. Some were concerned about DMLW employees being subject to bribery as well.**

**Response:** Thank you for your comment. The scoring of applications will be conducted by an evaluation panel of agency personnel. There may be more than one panel, representing different regions of an agency's jurisdiction. Panel participants may be employees of: DNR, ADF&G, DCCED, Department of Law, Department of Public Safety (DPS), and the BLM. The panel(s) will use a standardized scoring system when reviewing and scoring applications. The review panel members and the scoring standards will remain confidential. The Review Panel will be allotted as much time as necessary to conduct unbiased, quality reviews.

**Number of Commenters (letters):** 4

**(93) Topic/Issue:** **Review Panel / Confidentiality**

**Comment Summary Statement:** **Commenter noted that applications should be confidential (applicant's name not revealed to review panel) to lessen any personal bias in selection process.**

**Response:** Thank you for your comment. Financial and personal information will be kept confidential, consistent with Chapter 92 SLA 08 (AS 45.48) and AS 38.05.035. However DMLW will be unable to keep applicants names confidential due to the large volume of information and documentation required. All other information will be kept confidential until the concession winners are released to the public.

**Number of Commenters (letters):** 1

**(94) Topic/Issue:** **Review Panel / Guides should not be Members of the Review Panel**

**Comment Summary Statement:** **Commenters noted that guides should not be on the Selection Panel. It was noted that guides may be biased and be unable to make an impartial decision.**

**Response:** Thank you for your comment. DMLW agrees that input by industry personnel on the review panel would be subject to accusations of bias and would constitute a conflict of interest. The scoring of applications will be conducted by an evaluation panel of agency personnel. There may be more than one panel, representing different regions of an agency's jurisdiction. Panel participants may be employees of: DNR, ADF&G, DCCED, Department of Law, Department of Public Safety (DPS), and the BLM.

**Number of Commenters (letters):** 4

**(95) Topic/Issue:**

**Review Panel / Make Up of Panel**

**Comment Summary Statement:**

**Commenters made suggestions regarding which individuals should be on the Review Panel. Various suggestions included industry personnel, 1-2 retired registered guides, BGCSB member, community advisory committees, local government representative, and subsistence representative.**

**Response:**

Thank you for your comment. DMLW has considered your comments on the makeup of the review panel before finalizing the GCP. The scoring of applications will be conducted by an evaluation panel of agency personnel. There may be more than one panel, representing different regions of an agency's jurisdiction. Panel participants may be employees of: DNR, ADF&G, DCCED, Department of Law, Department of Public Safety (DPS), and the BLM.

**Number of Commenters (letters): 6**

**(96) Topic/Issue:**

**Review Panel / Tie Breaker**

**Comment Summary Statement:**

**Commenters made suggestions on how to best break a 'tie' in concession application scoring. Suggestions included a coin toss, seniority, least number of concessions, meeting with both parties to find an agreeable solution, and selecting the applicant with the highest score on the highest graded criteria.**

**Response:**

Thank you for your comment. DMLW has considered tie breaker comments when finalizing the GCP. Ties in scores for the same GCA and type will be settled in the following manner:

1. If a GCA has more than one available concession and the two highest scores are the same, both applicants will be offered a concession.
2. If a tie occurs between applicants and there are not enough concessions to make an offer to both applicants, 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 any applications. The applicant who had the highest combined score on the pre-determined questions will be offered a concession.
3. If a tie has occurred on the combined scores of the pre-determined questions, then the winning applicant will be selected by lottery.

**Number of Commenters (letters): 5**

**(97) Topic/Issue:**

**Scoring Criteria #1 / Sub-factor A, Personal Experience of the Industry; Scoring Criteria #1 / Sub-factor B: Demonstrated Ability to Work with Other Individuals, Agencies, and Communities; Scoring Criteria #2 / Sub-factor A: Demonstrated Willingness to Protect Wildlife and Habitat Resources; Scoring Criteria #2 / Sub-factor B: Protecting Historical, Cultural, and Archaeological Resources; Scoring Criteria #2 / Sub-factor C: Proven Commitment to Improving the Hunting Industry; Scoring Criteria #2 / Sub-factor D: Stewardship Projects to Complete to Improve the Area; Scoring Criteria #3 / Sub-factor A: Providing Client and Visitor Services in a Safe Manner; Scoring Criteria #3 / Sub-factor B: Providing a Quality Hunting Experience; Scoring Criteria #3 / Sub-factor C:**

**Business Plan that Encourages Cooperation with Local Communities; Scoring Criteria #3 / Sub-factor D: Operations Plan for all Facets of the Business; Scoring Criteria #4 / Sub-factor A: Available Funds; Scoring Criteria #4 / Sub-factor B: Revenue; Scoring Criteria #5 Violations/Citations/Convictions/Defaults**

**Comment Summary Statement:** Commenters provided comments on the Scoring Criteria.

**Response:** Thank you to everyone for your comments on the proposed Scoring Criteria. We have reviewed and extensively re-written the proposed Scoring Criteria. Our review process included consideration of the public comments we received, review of other similar agency programs from the US Fish and Wildlife Service and National Park Service in Alaska, and discussions with other state ADF&G and federal (USFWS, NPS, BLM) agency personnel. Many of your comments resulted in direct changes to the criteria and we encourage you to review the new criteria and provide feedback during the next public comment period.

**Number of Commenters (letters):** 362

**(98) Topic/Issue: Suggested Alternatives / APHA Proposed Program**

**Comment Summary Statement:** Commenter noted that DMLW should consider the proposed APHA program as an alternative to the GCP.

**Response:** Thank you for your comment. DMLW has reviewed all of the public comments and has incorporated many of the ideas presented into the current proposed GCP. DMLW encourages the public to review the GCP Proposed Decision and supporting documents and provide comments again.

**Number of Commenters (letters):** 1

**(99) Topic/Issue: Suggested Alternatives / Buy Out of Guide Operations**

**Comment Summary Statement:** Commenter suggested that DMLW consider buying out some guide operations in lieu of spending more state money in legal court fees during appeal process.

**Response:** Thank you for your comment. DMLW will not be buying out any operations. Improvements that have been previously permitted on state land such as cabins or other infrastructure will be subject to the terms and stipulations of the existing authorizations. In the event that the owner of improvements does not win a concession, the owner will be responsible for the disposition of the improvements according to the existing permit or lease terms or may have to change their activities to another authorized use that is not big game guiding.

**Number of Commenters (letters):** 1

**(100) Topic/Issue: Suggested Alternatives / Limit Allowable Harvest for Guides**

**Comment Summary Statement:** Commenters suggested that DMLW limit the number of animals each registered guide can harvest. The concession program as it is proposed does not address harvest limits for guides.

**Response:** Thank you for your comment. DMLW has considered all comments on the alternatives to fully understand the options, impacts of the options, and how the alternative helps meet the resource management and conservation objectives, as well as alleviate social problems. DMLW does not have the statutory authority to limit harvest. This authority resides in the BOG. BOG's main role is to conserve and develop Alaska's wildlife resources. This includes establishing open and closed

seasons, areas for taking game, setting bag limits; and regulating methods and means. BOG is also involved with setting policy and direction for the management of the State's wildlife resources. BOG is charged with making game allocation decisions, and ADF&G is responsible for management based on those decisions. BOG's authority to adopt regulations is described in AS 16.05.255 and the regulations can be found under 5 AAC Chapters 84, 85, 92, and 99.

**Number of Commenters (letters):** 16

**(101) Topic/Issue:**

**Transferability of GCA / Add Ability to Transfer GCAs**

**Comment Summary Statement:**

**Commenters noted their support in having the ability to transfer GCAs as a way of encouraging sustainability in industry and family guide businesses (guides can retire and transfer business to next generation or sell profitable business).**

**Response:**

Thank you for your comment. The *Owsichек* Decision (*Owsichек v. State*) found Exclusive Guide Areas as unconstitutional and cited four major reasons in their decision. The fourth reason was that the EGAs were not subject to any contractual terms or restrictions, including the fact that guides were able to transfer the Exclusive Guide Area as if they owned them. For this reason, the GCAs within the GCP are designed to be limited in duration (10 years), subject to a five year review and renewal, with competitive selection, and without the ability to transfer.

**Number of Commenters (letters):** 9

**(102) Topic/Issue:**

**Transferability of GCA / Applicability to *Owsichек***

**Comment Summary Statement:**

**Commenters discussed transferability of GCAs within the *Owsichек* Decision framework. One commenter was opposed to transferability and the other two were in support of transferability.**

**Response:**

Thank you for your comment. The *Owsichек* Decision (*Owsichек v. State*) found Exclusive Guide Areas as unconstitutional and cited four major reasons in their decision. The fourth reason was that the EGAs were not subject to any contractual terms or restrictions, including the fact that guides were able to transfer the Exclusive Guide Area as if they owned them. For this reason, the GCAs within the GCP are designed to be limited in duration (10 years), subject to a five year review and renewal, with competitive selection, and without the ability to transfer.

**Number of Commenters (letters):** 3

**(103) Topic/Issue:**

**Transferability of GCA / Do Not Allow Transferability**

**Comment Summary Statement:**

**Commenters noted that transferability of concession authorizations should not be allowed.**

**Response:**

Thank you for your comment. The *Owsichек* Decision (*Owsichек v. State*) found Exclusive Guide Areas as unconstitutional and cited four major reasons in their decision. The fourth reason was that the EGAs were not subject to any contractual terms or restrictions, including the fact that guides were able to transfer the Exclusive Guide Area as if they owned them. For this reason, the GCAs within the GCP are designed to be limited in duration (10 years), subject to a five year review and renewal, with competitive selection, and without the ability to transfer.

**Number of Commenters (letters):** 2



## **APPENDIX B – ALTERNATIVES**

The GCP is the course of action that DNR is proposing in order to address the issues brought to our attention. However, there are a number of possible alternatives to the GCP that address some of the problems, each to varying scope and degree. Five alternatives that we considered are beyond the authority of DMLW/DNR and would fall to other agencies or boards to implement. Four of the alternatives considered, including the null, or change nothing alternative, fall under DMLW authority and are evaluations of the different ways in which the GCP could be implemented. These alternatives are not exhaustive but are several of the options that have been identified through public comments and agency discussions.

### **Non DMLW Alternatives to the Proposed GCP**

There are a couple of alternatives that relate to regulating the seasons, bag limits, or permit systems for non-residents. The allocation of wildlife resources is under the authority of the Alaska Board of Game and their regulatory process. The BOG's statutory authority to adopt regulations is given under AS 16.05.255. The regulations they create can be found under 5 AAC Chapters 84, 85, 92 and 99.

The guiding industry must follow wildlife hunting regulations created by the BOG. There are two non-DMLW alternatives that fall under the authorities of BOG.

- The first BOG alternative to the GCP is for the board to further restrict non-resident hunting opportunity. This could be accomplished by expanding the drawing and/or registration permit systems for non-residents, while simultaneously reducing or eliminating non-resident general harvest seasons and bag limits. This alternative would help to address the issues of quality of experience and conflicts between users by decreasing the number of non-resident hunters in the field. It may also address wildlife conservation concerns in cases where overharvest is an issue.
  - The advantages of this alternative include: the regulatory system is already in place and the BOG has the authority to regulate non-resident opportunity. Changes to non-resident hunting opportunity can be implemented piecemeal or statewide to address all scales of issues and concerns. This is the method currently used by ADF&G, the BOG, and the public to address concerns and issues related to non-resident hunting.
  - The disadvantages of this alternative include: changes to non-resident hunting opportunity do not address land stewardship concerns because non-residents are not the responsible party for land use authorizations; this alternative does not address issues involving other user groups such as local residents and the guides themselves; this would have a financially adverse impact to guides and the industry since they could only guide

clients who obtain permits; and finally, this alternative would result in a reduction of revenue to ADF&G from decreased non-resident license and tag sales.

- The second BOG alternative to the GCP is for the board to establish a specific harvest level for non-resident hunters. The BOG would allocate a percentage of the harvestable surplus, such as 10%, to non-residents, potentially statewide and for all species, and the vehicle for this system would likely be drawing permits. This is different than the first alternative in that the allocation to non-residents would be fixed at a percentage of surplus rather than just reducing opportunity as needed.
  - The advantages of this alternative are: again, the regulatory system is already in place and the BOG has the authority to regulate non-resident opportunity. This alternative provides a more predictable allocation of game to non-residents and allows guides to plan more effectively. It simplifies the allocation of wildlife to non-residents and may make it simpler for wildlife managers to plan and set harvest objectives for all users.
  - The disadvantages of this alternative include: this limits business opportunities for hunting guides and outfitters as it would reduce overall non-resident hunting opportunity; setting a flat percentage of harvest in a broad area or by species would result in restricting hunting opportunity unnecessarily in areas where wildlife populations are increasing; similar to the first BOG alternative, this alternative does not help encourage land stewardship and also reduces revenue to ADF&G from reduced license and tag sales.

The guiding industry is also regulated through the Big Game Commercial Services Board. It is important to note that the BGCSB statutes (AS 08.54) authorize the board to license and regulate the activities of providers of commercial services to big game hunters. The statutes do not authorize the board to limit the number of licenses issued or limit the number of guides within a Guide Use Area (GUA). However, the board does have authority over the requirements to acquire and maintain a license (AS 08.54.600), over the boundaries of GUAs and some details of use area registration (08.54.750). There are three alternatives that fall under BGCSB authorities.

- The first BGCSB alternative to the GCP is for the board to reduce the number of GUAs a guide could register for. Currently a guide in the state of Alaska can register in three GUAs per year (not including Predator Control Areas). Reducing the number of GUAs a guide can register for could reduce the number of guides in a GUA, which would address the issues of quality of experience and user conflicts. However, like the BOG alternatives, it does not impact any activities related to land stewardship. This alternative also does not address wildlife

conservation concerns as it has no impact on how many clients a guide serves or how many hunts are conducted.

- The advantage of this alternative: the BGCSB has the authority to make this registration change (AS 08.54.750) with minimal additional cost.
  - The disadvantages of this alternative include: it may not reduce the number of guides within a GUA, as guides may choose to focus on the most productive and desirable GUAs, leading to an increase in competition in areas that are already overcrowded; the reduction of areas available to a guide could reduce a guide's ability to have an economically viable business.
- The second BGCSB alternative to the GCP would be to increase the overall number of GUAs by subdividing or reducing the size of existing GUAs. Guides would still be able to register for three areas but would have to choose between more, albeit smaller areas. This alternative could result in fewer conflicts among users by spreading out hunting pressure.
    - The advantage of this alternative include: the BGCSB has the authority to make this change (12 AAC 75.265) with minimal additional costs.
    - The disadvantage of this alternative is: the reduction in the size of a GUA may not reduce competition since there would be no limit on the total number of guides in one GUA. The most desirable GUAs would still have a high number of guides registered.
- The final BGCSB alternative to the GCP is to greatly increase the mandatory qualifications for obtaining an assistant, registered or master guide license. These may include, but are not limited to, increased years of apprenticeship, adding an exam and/or higher requirements to be an assistant guide, increased qualifications for master and registered guides, demonstrated knowledge of the BGCSB and BOG regulatory processes, demonstrated knowledge of land owner permitting processes, and demonstrated biological knowledge of wildlife. These could all be tested or documented through written, oral, or practical evaluations. Many of these ideas are currently being considered or have been implemented by the BGCSB and could be developed further.
    - The advantages of this alternative include: may increase the quality of the guided hunting experience; may increase guided hunter success; may reduce wildlife and land ownership violations.
    - A disadvantage of this alternative include: increased time required for individuals to develop their business; more time, money and staff would be needed to develop and revamp the big game licensing process

## DMLW Alternatives to the Proposed GCP

There are also proposed GCP alternatives to consider that are within the proposed program framework. These include leaving the existing permit and lease system in place (null alternative), implementing the program only in high conflict areas, a program design that would apply to only specific wildlife species, and changing the current DMLW permitting and leasing process for commercial big game guiding operations.

- The first DMLW alternative (null alternative) to the proposed GCP is to leave the existing DMLW permitting and leasing program as it is. Currently DMLW issues an unlimited number of land use and commercial recreation permits (AS 38.05.850) and leases (AS 38.05.070) to licensed registered and master guides who plan to operate on state land. Land use permits (LUPs) authorize the use of camps in the same location for 6 months to a year on an annual basis and may be issued for up to five years. Commercial Recreation Permits (CRPs) allow guides to establish short term, portable camps on state land for up to 14 days at a time only.

The process for issuing all types of permits is generally a non-competitive process, involves a simple application and review, and fairly minimal fees. Permit stipulations do include terms for land stewardship and are revocable. Commercial operators who do not need to establish a camp and will not overnight on state land must register for Commercial Day Use. Commercial Day Use Registration is required per 11 AAC 96.018 for all commercial recreation purposes on a day-use basis with no camp or facility, whether occupied or unoccupied.

Leases are issued for varying terms, usually at least 10 years, and are designed for more substantial improvements on state land, such as lodges. They are considered to apply to more permanent structures and convey an interest in state land to the lease holder.

- The advantages of the current system are: the program is currently in place; relatively low cost to the average guide; and the process is simple and fair, allowing all guides to conduct their businesses on state lands.
- The disadvantages of the current system are: does not address wildlife management concerns, quality of experience, overcrowding or user conflicts, or enforcement issues.

There have been several comments received that relate to the reported problems of overcrowding and user conflicts. Some comments and reports state that there are numerous instances of conflict that occur in the field, that there are just too many

guides, and that resource depletion and overharvest are problems. However, there are also examples of comments received that state the opposite. It is clear that the severity of the problems is not consistent statewide.

- The second DMLW alternative to the proposed GCP implementation is to only implement the program in areas where overcrowding, resource degradation, and user conflicts are occurring.
  - The advantages of this alternative include: it would reduce the scale and complexity of implementing the GCP statewide, saving time, effort, and money; the scoring system could be designed to be area specific and address the issues and concerns on a finer scale; and finally, it would have a smaller impact on the guiding industry, restricting commercial use and activity only in identified problem areas.
  - The disadvantages of this alternative include: implementing the GCP only in high conflict areas could result in simply creating new problem areas elsewhere when guides, who do not win a concession, move to adjacent areas or units where no restrictions are in place; it may be challenging to identify and quantify the problem areas that should have the GCP in place because there is not clear data documenting conflicts between users, overcrowding, and resource degradation.
- The third DMLW alternative to the proposed GCP is similar to the first but instead of implementing the GCP only in certain areas, this alternative would implement the GCP only for certain wildlife species that have been identified as being at the heart of many conflicts. Many of the comments and reports about overcrowding and resource degradation center around the pursuit and management of Dall sheep and brown bears (in this instance we mean coastal and Kodiak brown bears, not inland grizzlies). Dall sheep and coastal brown bears are highly sought after wildlife species, both to resident and non-resident hunters.
  - The advantages to this alternative include: the program would only be implemented in GUAs where Dall sheep and brown bears are found, not statewide, and this would again decrease the scale and complexity of the GCP; it could prevent the implementation of drawing permit systems in some areas (there is a 2012 proposal before the BOG to implement drawing permits statewide for Dall sheep); and this alternative would only impact those guides who pursue sheep and brown bears and would not have as large of an impact on the whole guiding industry.
  - The disadvantages of this alternative include: the implementation of the GCP for only two species would have little impact on those areas that have user conflicts and overcrowding not related to sheep or bears; a species specific approach does not address land stewardship issues nor

does it address wildlife conservation issues that are not related to sheep or brown bears; focusing the GCP on certain wildlife species only may lead to difficulty with avoiding wildlife allocation issues, which are solely under the authority of the BOG.

- Finally, the last DMLW alternative to the proposed GCP is to change the way DMLW currently regulates our permit system for commercial use of state land by guides. This could be accomplished in several ways: the establishment of buffer zones around LUPs and leases for guide camps; DMLW could limit the number of permits one guide can have or could limit the number of permits issued in an area; DMLW could limit or modify the stipulations for CRPs.
  - The advantages of this alternative include: there would be no need for DMLW to fund and implement a new statewide program; changes to the current system could address the issues of land stewardship, quality of experience, and overcrowding in some areas.
  - One disadvantage of this alternative is that DMLW does not currently have limited enforcement authority on the state lands managed by DMLW and therefore adding more restrictions or stipulations to existing permits may not be effective to address the issues. Other disadvantages of this alternative include: it would be difficult to establish buffer zones in areas where there are already camps in close proximity to one another; buffer zones may spread out the locations of camps but may not affect user conflicts and overcrowding in areas where wildlife are being pursued; not allowing short-term portable camps for LUP authorizations may cause difficulties and unsafe conditions during the pursuit of wildlife; halting the issuance of commercial recreation permits would result in a decrease in revenue to the state; and finally, implementing many of these ideas would still require creating additional regulations.

All of the alternatives to the proposed GCP have the potential to address some of the issues that have been identified. However, the proposed GCP is the preferred alternative for the DMLW because it is the only alternative that can potentially address the majority of the issues and conflicts in an effective manner. The proposed GCP, by introducing a competitive process into the commercial use of land, creates a system where guides and their businesses get rewarded for being good stewards of the land, the wildlife, and for providing a safe and quality service to their clients.

**APPENDIX C:**

**Occupational Licensing Guide and Contracted Hunt Data**

The following spreadsheet details two types of information in three different years: 2000, 2009 and 2010. The first type of information is the number of hunting guides and the second is the number of contracted hunts per Guide Use Area. Each type is organized according to Guide Use Area and year.

Some Guide Use Areas are not on the spreadsheet. This occurs when there is either no or very little state land within the Guide Use Area.

## Occupational Licensing Data

11-01-2011

<b>Guide Use Area</b>	<b>2000</b>	<b>2009</b>	<b>2010</b>
1-01	3 Guides/13 Hunts	3 Guides/2 Hunts	3 Guides/1 Hunt
1-02	7 Guides/55 Hunts	5 Guides/31 Hunts	5 Guides/36 Hunts
6-01	5 Guides/111 Hunts	6 Guides/120 Hunts	5 Guides/155 Hunts
6-02	6 Guides/34 Hunts	8 Guides/39 Hunts	8 Guides/44 Hunts
6-03	7 Guides/29 Hunts	5 Guides/47 Hunts	4 Guides/35 Hunts
6-04	4 Guides/16 Hunts	7 Guides/50 Hunts	7 Guides/36 Hunts
6-05	5 Guides/9 Hunts	3 Guides/13 Hunts	3 Guides/9 Hunts
7-01	5 Guides/4 Hunts	4 Guides/6 Hunts	6 Guides/7 Hunts
8-01	3 Guides/5 Hunts	4 Guides/4 Hunts	2 Guides/1 Hunt
8-02	3 Guides/3 Hunts	6 Guides/20 Hunts	8 Guides/31 Hunts
8-03	4 Guides/5 Hunts	14 Guides/29 Hunts	9 Guides/9 Hunts
8-04	2 Guides/8 Hunts	6 Guides/8 Hunts	7 Guides/5 Hunts
8-26	5 Guides/5 Hunts	5 Guides/4 Hunts	4 Guides/9 Hunts
8-27	3 Guides/6 Hunts	6 Guides/2 Hunts	5 Guides/4 Hunts
8-28	5 Guides/10 Hunts	7 Guides/19 Hunts	9 Guides/14 Hunts
8-29	12 Guides/42 Hunts	17 Guides/51 Hunts	17 Guides/34 Hunts
8-30	10 Guides/17 Hunts	17 Guides/52 Hunts	14 Guides/24 Hunts
8-31	No Data	No Data	1 Guide/9 Hunts
9-01	9 Guides/8 Hunts	7 Guides/12 Hunts	3 Guides/1 Hunt
9-02	14 Guides/24 Hunts	8 Guides/8 Hunts	4 Guides/3 Hunts
9-03	6 Guides/6 Hunts	3 Guides/1 Hunt	1 Guide/2 Hunts
9-04	27 Guides/106 Hunts	23 Guides/85 Hunts	18 Guides/40 Hunts
9-05	8 Guides/18 Hunts	2 Guides/6 Hunts	2 Guides/3 Hunts
9-06	2 Guides/10 Hunts	3 Guides/6 Hunts	3 Guides/No Data
9-07	2 Guides/15 Hunts	1 Guide/5 Hunts	2 Guides/2 Hunts
9-08	No Data	1 Guide/1 Hunt	1 Guide/ No Data
9-12	6 Guides/13 Hunts	4 Guides/29 Hunts	3 Guides/15 Hunts
9-19	4 Guides/ 2 Hunts	4 Guides/22 Hunts	2 Guides/1 Hunt
9-25	9 Guides/48 Hunts	11 Guides/54 Hunts	10 Guides/29 Hunts
9-26	6 Guides/33 Hunts	6 Guides/39 Hunts	6 Guides/22 Hunts
9-29	4 Guides/27 Hunts	9 Guides/62 Hunts	9 Guides/68 Hunts
9-30	6 Guides/38 Hunts	7 Guides/24 Hunts	6 Guides/32 Hunts
9-99	4 Guides/22 Hunts	6 Guides/42 Hunts	5 Guides/31 Hunts
12-01	6 Guides/35 Hunts	8 Guides/39 Hunts	8 Guides/24 Hunts
12-03	1 Guide/No Data	2 Guides/No Data	2 Guides/2 Hunts
13-01	26 Guides/133 Hunts	25 Guides/96 Hunts	25 Guides/99 Hunts
13-02	24 Guides/108 Hunts	20 Guides/28 Hunts	21 Guides/39 Hunts
13-03	8 Guides/14 Hunts	9 Guides/10 Hunts	13 Guides/11 Hunts
13-04	5 Guides/8 Hunts	9 Guides/7 Hunts	9 Guides/2 Hunts
13-05	19 Guides/123 Hunts	10 Guides/29 Hunts	13 Guides/26 Hunts
13-06	8 Guides/36 Hunts	6 Guides/6 Hunts	10 Guides/6 Hunts
13-07	3 Guides/4 Hunts	5 Guides/17 Hunts	9 Guides/24 Hunts
14-01	10 Guides/26 Hunts	9 Guides/25 Hunts	11 Guides/24 Hunts
14-02	8 Guides/12 Hunts	3 Guides/8 Hunts	5 Guides/3 Hunts
14-03	6 Guides/6 Hunts	5 Guides/8 Hunts	4 Guides/15 Hunts
14-04	13 Guides/23 Hunts	11 Guides/34 Hunts	13 Guides/31 Hunts

## Occupational Licensing Data

11-01-2011

15-03	4 Guides/11 Hunts	2 Guides/45 Hunts	3 Guides/32 Hunts
16-01	5 Guides/8 Hunts	28 Guides/102 Hunts	28 Guides/59 Hunts
16-02	19 Guides/186 Hunts	33 Guides/88 Hunts	34 Guides/40 Hunts
16-03	16 Guides/37 Hunts	32 Guides/43 Hunts	32 Guides/28 Hunts
16-04	9 Guides/62 Hunts	17 Guides/39 Hunts	16 Guides/ 41 Hunts
16-05	2 Guides/12 Hunts	9 Guides/13 Hunts	13 Guides/23 Hunts
17-01	10 Guides/44 Hunts	8 Guides/3 Hunts	8 Guides/19 Hunts
17-02	35 Guides/203 Hunts	16 Guides/75 Hunts	17 Guides/52 Hunts
17-03	42 Guides/247 Hunts	23 Guides/116 Hunts	24 Guides/68 Hunts
17-04	19 Guides/153 Hunts	8 Guides/50 Hunts	7 Guides/26 Hunts
17-05	17 Guides/124 Hunts	13 Guides/60 Hunts	18 Guides/81 Hunts
17-06	8 Guides/37 Hunts	4 Guides/39 Hunts	4 Guides/20 Hunts
18-02	2 Guides/No Data	2 Guides/No Data	1 Guide/No Data
18-03	1 Guide/4 Hunts	3 Guides/28 Hunts	4 Guides/18 Hunts
19-01	4 Guides/8 Hunts	6 Guides/20 Hunts	5 Guides/11 Hunts
19-02	1 Guide/No Data	4 Guides/No Data	3 Guides/4 Hunts
19-03	26 Guides/472 Hunts	15 Guides/141 Hunts	15 Guides/118 Hunts
19-04	24 Guides/441 Hunts	18 Guides/52 Hunts	18 Guides/45 Hunts
19-05	7 Guides/18 Hunts	5 Guides/41 Hunts	6 Guides/40 Hunts
19-06	5 Guides/52 Hunts	7 Guides/6 Hunts	6 Guides/19 Hunts
19-07	9 Guides/115 Hunts	9 Guides/30 Hunts	9 Guides/19 Hunts
19-08	11 Guides/83 Hunts	9 Guides/26 Hunts	9 Guides/25 Hunts
19-09	6 Guides/49 Hunts	6 Guides/6 Hunts	7 Guides/15 Hunts
19-10	15 Guides/106 Hunts	15 Guides/62 Hunts	17 Guides/61 Hunts
19-11	No Data	2 Guides/2 Hunts	2 Guides/No Data
19-12	9 Guides/65 Hunts	12 Guides/83 Hunts	14 Guides/100 Hunts
19-13	No Data	2 Guides/No Data	1 Guides/1 Hunt
19-14	No Data/No Data	No Data/No Data	No Data/No Data
20-01	5 Guides/64 Hunts	5 Guides/13 Hunts	5 Guides/12 Hunts
20-02	5 Guides/21 Hunts	9 Guides/34 Hunts	8 Guides/10 Hunts
20-03	6 Guides/14 Hunts	8 Guides/48 Hunts	9 Guides/35 Hunts
20-04	20 Guides/148 Hunts	21 Guides/227 Hunts	22 Guides/194 Hunts
20-05	4 Guides/4 Hunts	6 Guides/14 Hunts	8 Guides/15 Hunts
20-06	3 Guides/1 Hunts	2 Guides/2 Hunts	3 Guides/5 Hunts
20-07	6 Guides/11 Hunts	9 Guides/18 Hunts	8 Guides/20 Hunts
20-08	3 Guides/4 Hunts	6 Guides/19 Hunts	7 Guides/10 Hunts
20-09	1 Guide/5 Hunts	1 Guide/2 Hunts	2 Guides/No Data
20-10	No Data	5 Guides/12 Hunts	4 Guides/5 Hunts
20-11	4 Guides/18 Hunts	6 Guides/7 Hunts	5 Guides/15 Hunts
20-12	No Data/2 Hunts	3 Guides/No Data	3 Guides/No Data
21-01	10 Guides/106 Hunts	6 Guide/7 Hunts	7 Guides/20 Hunts
21-02	2 Guides/6 Hunts	4 Guides/2 Hunts	4 Guides/No Data
21-03	4 Guides/20 Hunts	4 Guides/2 Hunts	4 Guides/11 Hunts
21-04	4 Guides/16 Hunts	2 Guides/35 Hunts	3 Guides/16 Hunts
21-05	6 Guides/35 Hunts	2 Guides/38 Hunts	2 Guides/33 Hunts
22-01	1 Guide/3 Hunts	2 Guides/20 Hunts	2 Guides/21 Hunts
22-02	1 Guide/10 Hunts	1 Guide/27 Hunts	1 Guide/22 Hunts

## Occupational Licensing Data

11-01-2011

22-03	1 Guide/No Data	2 Guides/1 Hunts	2 Guides/No Data
22-04	1 Guide/5 Hunts	No Data	No Data
22-05	2 Guides/10 Hunts	2 Guides/4 Hunts	2 Guides/12 Hunts
22-06	4 Guides/35 Hunts	5 Guides/7 Hunts	3 Guides/3 Hunts
22-07	7 Guides/58 Hunts	5 Guides/46 Hunts	6 Guides/37 Hunts
23-01	3 Guides/39 Hunts	6 Guides/12 Hunts	5 Guides/15 Hunts
23-02	5 Guides/21 Hunts	3 Guides/32 Hunts	3 Guides/14 Hunts
23-03	No Data	No Data/4 Hunts	No Data
23-04	3 Guides/8 Hunts	5 Guides/7 Hunts	4 Guides/1 Hunt
23-05	2 Guides/2 Hunts	2 Guides/15 Hunts	2 Guides/13 Hunts
23-06	7 Guides/67 Hunts	9 Guides/41 Hunts	8 Guides/67 Hunts
23-07	2 Guides/10 Hunts	1 Guide/1 Hunt	1 Guide/No Data
24-01	5 Guide/42 Hunts	6 Guides/23 Hunts	5 Guides/35 Hunts
24-02	No Data	1 Guide/2 Hunts	1 Guide/1 Hunt
24-03	1 Guide/4 Hunts	2 Guides/12 Hunts	8 Guides/23 Hunts
24-04	2 Guides/21 Hunts	5 Guides/14 Hunts	2 Guides/1 Hunt
24-05	4 Guides/23 Hunts	4 Guides/24 Hunts	4 Guides/14 Hunts
25-01	1 Guide/11 Hunts	1 Guide/7 Hunts	1 Guide/21 Hunts
25-02	7 Guides/38 Hunts	5 Guides/73 Hunts	8 Guides/61 Hunts
25-03	5 Guides/19 Hunts	5 Guides/80 Hunts	2 Guides/32 Hunts
25-03A	No Data	No Data	4 Guides/20 Hunts
25-03B	No Data	No Data	2 Guides/7 Hunts
25-09	No Data/3 Hunts	1 Guide/1 Hunt	1 Guide/1 Hunt
25-10	No Data/1 Hunt	No Data	No Data/10 Hunts
25-11	2 Guides/No Data	1 Guide/No Data	1 Guide/ 1 Hunt
26-06	3 Guides/17 Hunts	5 Guides/82 Hunts	7 Guides/152 Hunts
26-07	2 Guides/6 Hunts	6 Guides/12 Hunts	6 Guides/5 Hunts
26-08	3 Guides/14 Hunts	3 Guides/23 Hunts	4 Guides/9 Hunts
26-09	1 Guide/22 Hunts	1 Guide/46 Hunts	2 Guides/37 Hunts
26-10	No Data	No Data	No Data
26-11	1 Guide/No Data	3 Guides/1 Hunt	2 Guides/7 Hunts
26-12	No Data	No Data	2 Guides/8 Hunts
26-13	3 Guides/3 Hunts	3 Guides/No Data	3 Guides/No Data

## **APPENDIX D - SCORING CRITERIA**

### **FORM A**

#### **Demonstrated Experience as a Big Game Guide and Guide Business Owner**

##### *Scoring Criteria 1 **75 points total***

##### *A. Sub-factor A: Experience as a Big Game Guide: **45 points total for sub-factor A***

1. Describe and document the number of years you have been a big game hunting guide. For each year, please note the following;
  - a. Number of days spent in the field within the Guide Use Area (GUA) you are applying for. Note that, "in the field," is defined as being present in a main or spike camp directly interacting with the client.
  - b. Number of days spent in the field total for the year (List by GUA). For each area, please list the specific location and type of terrain and habitat you hunted.
  - c. Class of license you held during those days reported in a & b.
  - d. For the last 10 years, please list the following details (Submit Hunt Records):
    - i. The number of clients you served. Please note where appropriate whether or not you were the contracting guide.
    - ii. The species hunted by each client.
    - iii. The number of species harvested.
2. Please list any other relevant non big game guiding activities, especially any conducted within the GUA you are applying for. Include the number of days you were afield and provide documentation where possible (Examples: personal sport hunting (provide copies of licenses, permits, or harvest tickets), fishing, trapping (provide fur sealing records), river boat guiding, leading tours, etc).
3. Please list any other relevant guiding experience (include the same information as in (b) and (d) above) that you feel is applicable. This may include guiding hunts in other states or countries. For full credit you must provide documentation such as client contracts, or the equivalent of an Alaska Hunt Report.

##### *B. Sub-factor B: Demonstrated Ability to work with clients, employees, agencies, and communities. **30 points total for sub-factor B***

1. Have you obtained all land owner authorizations as required for the last 10 years? These may include authorizations for state, federal, native, private, or borough lands. Describe where you have operated and provide copies of your authorizations.
2. Provide up to five letters of support or recommendation, or Annual Performance Evaluations, from the land owners you have worked with: boroughs, villages, native corporations, BLM, USFWS, NPS, USFS, etc.
3. Provide at least five letters of support or recommendation from clients that you have guided within the last 10 years. If you have not had that many clients in this time interval, please make note of that.
4. Please provide a contact list for clients you have served over the last 10 years. Include address, phone number, and email address if possible.
5. Describe how you educate clients and employees on being aware of local customs, traditions, and courtesies.

## FORM B

### Operating Strategies Used to Conserve and Minimize Impacts to the Natural Resources of the Concession Area

#### Scoring Criteria 2 **75 points total**

#### A. Sub-factor A: Demonstrated willingness to conserve wildlife and habitat resources. **55 points total for sub-factor A**

1. Please list examples of how you have conserved or minimized the impact to *habitat* from ATVs, snow machines, horses, boats, and human activity in the area that you are applying for. Examples: access route selection, choice of access methods, camp site selection, manure management. You must provide documentation with photos for full credit. If you have not operated in this area before, please provide examples from where you have operated or give examples of what you would propose to do in the area you are applying for.
2. a. Please list examples of how you have conserved or minimized the impact to *wildlife* resources from ATVs, snow machines, horses, boats, and human activity in the area that you are applying for. Examples: timing of motorized vehicle use, avoidance of sensitive wildlife areas, camp site selection to minimize wildlife disturbance. If you have not operated in this area before, please provide examples from where you have operated or give examples of what you would propose to do in the area you are applying for.  
  
b. Please describe what training methods you use to teach yourself, your employees, and clients how to identify legal animals such as 50-inch bull moose, billy goats, age and sex classes of bears, and full curl rams. Provide copies of any materials you give them or supporting documentation.
3. a. How do you obtain information about or recognize big game population trends in the area you are applying for?  
  
b. What wildlife population factors do you use to determine the number of clients you will take?  
  
c. Do you communicate with the wildlife management personnel in the area(s) where you operate?  
  
d. Do you provide your employees and clients with educational material on the biology of the species they are hunting prior to or while they are in the field? If so, please describe the material provided and attach copies.

Please provide a list of documents you review, correspondence, or meetings you attend as documentation. Examples would include: area management reports,

harvest data, emails between you and wildlife managers, attendance at local Advisory Committee meetings, etc.

4. a. If the area you are applying for has been designated as a predator control area by ADF&G and the Alaska Board of Game, have you directly participated in the program? Provide copies of any pertinent permits and sealing records.
- b. If you do not operate in designated predator control area, list what you have done to address predator populations in your area of operation. Examples: submission of proposals or written comments to the Board of Game addressing predators or promoting predator hunting and harvest to clients. Please document your experience by providing copies of proposals, written comments, client promotional materials, or the equivalent.

***B. Sub-factor B: Protecting Historical, Cultural, and Archaeological Resources 5 points total for sub-factor B***

1. Describe and document the type of information you will provide to your clients and employees aimed at protecting the historical and archaeological environment. Provide copies of information sources such as brochures or pamphlets, a reference list of sources, or the equivalent.

***C. Sub-factor C: Proven commitment to Improving the Hunting Industry 5 points total for sub-factor C***

1. Please describe your involvement on any committee, board, or organization related to the management of natural resources in Alaska, and/or your involvement with any hunting, shooting, or related state program. This may include but is not limited to:

ADF&G Advisory Committees (ACs)  
Regional Advisory Councils (RACs)  
ADF&G Working Groups (Ex: Unit 23, Upper Tanana Fortymile Caribou, etc)  
Boards of Game or Fish  
Subsistence Board  
Big Game Commercial Services Board  
Hunter Education  
Becoming an Outdoor Woman  
Citizen's Advisory Committee for Tanana Valley State Forest  
Alaska Natural Resource Conservation and Development Board  
Agency Land Use Plans

Document your service or participation by providing copies of proposals, testimony, instructor certifications, meeting attendance rosters, letters of reference from organizers or chairs, or equivalent.

***D. Sub-factor D: Stewardship Program 10 points total for sub-factor D***

1. Identify and describe in detail any problem areas you have found in the natural environment of the area you are applying for. Examples: areas of trail degradation, sensitive wetlands areas that are being impacted by human use, erosion of soils, garbage or fuel dumping, spill, and/or storage problems, trespass sites, or similar. Document with photos or detailed location information.
2. For one problem area, describe and document how you resolved the issue or propose how you would solve the problem. Provide details and costs for your solution for maximum credit.

## FORM C

### **Business Plan for Operating a Successful Business While Providing Quality Service to Clients and Financial Ability and Commitment**

#### *Scoring Criteria 3 150 points total*

#### *Sub-factor A – Providing client and visitor services in a safe manner. 15 points for sub-factor A*

1. For the last 10 years, list all accidents, incidents, and safety related violations or enforcement actions involving you or your guiding operation.
  - a. Submit reports from the following agencies: Federal Aviation Administration (FAA), United States Coast Guard (USCG), and State of Alaska, Department of Public Safety (state troopers).
  - b. If records cannot be obtained, please describe the accident, incident, or violation in detail and provide the name and number of the person you contacted that informed you that the record could not be provided.
  - c. Information for records requests can be obtained from:
    - US Coast Guard: 17<sup>th</sup> Coast Guard District legal office (907) 463-2050.
    - FAA: Written requests are submitted to FAA, Po Box 25082, Oklahoma City, OK 73125, Attention: AVN 124. The letter must include the full name of the person the records are being requested for, certificate numbers, return address, stipulate that you request records for accidents, incidents, and enforcement actions occurring in the past 10 years and be sure to sign the letter. For more information, you can also call the FAA at (405) 954-3261.
    - Department of Public Safety reports can be obtained from any State Troopers office. A personal visit may be necessary.
2. List all safety related training that you, your partners, and your employees have taken (advanced first aid, ETT, EMT, arctic survival, wilderness first aid, etc.). Give dates of training or participation and indicate if certification is current. Provide copies of all certifications.
3. Describe your emergency preparedness or safety plan. List your emergency communications capabilities and detail your plan on how you will deal with accidents and incidents in the field, including evacuation.
4. In addition to the items listed in #3 above, list all safety related equipment and supplies that are currently present in your base camp(s) and spike camp(s).

5. Please list any bear deterrent safety training you have taken and training you provide to employees and staff. What safety measures do you have in place in the field and in camp to both prevent and deal with bear conflicts?

*Sub-factor B – Providing a quality hunting experience. **20 points for sub-factor B***

1. Describe your current business practices. Include: A list of the types of hunts you offer, client rates, payment options, reservation and cancellation policies, hunter contract forms, and acknowledgement of risk forms. Submit your current advertisement pamphlets, website address and information, and any other literature that demonstrates your business practices.
2. What is your employee hiring policy for all levels of service you provide (assistant guides, packers, cooks, etc.)? How do you ensure that your employees comply with Alaska Statute Title 8, Chapter 54 and the Alaska Administrative Code (AAC) Title 12, Chapter 75? What disciplinary actions have you taken with employees who have not performed well (dismissal, probation, etc.).
3. Describe and document your knowledge, skills, abilities, and experience in caring for meat, capes, and hides from big game. List the number of years and estimated number of animals of each species that you and your employees have taken care of (field dressed, skinned, caped, boned out, etc.). Document any training that you or your employees have received on the care of meat or trophies (e.g., butcher training, taxidermy work, etc.). Provide photos or other documentation for full credit.
4. Besides the safety equipment you have already documented, please list all equipment you currently provide to your employees and clients. Include types of facilities such as structures, tent platforms, tents, stoves, backpacks, etc. Describe and document your equipment maintenance, replacement, and upgrade policy. Document with photos, receipts, or equivalent.

*Sub-factor C – Business Practices that demonstrate cooperation with local communities. **15 points total for sub-factor C***

1. Do you hire residents, rent facilities or equipment, and/or purchase supplies from within Game Management Unit (GMU) where the GCA that you are applying for is located? Provide details and documentation such as store name and location, receipts, or employee forms.
2. Do you facilitate or provide information to clients regarding the utilization of all big game meat or do you offer meat to local communities, individuals, families, shelters, or food pantries? Please provide copies of the transfer of possession forms or equivalent documentation.

3. Identify conflicts you have had with other groups such as local sport or subsistence hunters, private property owners, other commercial operators, or any other groups within the GCA you are applying for. Using one example, explain how you resolved the conflict and whether or not it was successful. Also describe your policy on avoiding conflicts with other users. Please describe how you implement this policy and how you train your employees to deal with conflicts.

*Sub-factor D – Operations Plan for all facets of the business. **85 points total for sub-factor D***

Complete Operations Plans are required to operate within a GCA. Complete plans will include a minimum of the following and will discuss how your business prepares for and implements the plan. Add additional sections if needed to fully document the type and extent of services you will offer. For each of the items below, please describe what you have done for the past 5 years and what you are proposing to do for the next ten years if you are awarded a concession. Your proposed actions for the next ten years may be incorporated into the stipulations and terms of the final contract if you are awarded a concession.

1. Dates of operations; for the past, include camp establishment and closure dates as well as all of the dates when clients were served.
2. Species hunted and types of hunts offered for each (E.g. guided hunt, drop-off hunt, camp provided).
3. The maximum number of clients for each species and each type of hunt offered.
4. Please describe your employee staffing plan. Include the number of master, registered, and/or assistant guides that will be working with you, any support staff (cooks, packers, etc), and any other relationships you have with other businesses (such as transporters, air taxis, hired pilots, etc).
5. Number, type, and location of existing camp and/or any new camps proposed (tent, tent platform, cabin, boat, etc.). Please provide the following details:
  - a. Camp locations for base and spike camps, GPS location information, legal description, and/or location plotted on USGS map.
  - b. Habitat type each camp is located in – photos of camps are requested.
  - c. Structures and facilities used or needed at camps (weatherports, caches, etc.).
  - d. Source of water supply for the camps.
6. Methods and facilities for management and disposal of solid and liquid garbage and trash.
7. Methods and facilities for management and disposal of human waste. For pit privies or outhouses, please give location information and proximity to nearest water body.

8. Methods and facilities for care and storage of food, gear, and meat. Please demonstrate how your methods and facilities minimize the potential for wildlife to gain access.
9. Please document how you access your site(s). Include:
  - a. If using aircraft to and/or from the field, please provide:
    - b. Number and type of aircraft
    - c. Maximum and average number of flights and hours of daily use for each aircraft used
    - d. Location and type of landing strips
    - e. Methods employed to reduce impacts of aircraft use on resources and other users
10. Document other modes of transportation you use in your operation (ATVs, boats, snowmachines, self-powered, pack animals, etc). For each different type:
  - a. Number and type of vehicle or animal used
  - b. Maximum and average frequency of use and hours of daily use for each mode of transportation.
11. On site fuel storage and re-fueling needs:
  - a. Provide locations of all fuel storage locations – provide maps and photos
  - b. Types of fuel and fuel storage containers, including number of gallons.
  - c. Describe on-site re-fueling operations
    - i. Document plans, methods, materials, and other provisions for spill prevention, response, and cleanup.
12. Please detail any services you use that are provided by others (contracts for transportation, food services, etc.). Provide copies of service contracts or receipts.

*Sub-Factor E - Financial Ability and Commitment to Operate as Big Game Hunting Business **15***  
**total points for sub-factor E**

Past Financial Performance

1. Using the attached form, please document the financials for the past five years for your guiding operation. Only the attached form will be accepted.

## Revenue

1. Using the attached form, please detail your proposed financial plan for the duration of the concession you are applying for. Document that your business will generate enough revenue to provide the level of service you proposed in your Operations Plan.
2. What new employees, insurance, equipment, facilities, supplies, or stock will you need to facilitate your proposed plan of operations? How do you propose to secure the funding required by your proposed level of service?

## FORM D

**Violations, Citations, Convictions, and Default History – what will count against you are any game and non-game related convictions of class: felony, misdemeanor, and violation or any guide licensing actions.**

*Scoring Criteria 4 Loss of points only, amount of points an applicant can lose is TBD*

1. In the last 10 years, have you or any of your former, current, or proposed business partners, been convicted, forfeited collateral, pled no contest, had a guiding license or privilege suspended, or been administratively penalized for violation of any federal, state, or local laws, regulations, or permit conditions, related to hunting, fishing (include commercial), or guiding? Are you or any of your former, current, or proposed business partners under pending charges for any violation as indicated above? If the answer to either of these questions is yes, list each incident and give the name of the person, place of occurrence, and name/address of the law enforcement agency and/or court involved. Explanations of violations will be considered.
2. In the past 10 years, have any of your employees, while in your employment, been convicted, forfeited collateral, pled no contest, had a guiding license or privilege suspended, or been administratively penalized for violation of any federal, state, or local laws, regulations, or permit conditions, related to hunting, fishing (include commercial), or guiding? Are any current or proposed employees presently under pending charges for any violation as indicated above? If the answer to either of these questions is yes, list each incident and give the name of the person, place of occurrence, and name/address of the law enforcement agency and/or court involved. Explanations of violations will be considered.
3. In the last 10 years, has any client or other individual been convicted, forfeited collateral, pled no contest, or is now under pending charges for any violation that occurred while being guided or accompanied by you or individuals associated with your guiding business? If yes, list each incident and give the name of the person, place of occurrence and name/address of the law enforcement agency and/or court involved. Explanations of violations will be considered.
4. Attach copies of official background reports documenting history of violations or convictions for yourself, and all current and proposed business partners associated with your guide operations. You and each of your business partners must obtain a copy of an, "Any Persons Report," from the Alaska Department of Public Safety (AK State Troopers), and specify that hunting, fishing, and guiding related records are to be included on the report. These reports must be obtained in person and you are responsible for any required report cost. You must provide copies of the background check for yourself and all partners identified in your application to be considered for a GCA.

5. Have you ever been in default or non-compliance with any public land agency? Please explain the problem/incident and the resolution.

Form C: Subfactor E: Past Financial Performance - Question 1  
Income Statement

Financials for the past 5 years

	<u>Last Year</u>	<u>2 Years Ago</u>	<u>3 Years Ago</u>	<u>4 Years Ago</u>	<u>5 Years Ago</u>
<b>Gross Receipts</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Salaries and Wages	_____	_____	_____	_____	_____
Payroll Taxes and Benefits	_____	_____	_____	_____	_____
Operating Supplies	_____	_____	_____	_____	_____
Office Expenses	_____	_____	_____	_____	_____
Depreciation and Amortization	_____	_____	_____	_____	_____
Repair and Maintenance	_____	_____	_____	_____	_____
Insurance	_____	_____	_____	_____	_____
Advertising	_____	_____	_____	_____	_____
Interest	_____	_____	_____	_____	_____
Legal and Accounting	_____	_____	_____	_____	_____
Car & Truck Expenses	_____	_____	_____	_____	_____
Travel, Meals, & Entertainment	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
<b>Total Expenses</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
<b>Net Income</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

**Form C: Subfactor E: Revenue - Question 1  
Income Statement**

**Annually for Term of Concession Area**

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
<b>Gross Receipts</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Salaries and Wages	_____	_____	_____	_____	_____
Payroll Taxes and Benefits	_____	_____	_____	_____	_____
Operating Supplies	_____	_____	_____	_____	_____
Office Expenses	_____	_____	_____	_____	_____
Depreciation and Amortization	_____	_____	_____	_____	_____
Repair and Maintenance	_____	_____	_____	_____	_____
Insurance	_____	_____	_____	_____	_____
Advertising	_____	_____	_____	_____	_____
Interest	_____	_____	_____	_____	_____
Legal and Accounting	_____	_____	_____	_____	_____
Car & Truck Expenses	_____	_____	_____	_____	_____
Travel, Meals, & Entertainment	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
<b>Total Expenses</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
<b>Net Income</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

**Form C: Subfactor E: Revenue - Question 1**  
**Income Statement**

**Annually for Term of Concession Area**

	<u>Year 6</u>	<u>Year 7</u>	<u>Year 8</u>	<u>Year 9</u>	<u>Year 10</u>
<b>Gross Receipts</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Salaries and Wages	_____	_____	_____	_____	_____
Payroll Taxes and Benefits	_____	_____	_____	_____	_____
Operating Supplies	_____	_____	_____	_____	_____
Office Expenses	_____	_____	_____	_____	_____
Depreciation and Amortization	_____	_____	_____	_____	_____
Repair and Maintenance	_____	_____	_____	_____	_____
Insurance	_____	_____	_____	_____	_____
Advertising	_____	_____	_____	_____	_____
Interest	_____	_____	_____	_____	_____
Legal and Accounting	_____	_____	_____	_____	_____
Car & Truck Expenses	_____	_____	_____	_____	_____
Travel, Meals, & Entertainment	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
<b>Total Expenses</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
<b>Net Income</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____



6. Applicant's Guide License #: \_\_\_\_\_

7. Guide Concession Area Number(s) applying for: \_\_\_\_\_

8. Are you a registered guide in good standing with the Big Game Commercial Services Board? Yes  No

9. Are you currently certified by the Big Game Commercial Services Board to guide in this unit? Yes  No

10. Are you in good standing on all land use authorizations, including fees, with Division of Mining, Land and Water, Department of Parks and Outdoor Recreation, and Bureau of Land Management? Yes  No

11. Are you currently registered for Commercial Day Use Activity on state land, on the DNR website? Yes  No

12. Do you have proof you carry, and can provide coverage to the State of Alaska for bonding and insurance? Yes  No

Please provide all supporting documents for the above questions.

**AFFADAVIT**

The applicant, undersigned below, by submission of this completed and signed DNR Guide Concession Area Application, intends to personally utilize the leased areas for commercial guiding activities.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

An agent cannot sign the application form for the applicant; the applicant must submit the application with an original signature and notary.

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_) Judicial District)

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_, known to me to be the person named in and who executed the foregoing instrument and acknowledged voluntarily signing the same.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_/  
Postmaster  
My Commission expires: \_\_\_\_\_

This form must be filled out completely and submitted with the applicable fees. Failure to do so will result in a delay in processing your application. AS 38.05.035(a) authorizes the director to decide what information is needed to process a request for the sale or use of state land and resources. This information is made part of the public land records and becomes public information under AS 09.23.110 and 09.25.120 (unless the information qualifies for confidentiality under AS 38.05.035(a)(9) and confidentiality is requested). Public information is open to inspection by you or any member of the public. A person who is the subject of the information may challenge its accuracy and completeness under AS 44.99.310 by giving a written description of the challenged information, the changes that need to be corrected, and a name and address where the person can be contacted. False statements made in a request for a benefit are punishable under AS 11.56.210.

**Confidentiality**

Notwithstanding AS 40.25.110 - 40.25.120, DNR may provide by regulation for the confidentiality of those documents and records in its possession or control which contain confidential business or marketing information the protection of which is essential to the person who has submitted them to DNR or in the judgment of DNR is essential to the best interest of the state.

**CHECKLIST**

I have enclosed the following with my application:

1. \$250.00 application filing fee (non-refundable, 11 AAC). Mail application fee with the completed application package and all required attachments to:

Department of Natural Resources  
Division of Mining, Land & Water  
Attention: Guide Concession Program Manager  
550 W. 7th Avenue, Suite 900C  
Anchorage, AK 99501-3557

2. DNR Guide Concession Area Map or 1:63:360 (1" = 1 mile) USGS topographical map showing location applying for.

3. Proposal, including Forms A – D.

4. All supporting documents.

Incomplete applications will not be accepted.

**Number of Guide Concessions by Area**  
**Numbers May Increase Depending on Land Owner**

<b>Guide Concession Area</b>	<b>Full Concession Opportunity</b>	<b>Limited Concession Opportunity</b>	<b>DMLW Land Opportunity</b>	<b>Park Land Opportunity</b>	<b>Total w/DMLW and Parks</b>
1-01	1		1		1
1-02	2		2	1 Full	3
6-01	2		2		2
6-02	1		1		1
6-03	1	1	2		2
6-04	1	1	2		2
6-05	1	1	2		2
7-01	1	1	2		2
8-01	1		1		1
8-02	2	1	3		3
8-03	2	1	3		3
8-04	1	1	2		2
8-26	2		2		2
8-27	2		2		2
8-28	2	1	3		3
8-29 A	2		2		2
8-29 B	1		1	1 Full	2
8-29 C	1		1	1 Full	2
8-30	4	1	5		5
8-31	1	1	2		2
9-01	1	1	2		2
9-02	1	1	2		2
9-03	1	1	2		2
9-04 A	1		1		1
9-04 B	2	1	3		3
9-04 C	2	1	3		3
9-05	1	1	2		2
9-06	1	1	2		2
9-07	1	1	2		2
9-08	1		1		1
9-12 A	2		2		2
9-12 B	2		2		2

**Number of Guide Concessions by Area**  
**Numbers May Increase Depending on Land Owner**

<b>Guide Concession Area</b>	<b>Full Concession Opportunity</b>	<b>Limited Concession Opportunity</b>	<b>DMLW Land Opportunity</b>	<b>Park Land Opportunity</b>	<b>Total w/DMLW and Parks</b>
9-19	2		2		2
9-25	2	1	3		3
9-26	2	1	3		3
9-29	1	1	2		2
9-30	3		3		3
9-99	2	1	3		3
12-01	2	1	3		3
12-03	1	1	2		2
13-01 A	1	2	3	1 Full	4
13-01 B	2	1	3		3
13-01 C	2	1	3		3
13-02 A	2	1	3		3
13-02 B	2	1	3		3
13-03	1	1	2		2
13-04	2	1	3		3
13-05 A	1	1	2		2
13-05 B	1	1	2		2
13-06	1	1	2		2
13-07	1	1	2		2
14-01	1		1	1 Full, 1 Limited	3
14-02	1	1	2		2
14-03	1	1	2		2
14-04	2	1	3		3
15-03	1		1	1 Full	2
16-01	3	1	4		4
16-02 A	1	1	2		2
16-02 B	1	1	2		2
16-02 C	2		2		2
16-03 A	2	1	3		3
16-03 B	2	1	3		3
16-04	2	1	3		3
16-05	2		2		2

**Number of Guide Concessions by Area**  
**Numbers May Increase Depending on Land Owner**

<b>Guide Concession Area</b>	<b>Full Concession Opportunity</b>	<b>Limited Concession Opportunity</b>	<b>DMLW Land Opportunity</b>	<b>Park Land Opportunity</b>	<b>Total w/DMLW and Parks</b>
17-01	2		2		2
17-02	2	2	4		4
17-03	4	1	5	1 Limited	6
17-04	1	1	2		2
17-05		1	1	2 Full, 1 Limited	4
17-06	1		1	1 Full	2
18-02	1		1		1
18-03	1	1	2		2
19-01	1	1	2		2
19-02	1	1	2		2
19-03 A	3	1	4		4
19-03 B	3	1	4		4
19-04 A	2	2	4		4
19-04 B	2	1	3		3
19-05	2	1	3		3
19-06	1	1	2		2
19-07	2		2		2
19-08	2	1	3		3
19-09	1	1	2		2
19-10	4	1	5		5
19-11	1	1	2		2
19-12	3	2	5		5
19-13	1		1		1
19-14	1		1		1
20-01	1	1	2		2
20-02	2	1	3		3
20-03	2	1	3		3
20-04	4	2	6		6
20-05	2		2		2
20-06	1	1	2		2
20-07	2		2		2
20-08	2		2		2

**Number of Guide Concessions by Area**  
**Numbers May Increase Depending on Land Owner**

<b>Guide Concession Area</b>	<b>Full Concession Opportunity</b>	<b>Limited Concession Opportunity</b>	<b>DMLW Land Opportunity</b>	<b>Park Land Opportunity</b>	<b>Total w/DMLW and Parks</b>
20-09	1	1	2		2
20-10	1	1	2		2
20-11	2		2		2
20-12	1	1	2		2
21-01 A	1		1		1
21-01 B	2		2		2
21-01 C	2		2		2
21-02	1	1	2		2
21-03	1		1		1
21-04	1	1	2		2
21-05	2		2		2
22-01	1	1	2		2
22-02	1	1	2		2
22-03	2		2		2
22-04	1		1		1
22-05	2		2		2
22-06	1		1		1
22-07	1		1		1
23-01	1		1		1
23-02	1		1		1
23-03	1		1		1
23-04	1	1	2		2
23-05	1		1		1
23-06	1	1	2		2
23-07	1		1		1
24-01	1		1		1
24-02	1		1		1
24-03	1		1		1
24-05	2	1	3		3
25-02	3		3		3
25-03 A	2	1	3		3

**Number of Guide Concessions by Area**  
**Numbers May Increase Depending on Land Owner**

<b>Guide Concession Area</b>	<b>Full Concession Opportunity</b>	<b>Limited Concession Opportunity</b>	<b>DMLW Land Opportunity</b>	<b>Park Land Opportunity</b>	<b>Total w/DMLW and Parks</b>
25-03 B	1	1	2		2
25-09	1		1		1
25-10	1		1		1
25-11	1		1		1
26-06	3	1	4		4
26-07	2		2		2
26-08	2		2		2
26-09	2		2		2
26-10	1		1		1
26-11	1		1		1
26-12	1		1		1
26-13	1		1		1
<b>Total</b>	<b>215</b>	<b>85</b>	<b>300</b>	<b>12</b>	<b>312</b>

## **APPENDIX – G Guide Concession Area Maps**

Please go to the following website to view the PDFs of the Guide Concession Area  
Maps:

<http://dnr.alaska.gov/mlw/gcp/>

## **APPENDIX H**

### **DEFINITIONS:**

**AAC:** Alaska Administrative Code

**ADF&G:** Alaska Department of Fish and Game

**ADL:** Alaska Division of Lands

**Alternatives:** Optional courses of actions.

**Appeal:** An appeal in which a court or administrative agency must review the decision that is sought to be reversed.

**AS:** Alaska Statute

**Authority:** The authorization, power, or right to act on behalf of the State of Alaska. For the purpose of the GCP the statutory authorities operated under are: 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.

**Authorized Use:** A use allowed by DNR by permit, lease, or other mechanism.

**BGCSB:** Big Game Commercial Services Board, falls under Department of Commerce, Community and Economic Development

**BLM:** Bureau of Land Management, Department of Interior

**BOG:** Board of Game, The Board of Game is the state's regulatory authority that passes regulations to conserve and develop Alaska's wildlife resources.

**Commercial:** An action or operation that generates income from the buying, selling, renting, bartering or trading of goods and services.

**Commercial Recreation Permit (CRP):** An authorization given by DMLW for commercial recreation operations on general state land in Alaska. This authorization allows the permittee to operate for up to 14 days in one location before they must move at least two miles. At this point, another 14 day period begins. CRPs are authorized for up to one calendar year at a time.

**DCCED:** Department of Commerce, Community and Economic Development

**DMLW:** Division of Mining, Land & Water, within Department of Natural Resources. The DMLW is the primary manager of Alaska's upland, shoreland, tideland and submerged land. DMLW's mission statement is, "to

*provide for the use and protection of Alaska's state owned land and water. We aim toward maximum use of our lands and waters consistent with the public interest."*

**DNR:** Department of Natural Resources. DNR's mission statement is, *"to develop, conserve and enhance natural resources for present and future Alaskans."*

**DOL:** Department of Law

**DPOR:** Division of Parks and Outdoor Recreation, within Department of Natural Resources.

**DPS:** Department of Public Safety

**Evaluation Panel:** An anonymous review and scoring panel(s) of all guide concession applications

**Exclusive Guide Areas (EGA):** The system of guide area allocation created in 1976 by the Alaska Guide Licensing and Control Board. This system of exclusive guiding areas was later found unconstitutional by the Alaska Supreme Court in 1988, in what is commonly known as the *"Owsichek Decision"* and was abolished.

**Federal Lands:** In the context of the proposed Guide Concession Program, these are lands owned and managed by BLM.

**Full Concession:** A type of concession that is limited to three assistant guides.

**Game Management Unit (GMU):** Land area boundaries designated by ADF&G for the regulation and management of subsistence and sport hunting in Alaska.

**Good Standing:** The condition of being a registered, assistant, or Master guide whose license is not suspended, revoked or on probation due to a disciplinary action by the Division of Occupational Licensing or the Big Game Commercial Services Board; also the condition of not currently being in trespass status and/or not delinquent in fees owed to DNR or other applicable land owners.

**Guide Concession Area (GCA):** Proposed concession areas within the Guide Concession Program.

**Guide Concession Program (GCP):** A proposed area based allocation program under which big game hunting guides would competitively apply for and potentially be awarded specific, enumerated guide concessions within present guide use areas. These concessions would not be transferable and would be of limited duration. Each concession will be either a full or limited concession. These concessions would only be in effect on state and possibly BLM managed lands.

**Guide Use Area (GUA):** Land area boundaries designated and managed by the Division of Occupational Licensing and the Big Game Commercial Services Board.

**Land Use Permit (LUP):** An authorization given by DMLW for commercial recreation operations on general state land in Alaska. This authorization allows the permittee to commercially operate in one location longer than a 14 day period.

**Limited Concession:** A type of concession limited to one assistant guide.

**Minimum Requirements:** Six threshold requirements each applicant to the guide concession program must meet before their application will be scored for a concession. These requirements are found in the Proposed Decision under Program Design, Minimum Requirements.

**NPS:** National Park Service, Department of Interior

**NRO:** Northern Regional Land Office. This Office is one of three Regional Land Offices that have primary management responsibility for approximately 70 to 80 million acres of land, tideland, submerged land, and shoreland throughout the state.

**Owsichek Decision:** The decision rendered by the Alaska Supreme Court in 1988 that abolished the former Exclusive Guide Area system on state land. In the decision the Court found the EGA system unconstitutional for four main reasons: they 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.

**Parks Land:** In the context of the proposed Guide Concession Program, these are lands owned and/or managed by the DPOR.

**Scoring Criteria:** A 300 point application that must be completed and submitted in order to apply for a GCA.

**SCRO:** Southcentral Regional Land Office, within DMLW. This Office is one of three Regional Land Offices that have primary management responsibility for approximately 70 to 80 million acres of land, tideland, submerged land, and shoreland throughout the state.

**SERO:** Southeast Regional Land Office, within DMLW. This Office is one of three Regional Land Offices that have primary management responsibility for approximately 70 to 80 million acres of land, tideland, submerged land, and shoreland throughout the state.

**Shoreland:** Lands covered by non-tidal water which are navigable up the ordinary high water mark as modified by accretion, erosion, or reliction.

**State Land:** A generic term meaning all state land, including all state-owned and state-selected uplands, shorelands, tidelands and submerged lands or resources belonging to or acquired by the state.

**SUA:** Special Use Area (11 AAC 96.014)

**Submerged Land:** Lands remaining covered by the ebb and flow of the tides extending three geographical miles or further as may hereafter be properly claimed by the state.

**Tideland:** Lands between the lines of the mean high and mean low tides covered and uncovered successively by the ebb and flow of those tides.

**Trespass:** To enter upon land without authorization from the land owner.

**Uplands:** Land above the mean high water line and ordinary high water mark.

**USFWS:** United State Fish and Wildlife Service, Department of Interior