

CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS
ALASKA STATE LANDS ADVISORY GROUP
JUNE 9, 2015 | FAIRBANKS, AK
LEGISLATIVE INFORMATION OFFICE – 1292 SADLER WAY, SUITE 308

MEETING MINUTES

Audio record of these proceedings available online at

[Morning session] http://www.360north.org/gavel-archives/?event_id=2147483647_2015061079
[Afternoon session] http://www.360north.org/gavel-archives/?event_id=2147483647_2015061080

9am Call to Order – Representative Wes Keller, CACFA Chairman

Charter document is tentative, hopes group will adopt and edit. Welcome any and all clarifications and recommendations to CACFA, and beyond, on how to proceed and obtain title to our lands. Assembled an amazing group, lots of experience.

Roll Call – Sara Taylor, CACFA Executive Director

Time stamp on the recording at 03:50

Chairman Keller, Hugh (Bud) Fate, Mead Treadwell, Stan Leaphart, Dick Randolph, Bill Satterberg, JP Tangen, Ray Kreig, Scott Ogan, John Crowther

Member Introductions & Opening Comments

Time stamp on the recording at 04:50

Bud Fate – Federal overreach and relationship between federal and state government, Alaska is the poster child for that issue. 40 years of experience, I felt maybe I still have something to give to help move that issue in the right direction. 1984, chaired the Alaska Land Use Council advisory committee for several years, very familiar with that time, the maps, plans, original documents. Former chairman of the House Natural Resource Committee, lots of experience with state and federal land during that time.

Mead Treadwell – Thanks to CACFA for this initiative and work on federal overreach. Former Lieutenant Governor, Arctic Policy Council, worked on ANILCA during passage, was Director of Institute of the North when ANILCA curriculum created. Come to this with several things in mind, (1) Statehood compact, what is it, major set of lawsuits in Hickel administration, still looking for resolution; (2) American Lands Council came together to say there has to be a better way to manage lands in this country, happy to see it move forward and be tested; and, (3) we are an Arctic state, America is an Arctic nation because of us, we need to participate to make our future happen, other jurisdictions that have already gone through devolution (e.g., Greenland, Canada). Very pleased Congress has had several bills to turn large amounts of land back to the states, this is not a rogue Sagebrush Rebellion II, even eastern states are passing resolutions. Whether there is a good legal theory or not, we as Alaskans need to continue to press on this hard.

Stan Leaphart – Staff to CACFA since inception, retired. State sold more timber on a couple million acres in Southeast than the USFS sold in the 17M acre national forest. Series of land withdrawals were made post-ANCSA, pre-ANILCA, to decide conservation designations; those withdrawals are still in place even though the purpose has expired, off limits to mining, oil and gas, activities other than just preservation. We are a resource-based state with a fiscal problem, if we could find a way to move these lands into state ownership for use by the State and its citizens, we'll be ahead of the game. I'm intrigued by this concept, certainly worth a lot of discussion and trying to find a way to make that happen.

Dick Randolph – Can help add historic perspective, got involved in this sort of activity in late 1970s, former legislator, repealed state income tax, Tundra Rebellion initiative (passed around 70/30).

Statehood compact and constitutional prohibition may need reconciling, some things might have been unduly signed off on. Involved in effort to get state constitutional convention in mid-1990s, learned a lot about statehood during that time, represented Alaska at national level. Looking forward to being involved in this effort.

Bill Satterberg – 40-year Alaskan, Fairbanks attorney, Jim Wilde’s attorney in recent lawsuit against NPS, dealt a lot with ANILCA §103. Feel slightly intimidated by this group, hopes to contribute, echoes thoughts on why we are here. Spin is in favor of state rights and doing away with federal overreach wherever we can.

JP Tangen – This issue brought me to Alaska in 1975. Was with Office of General Counsel to the U.S. Department of Commerce in Washington D.C., was detailed to Deputy Assistant Secretary for Environmental Affairs. Was in office one day when someone rolled in with a huge stack of environmental impact statements associated with the withdrawal of 80M acres under 17(d)(2) of ANCSA. Knew nothing about Alaska, or ANILCA, but 80M acres sounded like an awful lot of land. Had been involved with environmental legislation during Nixon, knew it did not bode well for people who would be impacted by this action. Was invited to Alaska and worked in law firm for about 11 years, then solo, then four years as Regional Solicitor for Department of the Interior before taking three-year sabbatical to run a gold mining company. In late 1990s, came back to Anchorage and has practiced since, almost exclusively representing mining interests. Trying to find a way to ensure mining industry has a clear window to operate. Mining interests in Alaska now, by choice, tend to avoid operating on federal land because the regulations are so difficult to comply with it is preferable to look for minerals on state lands. Six major producing mines, only two in national forest (Greens Creek & Kensington), the others are not on federal land. Federal government has too much involvement in what we do in Alaska. Even the people who come here tend not to have much background in Alaska. Federal government owning so much land, problem is they don’t know how to manage it, they should not have that much power. Land transfer is hugely attractive and enormously difficult. Honored to be asked to join this group.

Ray Kreig – Civil engineer, lot of work for DNR in the 1970s on land characterization. Up front close and personal relationship with ANILCA and federal conservation system units (inholder, including pre-ANILCA). Honored to be at this table with this group. State is wrapped up in budget logjam, but strongly feel this issue right here is the most important issue that faces our state. The budget issue will go away with a successful accomplishment of what we are working on, what started in Utah. Looking forward to helping the group any way I can. I am an alternate member, honored to be keeping Craig Fleener’s seat warm, will not always be a regular panelist but out helping wherever I can.

Scott Ogan – Honored to be here. Came to Alaska in 1975 from Colorado and fell in love with the place, great hunting and fishing. From Ohio and Florida. Jumped on motorcycle, came to Alaska, married dream girl. Very passionate about federal overreach. Former legislator. Ran on \$5000 and slogan that Ogan is Pro-gun. Knew resources was where he wanted to be, was vice-chair of a lot of different things. Co-chair of House Natural Resources. Refused to amend constitution to accommodate the federal subsistence preference, felt it was a violation of oath and going to create two classes of citizens, create a wedge we’d never resolve. Was on CACFA early on, as well. After legislature, joined DNR to head up Public Access Assertion and Defense Unit. Traveled to Utah and became involved in this transfer of public lands issue, which is turning into a national movement. Retired from State. Interested in getting something done, significant political and legal hurdles to clear, come up with creative ways to do this and solid recommendations.

John Crowther – Grew up in Anchorage, went to law school in Washington D.C., worked for Senator Murkowski in Energy and Natural Resources; came back to Alaska in 2012 to work with Commissioner Sullivan in DNR. Still working in Commissioner’s Office. Philosophically, growing up in Alaska, strong affinity with these ideas and what this state represents. Pragmatic and practical solutions is a key output of this committee, strong vision and step-by-step implementation. Political climate susceptible, could make some progress at the state and federal level.

Wes Keller – Craig Fleener also on the group, was not able to be here today. Gwich’in Athabaskan, lives in Anchorage, raised in Fort Yukon, biologist, father, Christian, serviceman, fireman, outdoorsman, former Deputy Commissioner of ADF&G, currently third-in-line in Governor Walker’s administration.

Audience Introductions

Time stamp on the recording at 39:03 [*marginally audible*]

- Charlie Lean, Nome, CACFA Commissioner
- Teresa Hanson, Fairbanks, CACFA Commissioner
- Susan Smith, Chokosna, CACFA Commissioner
- Kathleen Liska, Anchorage, CACFA Commissioner
- John Howard, San Diego, Attorney specializing in Transfer of Public Lands issues
- Warren Olson, Anchorage, CACFA Commissioner
- Dick Mylius, Anchorage, Presenter
- Sally Gibert, Anchorage, Presenter
- Chad Hutchison, Fairbanks, Staff to Senator Coghill
- LeAnn Kreig, Anchorage, Interested Citizen
- Michael Smith, Fairbanks, Staff to Senator Bishop

BREAK

Presentation on Alaska Lands – Dick Mylius, [Retired] Director of Mining, Land & Water, Alaska Department of Natural Resources

Time stamp on the recording at 53:33

PowerPoint presentation available on submission of request to dnr.cacfa@alaska.gov

Public Participation

Time stamp on the recording at 149:20

No one in the room or on the phone

Presentation on History of Subsistence Management – Sally Gibert, [Retired] Statewide ANILCA Coordinator, Alaska Department of Natural Resources

Time stamp on the recording at 152:32

LUNCH

1:45pm Reconvene

Presentation on Federal-State Relationships in Alaska – Sally Gibert

Time stamp on the recording at 0:20

PowerPoint presentation available on submission of request to dnr.cacfa@alaska.gov

BREAK

Overview of ASLAG Charter [Part 1]

Time stamp on the recording at 74:00

Charter can be accessed at

http://dnr.alaska.gov/commis/cacfa/newsletters/ASLAG_DRAFT_Charter.pdf

Sara Taylor – Thank everyone for coming, presenters, membership. Lots of work, not very glamorous. Not sure if the transfer of public lands is the right answer for Alaska, but the people who could convince me I am right or wrong are in this room. Time spent here will ripple and amplify. Let us come at this issue as a sovereign would. Something needs to happen, to change, tired of feeling powerless, but we don't need to charge ahead without contemplation. If these lands belong to us, they will still belong to us after we've considered this very carefully, no one else's timetable is driving this.

Wes Keller – Don't speak for the Commission, there are 12 of us, but can say that we are all frustrated. See the size of the job, always looking for the thing to do, get a handle on this and make a difference. Here is the Charter, please feel free to ask us any questions you might have.

[Q] Bill Satterberg – How do we get around the Leg Legal opinion that HB 115 was unconstitutional?

Wes Keller – There's more to it than what was represented there, do not think it's lethal.

Dick Randolph – Governor Sheffield's Attorney General found Tundra Rebellion unconstitutional (state constitution, Statehood Compact), probably no question about that, so we need to figure out how to get over those hurdles.

Wes Keller – And maybe the recommendation will be there is nothing to be done, which is still quite in line with what we are looking to know (see Goal No. 1). One thing I was thinking, also, is maybe we pick a particular area to push for – a game management unit, for example – and ask to manage it, be a laboratory for comparison.

Scott Ogan – In talking with Kathy Davis, she felt statehood compacts were breached when lands were not disposed of.

Wes Keller – Sara and the Commissioners will be around this week to field any questions. Take some time to look through the objectives in the Charter.

Mead Treadwell – In the Hickel Administration, just before we took office in the early 1990s, the Promises of Alaska Statehood Under Attack was a blueprint for some of the lawsuits. We had several resource cabinet meetings, met with federal folks, closeness with Governor Hickel, efforts lasted through first couple months of Knowles Administration when it fell apart. We have to help CACFA with this effort. Maybe we win on Equal Footing, need to address it vis-à-vis the Statehood Compact. Things we can do by stealth or outright which may install better rights, maybe state sign-off on management plans, inverse of coastal zone management, revenue estimates, strategies to pursue.

Bud Fate – Relationship with Native community is mandatory if we go anywhere. Also need to touch on the huge influence the environmental activist movement has on multiple sectors. Any solution needs to at least account for, if not resolve, these issues.

JP Tangen – With regard to Goal No. 1, Dick Mylius' message was be careful what you wish for. In thinking about that, I'm not 100% sure who owns the house as opposed to how the landlord maintains it. From my perspective there is a lot of conflict, not just with land management agencies, so our goal is to find a way to impact or influence the federal agencies to give us relief from the way they are managing our house. The second thing goes to how we get there, from long experience around this table, we don't do it by ourselves. We are the tail on the national pig in Alaska, we don't command where things go,

but because of the sentiment on land ownership issues in the western states, I believe if we form a strong bond with them, we can approach the federal government from a position of strength where, if they don't transfer the land, they'll understand how their management is critical to us. A third point, as to HB 115, the Statehood Compact is a statute not unlike any other, so could be amended. Could seek federal legislation that gives us the relief we want to get.

Wes Keller – Other states have made changes.

Bill Satterberg – One thing I will note is that the transfer of public lands may be too difficult but one thing that has been discussed is looking at getting the management back.

[Q] Ray Kreig – At American Lands Council meeting last fall, advice we got from Nevada and Utah is that we need to look into an economic study: does the State have the financial capability to manage these lands and is it financially attractive. Both states did studies showing it was enormously attractive. Is that part of what you're envisioning ASLAG lining up?

Wes Keller – If that is a recommendation, you can make it to CACFA. We'll do what we can, knowing such a study will not be free. Give us a vision, a way to go. So you tell us.

[Q] Scott Ogan – So this is an outline, we can modify it as we see fit? Good talking points. Instead of deliberating, we should acknowledge this as a living framework and move forward.

Wes Keller – CACFA is providing the budget support, also.

Sara Taylor – You can interpret the Charter however you like and then bring that interpretation to me.

Elections [Part 1]

Time stamp on the recording at 104:43

Ray Kreig – Nominate Mead Treadwell for Chairman.

[Multiple Members] – Second.

Bud Fate – Move nominations be closed.

Scott Ogan – [Objection] Does Mr. Treadwell want to be Chairman?

Mead Treadwell – Yes.

Objection Removed

Motion Passes [nominations closed]

No Objections [Mead Treadwell elected Chairman]

Mead Treadwell – I look at this as doing a good job for CACFA, the scope that's given us is significant, we may need legal help, good to see three lawyers on the group.

Public Participation

Time stamp on the recording at 107:25

No one in the room or on the phone

Overview of ASLAG Charter [Part 2]

Time stamp on the recording at 107:41

[Q] Mead Treadwell – Report due in 2017, [To Wes Keller] how do we advise in the interim?

Wes Keller – Work with Sara on what CACFA does in response to what you have for us. Our next meeting is this weekend, here.

Dick Randolph – We are asked to do something between now and 90 days from now.

Sara Taylor – The first administrative step is making the Charter more concrete than fluid, which it is now, and asking you to be the experts on setting the stage for how things are going to go. Tell us how things need to go to be effective and meaningful for you. That was just a start for a good timeframe on making the Charter into a springboard. We are very deferential to your schedules and how much time you feel you might need for these things. But that is the first step, incorporate your vision into ours and get back to us so we can discuss it at CACFA's next meeting.

[Q] Bill Satterberg – To what extent are we covered by the Open Meetings Act?

Sara Taylor – You should work with me on that, we can work on those together, but if you ever want to convene as a group under any circumstances (aside from socially), we will want to notice that, so we'll need 30 days. Our standard for public notice is very high, and you're tethered to it.

Bill Satterberg – Subject to disclosure?

Sara Taylor – No.

[Q] JP Tangen – 90 days is September 7 which is Labor Day.

Sara Taylor – We're not going to be strict about that.

[Q] Mead Treadwell – Is there any other timing we need to be mindful of?

John Crowther – October 4-7 was the date of the American Lands Council meeting last year, and it may be meeting the same time this year.

Set Next Meeting Date [Part 1]

Time stamp on the recording at 115:57

Mead Treadwell – Schedule a teleconference at some point, look at the outline of a report, meet before CACFA meets again in October or November. Can we not set a specific date, find out when American Lands Council is meeting, everyone who can afford to go to that should consider it. Our Statehood Compact is not unique, but you could say we have the strongest "forever disclaim" aspect. There are a lot of efforts on this issue in Congress, too, including by Congressman Young, we should get smart on what those are this session. Tentative idea to meet same week as CACFA, we can recess to the call of the chair. Any objection?

Scott Ogan – Are we not going to have a discussion between now and then?

Mead Treadwell – One interim meeting in person?

Scott Ogan – Fairly soon to do something besides set things up and organize, flesh out agenda, some fundamentals. Issue with date of 2017 because it is seven months after a new president is sworn in.

Mead Treadwell – Set aside for a moment.

Next Steps

Time stamp on the recording at 120:03

Bud Fate – Suggest Chairman delegate specific areas for each member to work on; considerable hodgepodge to just have everyone writing on what they like. Happy to take on sovereignty and Native issues.

Dick Randolph – Maybe not decide the details today, just the basics and get contact info distributed. Get together again and vote or similar. A lot of work to do the preliminaries, don't have to do it today.

JP Tangen – The way the Supreme Court of the U.S. works, a same size group, justices decide among the group how they want to come down on each issue, with a majority and a minority, and the Chief Justice assigns one to write a first cut at the opinion. That opinion is then circulated to allow input and framing as a work product. Could be a productive model.

Ray Kreig – We have four members from the Interior and four from Southcentral. On the agenda, it says elect a vice-chair. What you might do is have a vice-chair from the Interior and, in the beginning here, as we talk about the ideas, groups could convene with their local counterparts and develop issues.

Stan Leaphart – Looking at the goals and objectives, everyone take this home and think about which ones we do not need to address and what we need to add, trim and expand, and then we can circulate once we get a way to communicate with each other.

[Q] Bill Satterberg – How did the list get generated?

Sara Taylor – It was developed by several commissioners and myself, and was then circulated.

Bill Satterberg – Do we have administrative support?

Sara Taylor – Me and whoever I can sweet talk or pay.

[Q] Ray Kreig – Would be very useful to get a copy of the Nevada and Utah economic study.

Sara Taylor – Those are on the thumb drive.

Ray Kreig – Could we get the costs for the development of those?

Scott Ogan – Assign some subcommittees based on the agenda and our respective talents. I am very interested in the exploration of relationships with other states and other groups. We have a good legal team here, administrative and judicial strategies, divide this into subcommittees.

[Q] Scott Ogan – How many of us can get together at once without triggering Open Meetings Act?

Sara Taylor – Whenever you'd like to convene and discuss and there are more than two of you, please let me know about 33-35 days in advance.

Bud Fate – That is a long time, could call an emergency meeting to change that timeline?

Sara Taylor – I will explore it, but it's CACFA's statute that sets the timeline. I will take, as my first task, this question to smarter attorneys than myself.

Mead Treadwell – Taking what Scott said, between the summits and homework CACFA has done, there has been a lot of strategic thinking and a good informational background.

Issues: Litigation (Judiciary), Legislation, Negotiation (Administration)

Perspectives: Economics, Native Community, Environmental, Interstate/International

Commit to doing literature review of thumb drive documents, come up with outline. Look at other approaches, develop option paper. Explore the political implications of how those options work.

Leadership Volunteers

Litigation: John Crowther, JP Tangen

Legislation: Stan Leaphart

Negotiation: John Crowther, Bill Satterberg

Economics: Ray Kreig

Native Community: Bud Fate

Environmental: Mead Treadwell

Interstate/International: Scott Ogan

Dick Randolph would like more time to think about where to fit in. Craig Fleener appointed to Native Community in absentia. Ray Kreig, as alternate, kept in the loop on everything.

Set Next Meeting Date [Part 2]

Time stamp on the recording at 144:05

Mead Treadwell – Schedule a workshop in middle of August, with sufficient time to notice the meeting. Alternate between Southcentral and Interior.

Sara Taylor – CACFA will need to authorize expenditures for meetings beyond this first one. It is on the agenda for our meeting in a couple days.

Mead Treadwell – Plan for us to meet along with CACFA meetings, with one meeting in between. Use that as a rough budget. Also add sending Scott to the interstate meetings into the budget. Recommend try to meet with delegation, as they will be home mid-August.

Scott Ogan – Lot of technology in the LIOs and Commissioner Offices, could have teleconferences, very useful to do low-budget meetings, no travel budget but still able to interact.

JP Tangen – Can have a teleconference without having to go to an LIO, as well.

Mead Treadwell – Knowing you'll be meeting in person does help.

Scott Ogan – Constraints with Open Meetings Act, also.

Elections [Part 2]

Time stamp on the recording at 158:43

Bud Fate – Nominate Stan Leaphart for Vice-Chairman.

Dick Randolph – Second.

Ray Kreig – Move nominations be closed.

Motion Passes [nominations closed]

Yea Votes Unanimous [Stan Leaphart elected Vice-Chairman]

Member Closing Comments

Time stamp on the recording at 159:27

Bud Fate – Is Statehood Compact a contract or a piece of legislation? [some discussion – no clear answer] If it is like a statute it can be amended, but the citizens ratified it, so would they need to ratify the amendment? [some discussion – no clear answer, maybe we test that at some point] Hard to grasp, may be presumptuous to approach the compact under contract law, because it may not be a contract and we have to vote on changes to it.

John Crowther – Very exciting discussion today, one thing that has come out is that there are different issues and all moving, we should work them simultaneously and play them off against each other. Things are resonating in the western states, we will come up with some good ideas and have an influence, move the needle.

Scott Ogan – Thank CACFA for the appointment, may have moved on from state service but not done being an Alaskan.

Ray Kreig – Emphasize Bud’s point about Native participation, may be key to achieving the objective of transferring large parcels of land. More land transfers to Native entities. Presentations to Federal Overreach Summit, very powerful one was about fish and game management to the communities, who said the feds are not your friend. We should explore bridging State-Native breaches and approach this arm in arm, foster the communication with that community. Sara was pointing out that this whole process of burying us with plans and actions is forcing us to play their game on their end of the field by their rules and be exploited with a lack of good faith in the outcome; that, as sovereigns, maybe we need to stop playing. Really look forward to working with this distinguished group.

JP Tangen – Not touched on too much today, but worth exploring: external relations. We have a constituency whose support is required for us to act. Where we project having meetings in the future, wonder if it is possible to contemplate having them at a University forum and invite young people in our state, who are learning about these things (e.g., economics, political science) who can come and learn and contribute, possibly help shape our views and afford us the benefit of their views. Too easy for gray-haired old men to sit around and make decisions, and for those decisions to not be in the best interest of everybody. Have something, too, that people can take away, like a bumper sticker.

Mead Treadwell – Should have an outreach strategy as a point of every meeting.

Bill Satterberg – Lot to learn, have some concerns that we only take on tasks that we can accomplish. HB 115 has constitutional concerns for me. Anything we can do to take over management or property is very important. I liked Wes Keller’s comments that the states create the federal government and that this has been lost. Getting back the bundle of sticks is good. Kochen article on the thumb drive is worth a read on what is coming out of Utah, which is in a different position than Alaska with respect to transfers. If the states get together and coordinate, using budget approach, may bring them around to their enlightened best self-interest.

Dick Randolph – Very impressed with this group. Not as knowledgeable on current events, but a good historical perspective. A good chance we can do something here, take on umbrella issues, don’t fall down rabbit holes, by the next meeting come up with a focus to get us down the road.

Stan Leaphart – This will be fun, interesting, and absolutely anything that comes out of the effort will speak to the federal government that things are not working as they should in our relationship and here are some things that might work to change that. Transferring even a single acre we would not otherwise have gotten will be a certain level of success. Letting the government know what is wrong, what needs to be fixed, how to fix it, looking forward to it.

Mead Treadwell – Donald Rumsfeld was here a few years ago, we were having conversation on John Binkley’s deck, told him he could control every acre of land he wants in northern Alaska, he didn’t know. The artifact of the PYK Line was to let the northern half in with the rest. Imagine if Alaska was a territory up north. But the Secretary of Defense can still take it over at any time for defense reasons so long as he gives it back. Had an effort with Senator Stevens to get Rumsfeld to open ANWR, knew it would be a tough stretch to sell legally. Point is that discovering tools we might have will be fun.

Adjourn

Recessed to the call of the chair.