

CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS
ALASKA STATE LANDS ADVISORY GROUP
OCTOBER 27, 2016 | ANCHORAGE & FAIRBANKS, AK
LEGISLATIVE INFORMATION OFFICES

DRAFT MEETING MINUTES

9:07a.m. – CALL TO ORDER; ROLL CALL

Members Present: Stan Leaphart, Scott Ogan, John Crowther, Bud Fate, JP Tangen, Mead Treadwell, Bill Satterberg (ph), Ray Kreig

Commissioners Present: Warren Olson, Charlie Lean, Ron Somerville, Susan Smith, Frank Woods

Also Present: Bill Horn (ph), Sara Taylor

9:09AM: AGENDA APPROVED

9:10AM: OPENING COMMENTS

Mead Treadwell – Productive meeting with the Attorney General, a list of federal issues is maintained there, could be very helpful to the group and the Commission. With this report, we will need to take it to CACFA and strengthen it a little bit, some original intent missing, then with CACFA take it to the Governor and the Legislature. Governor has said he is interested in a comprehensive approach to these issues. Some education opportunities with outgoing and incoming legislators. Build on (d)(2) Part 2, which member JP Tangen wrote a few years ago.

Bud Fate – I had been to AFN, recently concluded, listened to Secretary Jewell's speech. Among other things she mentioned, which were very troublesome, in the area of fish and game she made it quite clear she wanted the federal government to have supremacy on all federal ground. A warning because already BLM in some instances, on the Yukon River they were inspecting nets in areas completely out of their jurisdiction, all state or private property. A harbinger of things to come because they are very serious about it.

Mead Treadwell – What is your thought on the State being at the table in the discussions with tribes?

Bud Fate – She promulgated that concept and within that concept always stated that there were environmental concerns in that management, not coming from the point of view of good land management, just that you do not have good land management without strict environmental concerns. As far as co-management, there was a lot of discussion. In some instances, I am not averse to co-management, we have a lot of Native land and they should be part and parcel of managing it, but she went beyond that to co-management of all federal lands. She said her term would probably expire with the new President, but that she would continue the fight.

Frank Woods – Ever since I have been on the Commission, I have been advocating for Native representation at this table, huge tracts of land we are missing representation in this process. Omnibus lands bill in the Senate will increase the footprint for federal land management in Alaska. Native land owners, we need to be advocating to them, do not have methods and means to manage so rely on the State or the federal agencies. I've been advocating a lands summit meeting in Dillingham, but no one has the money or the expertise. First co-management area in the State, sanctuary at Round Island. That needs to happen more efficiently. When we start dividing, everyone loses. We all live in Alaska. Native Alaskans are looking Outside to see what will happen. At our federal overreach summit, the Native Corporations were the first to stand up and support legislative movements. We need to bring in

the Native populations, promises broken. On the other hand, we have recreational users, all Alaskans, sport hunters, a lot of resource to sort out. Whole list of surface and subsurface rights, thinking of the regional corporations, who will manage those? Child protective services, drug courts. Advocating for joining programs, it can help ease the pain of what we are talking about here. I cannot be that single person, I can only talk about Bristol Bay. I envision a unified Alaska with some co-management and a subsistence preference for indigenous peoples. Highly educated and motivated young people that need to be engaged in this process, but they need to be coached.

Ron Somerville – I respect a lot what Frank is saying. I was very upset at some of the things Secretary Jewell has said. To have co-management, you have to preempt state jurisdictional authority, then you can work with the Native land owners. Will need to modify the state constitution to allow the State to participate. And I do not think she intends to give to the Native population what they intend to get, she will maintain authority. I think the State will get preempted and the Native population will suffer.

Bud Fate – Secretary Jewell was even talking about prescribing the allocation of game, which is entirely a state function. Subsistence clause as a wedge to take over everything. Does the State transfer its responsibility to the federal government? If so, should be able to transfer some of the management even though the constitution is clear, should be able to transfer that authority, with training, to the Native land owners, same training everyone else gets. Before the state can come together, we have to come together with the Native element in this state regarding fish and game. Otherwise we will never have one voice to go back to Washington D.C. to ask for that management.

Charlie Lean – Many Native groups put names in hat to chair the Federal Subsistence Board, one of the major contenders is the representative of an Outside NGO. I thought the point of having that person on the board was to represent the residents.

Warren Olson – The subsistence discussion and issue is a real tar pit. It is my suggestion that we, as a commission, make something extremely clear – what the abuses are and that ANILCA has been a total failure implemented in one state in the entire union to put up with this nonsense. Jumping from state administration to state administration, we have failed to take this to the U.S. Supreme Court. The John Sturgeon case was before the Ninth Circuit this week, and his attorney was asked about ANILCA. We need to make this report clear, readable and a tool for the public.

Ron Somerville – I support the idea of the Native community maintaining a cultural dependence on wildlife in Alaska. Our purpose is to document where promises have been voided unilaterally by the federal government. Look at what the federal government has done with subsistence, refused to manage on federal lands to provide for subsistence, they just allow it. A co-management agreement will not improve the situation. What Bud and Frank are advocating for, the federal government intends to just take over management. After statehood, my dad showed me a document from the US Fish and Wildlife Service that advocated for finding ways to take it all back. History has shown they will not cooperate.

Scott Ogan – I keep waiting and hoping one day Alaskans will realize we have more in common than divides us. Our common enemy is the federal government and the way they manage our resources. They do not manage for sustained yield or abundance, they are no one's friends, there have been so many people run off federal lands, it is a horrible failure. Having been out of the loop at DNR for over a year, I do not know if anyone is talking about the recent attacks on our wildlife, if there was even a whimper, what the state administration's response has been. We have allowed the federal government to divide us and deny us our sovereign rights. When we wake up and lock arms one day, our numbers are a lot stronger than these thugs, and we can stand up to it.

Bud Fate – I envision co-management with the State of Alaska, not the federal government.

JP Tangen – I’ve been writing about these subjects for 35 years. I have tried very hard to make these points. No matter what the subject is, in this vein, it is my observation that we wind up spending more time selling our ideas and talking amongst ourselves. We have really concrete ideas that never seem to gain traction. Maybe this report will be the first step in the right direction. The idea of defunding CACFA as the voice of these concepts is a huge step in the wrong direction. We need to loop in a whole lot more people in the conversation than we have been able to since ANILCA was passed. The gravity towards central management from Washington D.C. seems to be irresistible and until we can electrify the people of Alaska, all we’ll do is sit here and watch the ship sink. We have to find a common voice inclusive of all Alaskans.

Bill Satterberg – I thought the report was well researched and put together, but it closes weak. My feeling is we are giving away the litigation and confrontation alternative. The conclusion is to rely on the legislature to make this happen for us. That said, I do not think we want to take that position, want to keep our alternatives open, they all have merit. Need to take a serious look at litigation, hooking up with other states, bundle of sticks. I realize it is an uphill battle that takes resources to accomplish, but saying litigation is not going to work exposes a weakness. I drafted a missive on confrontation, which was circulated. I like the report, but the final approach seems to argue the only thing that will work is federal legislation, and I think that tosses a lot of options.

Mead Treadwell – By writing this in the petition form, it didn’t have a lot of scope to include litigation, but there are opportunities to explore other options within the report. Bill’s report calls for co-management via the Alaska Land Use Council. We have concluded we do not really want that without a veto for the State. On legislative fixes, we have had several meetings with legislative staff and there are things in here about doing things differently; for example, RS2477s and water rights. Our view of “solely” made it through the Supreme Court but is still not the view of the Interior Department. When we met with the Attorney General, we talked about litigation possibilities. Want to recommend to CACFA and the Governor that we have a permanent war chest to make this request and maintain this effort. Whether it becomes trust legislation to protect it from administrative cuts. I would like Bill Horn to give us his comments on the litigation options.

9:47AM: OVERVIEW OF DRAFT REPORT – Bill Horn

- The initial iteration of this document was an explorative white paper
- You had asked for something more petition-like, to outline grievances the State has suffered and spells out the litany of federal breaches of the statutory and other commitments over 50+ years and use it as a petition to set up the primary remedy, which is substantial transfer of federal lands in Alaska to the State
- The paper in its present form goes through the breaches and sets up another round of promises from the federal government is unlikely to provide a remedy, so a shift of land management or ownership needs changing
- Important caveat in the outline, this was never fleshed out, policy point to consider: transferring wildlife refuges and preserves; manage for wildlife conservation, not like the federal agencies
- We wrote this with conditions the State take over and deliver on statutory promises, NPR-A managed as petroleum reserve, BLM managed for multiple use, refuges managed for bona fide conservation, wilderness areas, etc.
- The proposed land transfer is not a wholesale change in statutory direction, it is just that the federal government has failed to deliver on them, unwilling and unable to perform this direction
- The real problem we have with litigation is it was extraordinarily and badly undercut by the Western Attorneys General working group; said litigation was a long-shot, arguments unlikely to

get traction, threw a lot of cold water on the litigation option, very surprised it was 11-1, with the only dissenter being the State of Nevada; it was our understanding the Alaska Attorney General concurred that litigation was a long-shot

- With all these Western AGs throwing in the towel on litigation, may be a fight not worth having, that sentiment is now reflected, not sure we're in a position to be on the cutting edge

Scott Ogan – I would not like us to take a position on that in the report, it all depends on what happens November 8, with a new Supreme Court. I would agree if one person gets elected, litigation is a futile effort, I would agree. If another person gets elected, it might be worth it. I would think we would not take a position on that in this report.

Bud Fate – I think it is disappointing our Attorney General went along with this as if we were not different. The Supreme Court said we were different.

Mead Treadwell – Was CACFA consulted before the Attorney General signed off on this document?

Sara Taylor – No, but I do not believe our Attorney General has signed off on it.

Ron Somerville – It is the jurisdictional issues that concern me as much as anything. Resolving those on a case-by-case basis, Congress will not be able to resolve that unless the Supreme Court steps in. I don't see other ways to resolve some issues outside of litigation.

JP Tangen – I think the report prepared for the State of Utah was very comprehensive and scholarly and was disappointed it did not get more traction. I was hoping, with this report, we could do something outside the box. When the US is party to litigation, it does everything in its power to ensure the court never gets to the merits. Settlement, procedural deficiencies. We know that legislation has been ineffective, as the Executive Branch selectively disregards them. The agenda is towards granting more power to the federal government. I had hoped you would have expanded more on the concept of devolution, that is outside the box. Greenland, Canada, Denmark, persuasive precedents from an international and Northern perspective. To whom should this petition be addressed? If we take the precedent of the Declaration of Independence, we address it to our King George and ask them to recognize the deficiencies. Short of that, we are, I think, spinning our wheels unless we can point to something that acknowledges the deficiency in the administration of Alaska lands, but we are pointing to a course of action with so much appeal we will predictably encounter considerable resistance.

Bill Horn – I think when we look at litigation, there is a factor we need to take into account. Using litigation for the strategic objective of asking the US Supreme Court order the transfer of public land. If the court were willing to dispense with precedent and go back to equal footing and equal sovereignty extant at our founding, that would provide a basis for this and achieve the grand strategic objective. The ability to win that battle with the judicial branch has very long odds. The ability to use litigation as a tactical device, bring specific suits on issues. If you have a favorable federal administration, you can quickly settle those suits to your benefit. Hammond filed suits on the Carter withdrawals that were still pending when Reagan took office, and settlement talks were about limiting withdrawals and executive discretion. Constraining that discretion was controversial in the Executive Branch. Can be very effective as a pre-text to settlement with an amenable federal administration. I do not have any expertise on devolution, relied heavily on Sara and the staff there. Obviously we can expand that section of the report without much effort. Who it is addressed to, in my opinion, is the President, Speaker of the House and Senate President.

Bill Satterberg – I did hear the Sturgeon arguments and the feedback I got was the foregone conclusion is it will be another liberal Ninth Circuit decision and John Sturgeon will have to take another trip upstairs. I thought the RS2477 access rights part of the paper is very important. Interesting that Utah joined the Western Attorneys General paper, with all the work it has done on this. Need to discuss all the options, maybe as subcategories of the conclusion. Would like to be excused, possibly join in later.

Mead Treadwell – Asking Bill Satterberg for insights on the Wilde case. We do not really talk about the whole plethora of criminal enforcement capacity, enforcing our laws without our permission. Magistrate's opinion in Wilde that suggested this is nested waters. Any nose under the tent takes the whole tent. Those waters and wildlife were given to us, we have not objected enough, e.g., Endangered Species Act taking some of those back. There is no bright line in the sand saying what is and is not ours. Moral case for clarity as much as the legal case.

Bill Satterberg – Motion to intervene from NARF in the Sturgeon case which was denied. Wanted to join in and defend Katie John. I'll do some adding on of Wilde. Also, Wilde was kind of uppity and didn't play well, so got to wrestle in the mud with rangers, the Sturgeon case represents the issues but Wilde represents a bit how far the federal government will go.

Mead Treadwell – We are still looking at publication of this report in January?

Sara Taylor – After comments provided today and Saturday are incorporated, will have a 30-day public review period roughly mid-November to mid-December, and publication of the final report in January.

Scott Ogan – Unambiguous State received title to beds of navigable waters, yet we have to go to court to settle a 40-year battle over the Mosquito Fork. Can take 7-8 years to get disclaimers on inarguably navigable waters.

Mead Treadwell – Bill Satterberg mentioned a petition that reflects litigation, legislation, negotiation and confrontation. RS 2477 were highway rights-of-way. Would two confrontation matters be of us writing legislation declaring what navigable waters are, we make the finding and say we will manage as is, and then publish our entire RS 2477 list. Those transferred to the State with statehood and we assert title, they are the title under the compact, and let them sue us.

Bill Horn – I think that is plainly an option. One part that would be important to include is that it has to be the State as an institution that makes the assertion of the RS 2477, and the State and its agents make that claim with on-the-ground action. Make sure it isn't an individual that ends up getting sued. Take an aggressive posture on RS 2477, State takes action and State is the defendant, only the State has the resources to stand up to the federal government in this case.

Mead Treadwell – Utah started this train by passing a law saying all the federal land is ours. We should do no harm to that case. The Attorneys General report was written in a way to not disturb state litigation against the federal government. Should recommend a letter from CACFA asking the Attorney General withdraw support from that paper. Wildlife management on places like Unimak Island, we have a right to manage it no matter whose land it is on. If you are culling an invasive species, managing a species, saving baby wolves, we need to find a case where we assert on something that has broad appeal. The same way the US maintains freedom of the skies and seas, we need to figure out how to do that. We sue in local court to use RS 2477s and indemnify citizens, be the one to sue. Use our jurisdiction and ownership of navigable waters by opening them all to lease. We are making it clear that we have title. Those are three specific confrontations we can do without having to pass a law (not opposed to passing laws). If we believe it is ours and can manage it, have someone tell us we cannot.

Bud Fate – May be some conflict with subsistence management in some areas. For example, when the federal government allows certain methods and means and the State disagrees.

Scott Ogan – The RS 2477 issue is complicated by the fact the lines on a map are rarely on the ground in the same place. Map says something is there but it has to be ground-truthed. Land can have reclaimed whatever use was there that accepted the right-of-way grant. Identification, survey goes with claiming it. Navigable waters are easier, if it looks like a river bed, that is where the river is. Trails are different.

Mead Treadwell – Even our own Attorney General and the legislative council have laughed at the idea of us managing all federal land as state land, there is a case to be made that RS 2477s are state highways to be addressed in state court. I would like to see us develop that further as a tangible thing we can do along the lines of the confrontation category. The Canadians on the Northwest Passage said it begins at the Bering Sea, we said it begins at the border. We just need to start numbering the highways. Opportunity where the State has prerogatives we are not following.

Bill Horn – I think those three points of assertiveness are appropriate. What has always been missing in the past are the confluence of circumstances necessary to put into effect (e.g., State not willing to do it). Could be more aggressive about pushing those cases, have the State be the asserting entity, have the federal government come after the State, could be a good move.

Ron Somerville – Sturgeon case is tough to watch private citizen fund a sovereign challenge, some way of allowing the State to pick up the tab for things like this.

Mead Treadwell – I pushed for the petition concept, and I think it gets delivered with a wrapper to CACFA, the Governor and the Legislature. Lay out legal and moral arguments. Co-management, national and state legislative fixes, litigation where certain losses have left us questions, war chest, indemnifying Alaskan citizens exercising their rights appropriately. That is the general transfer, besides the asking the Attorney General to rescind support of the Western Attorneys General report.

JP Tangen – If the Governor redlined CACFA's budget, why wouldn't he redline an appropriation by the legislature to fund this effort?

Ron Somerville – I have heard it is not legal to fund a private case, so let's make it legal, and that doesn't have a lot of budget implications.

Scott Ogan – Need to ensure a public interest is at stake.

Mead Treadwell – Looking for a practical path to hand this to CACFA, not drop the litigation option, constructive ways to confront the federal government's divergent world view, enable the State to deal with its trust responsibilities in a more constructive way, not piecemeal. In "confrontation" is an opportunity for wildlife management, navigable waters, and RS 2477 where we just say we will start using what we have and undercut the piecemeal process. That will take a legislative appropriation. Legislation and negotiation can include "hand it over" and allow for sensible development (moral case) and we are concerned about the integrity of the rule of law here (legal case). Take this to the Interior Department, if you want a new start, here is what we hope you do. Convene a discussion with the western states on ending partition, come up with an RS 2477 process, get a handle on mineral assessment under ANILCA. We are sending forward a petition, but we can include strategies in the

transition document to CACFA. Suggesting legislation, confrontation, war chest, etc. There are people who will take anything the feds ever give to us, we argue we are not going to take it sitting down.

Scott Ogan – I really like that approach. This is more like a report than a petition. CACFA can petition the government to do something. Make a formal petition with appropriate legal cites for rule changes. Present to the new administration the things we want addressed in the transition.

Warren Olson – Those of us who will educated the public, who are the true owners of everything we are talking about here, we have to have a presentation that does not overcomplicate these issues. I think our largest supporter right now is Chief Justice John Roberts. I also see, very soon, a real catastrophe for Congress budget-wise that will cause them to seriously consider giving things back to the states.

JP Tangen – There is a flip side to appropriations. They have to be authorized, this is true at the state level and the federal level. Interior appropriations subcommittee rider on spending money to engage in defense/litigation, cut them off at the purse strings.

Ron Somerville – This year, US Fish and Wildlife Service was given more money than it asked for by that subcommittee.

Mead Treadwell – Let's look for things we highlight in a transition report. The State should ask the new Secretary to cease and desist from the following activities. There is a partition here in this state that makes no sense whatsoever.

Scott Ogan – Should include stopping them from planning. Stopping them from defending litigation, seems like they might need to do that.

Mead Treadwell – Not support planning without a state veto.

JP Tangen – That goes to the first paragraph of FLPMA.

Bill Horn – Be sure to focus on the policy content we build into the land transfer. When the State asks for it, it is willing to take the land from the federal government with strings attached, e.g., consistency in management objectives moving forward. State is capable, federal government should be doing it, this is different than what other states are asking for (which do not include strings). Adding these terms and conditions is a superior remedy, and is more about remedying broken promises. Can help in the political arena. Think about that and let us know if you want to leave that in the report. That is a fundamental policy question to be answered. We tried to tell people that the closing section is weak, I did not want to invest in a compelling closing statement and then have things change in the guts of the document that would necessitate a rewrite. The closing is just a place-marker for the one to come.

Mead Treadwell – On the issues of trying to come up with the stronger point, a lot of it is extracting and making summary points, but we do not really make the moral case strong enough, in my opinion. I agree on the devolution portion, we will go to work on that here. Meeting with the contractor in D.C., there are a few places where assertions of promises and agreements, need to be specific on the fact that they were promises. The argument of how the federal government can do anything. Never been an authorization for 50/50, we can only agree to 50/50. I want to get into that a little deeper at some point.

JP Tangen – Acquiring these lands with strings, fantastic, strongest point made in the presentation.

Bud Fate – In one place we ask for the opportunity to manage, then asking Congress to adhere to present management authority and law. We need to make up our mind.

Bill Horn – Congress has spelled out in these statutes what it intends for Alaska, and the problem is gross federal mismanagement with respect to the statutes. The State is willing to do what Congress directed the federal agencies to do, and which were not done, we are willing to adhere to that intent. We and Congress see eye-to-eye, give us the land and we'll do it.

Ron Somerville – In light of the Statehood Act, Alaska is different. I would ask whether or not you would include the practical realities in this report. I concur in what you have drafted, but I see a huge number of litigation against the state to comply with federal requirements. Could we withstand that?

Bill Horn – The devil will be in the details. Based on the history you and I know so well, I would never recommend the State accepts a vague provision about managing under FLPMA. But have the transfer instruments apply federal principles and then the State administers subject to those terms and conditions, and every action against it would be in state court. Avoid rendering the State subject to federal litigation, federal courts.

Scott Ogan – Do we need to clearly articulate certain points? Have we given you enough direction? Work on some bullet points and get those to you later? How do we give you direction?

Bill Horn – I am making lots of notes. On the devolution section, you are the experts, I would ask if you or the staff could draft that and send it over to be plugged into the report. I would love it if Ron and Scott could take a shot at drafting a one- or two-page section on the navigable waters issues, we will plug it into the right spot. Trickiest one, thinking of these three points on confrontation, because this is a petition that will be presented to federal leadership on how to right wrongs, writing in a section on how the State will sue is not in keeping with the petition concept. Prepare a transmittal document that says execute this, and include that discussion on “Here are some things to do immediately, short of pushing for this petition.” Get aggressive about assertions, take action on the ground, get the federal agencies to respond, do not think it is in the four corners of the petition.

Ray Kreig – If you are going to do a petition, it needs to be short and succinct, a Declaration of Independence, but we are looking at a white paper that backs up the transgressions in considerable detail. There are two documents to prepare here, the petition and the white paper back-up. The report is fascinating, I learned a lot even though we have all been steeped in this. Your encyclopedic treatment of the whole thing informed me in many areas. In May we went over the proposed outline, five-times as long as the outline. I see quite a few areas in the outline that are not covered here. The back-up seems a little light for the whole thing considering the importance of the subject. Will the final be bulked up any and will these missing outline elements make it back in?

Bill Horn – The outline was a transitional document, the request for proposal was about preparing a dispassionate examination of the issues, tactics, and we received the instruction to make this a petition, so a lot of the analysis did not fit within that context. The draft document has changed from the outline, some of those items did not fit and fell by the wayside outside the context of a white paper. We are also running into a budget question, we can put a lot more time and effort into it, but there are constraints. We have done a lot and efficiently, with the background we have negating significant research expenses. We can have it read more like a legal brief but it will require a lot more budget than has been allocated.

JP Tangen – I hear what you are saying about beefing it up. Mead made the point earlier that there are some areas in the report that beg for justification. I do not know if we could attach an index to this report to understand the sources.

Bill Horn – I make references to promises and commitments, there is some source in statute, reflected that to the degree we can. Statutory provision that codified the promise, put in legislative history. If you see areas where you collectively feel it lacks the citation heft, I would like to see those indicated and figure out how we can fill in those blanks. That would be very beneficial to us and efficient.

JP Tangen – The number of RS 2477, where does the 600+ come from. Is it reasonable or appropriate to address this also to international bodies? The Arctic Council? May not be a good idea, wanted to throw that out there.

Bill Horn – We will leave that decision to you guys.

JP Tangen – Sideboard statutes, such as the Endangered Species Act, they deserve a footnote. They are fellow travelers with these issues we are talking about. But that may be outside the scope. On page 2, when you talk about devolution, you allude to Russia but do not mention Russia (strike that reference or give you something about Russia and devolution). I 100% agree about taking things out of the petition to the extent they are not consistent with the four corners of the document, particularly the aspect of confrontation, which can be in the transmittal letter. We need a good outline as to what will go in that transmittal letter.

Bill Horn – I think the transmittal letter becomes, in essence, your Executive Summary and this becomes the petition to back it up. Can read a couple pages and then this document if they want more.

JP Tangen – I thought a short and sweet declaration followed by the back-up white paper. I see the declaration and petition as being discrete concepts.

Bill Horn – That structure of the document is something you will need to make and, under the contract, we can work on getting the documents into the form you need.

Frank Woods – This is a pretty dense document, condense it a little bit? I do not see the economic impacts, too big of an issue? For example, taking refuge ownership, visitors and concessions, millions to the refuge. Also, the dual management we have now has a huge cost, dollar value and man value. Do not have enough people to manage what we have because of the dual management. Are we benefitting the State of Alaska?

Stan Leaphart – We had discussed incorporating economics and data and, given the budget we had to work with, and studies being done by other states, we did not feel we could give it the required detail.

Bill Horn – Most people in the lower-48 look at Alaska as not paying taxes and dividends, those economic arguments usually fall apart Outside, but fairness, promises and equities are appealing to lower 48 decision makers. Common ground in federal mismanagement.

Mead Treadwell – Let's see what we can do in this regard, what we can write ourselves. Can say good things about the economics of the parks. I was really struck in the report by what is happening in Wrangell-St. Elias.

Scott Ogan – I want to make sure who the petition is going to and what we are asking them to do.

Bill Horn – It is essentially aimed at Congress and the Executive Branch asking them to care about past legislation that was passed and stick to it. Point out a wholesale lands transfer and specific remedies, revised policies, cooperation with the states, can improve or make compliance with the law possible. Given 50 years of broken promises and federal mismanagement.

Scott Ogan – Does this set us up in a legal way to take action for ignoring our request? Or is this more posturing?

Bill Horn – You can take this document and pull out of it specific things to be done by the agencies. If you got the right administration, can get problems solved making those requests. The petition will lose its impact if you write this request for land transfers and then say, well, if not, just do what you are supposed to be doing. That dissipates the impact of this report. Using this document to push for change.

Ray Kreig – Perspective on sending this to international bodies (JP's point)? It is our decision but do you have any insights on its getting attention?

Bill Horn – I do not see any downside. Think about what your grand political public communication strategy is if the State runs with this. International body transmittal is more public relations and outreach than anything, a little early to be thinking about it now.

Mead Treadwell – Interesting to see what was reported to the United Nations on what was reported with respect to Alaska and indigenous peoples. We lost the 90/10 lawsuit, the plebiscite was do we accept the Statehood Act in its entirety. The government came back and said there is a compact but the 90/10 is not part of it and we have the unilateral right to change it. The court said, as the beneficiary of this trust, we have no say in it. How do we get more traction for the compact approach? Right now seems largely ignored.

Bill Horn – The argument given the litigation history, given lower-48 litigation history involving the Mineral Leasing Act. Thirty to forty years ago say a change in how 50/50 was calculated, skimming off the top, upheld in the courts. This is part of the compact, cannot walk away from it, remains an equity argument, policy and political fairness even absent backup from the courtroom. Continue to make the political equity compact argument, only arrow left in the quiver right now.

11:42AM – PUBLIC PARTICIPATION

No one on the phone or in the room

Ray Kreig – A couple places in the report it mentions returning management and control, but we have never really had that. This is about getting the federal government to convey more land, I am puzzled at that wording.

Bill Horn – You're correct, that is not legally accurate. I will try and come up with more appropriate equitable euphemisms.

Ray Kreig – We want them to convey the land with no strings attached. Treat us like the states east of the Rockies. Politically it is easier to say we'll let you keep some land, adhere to the imprint of ANILCA, but is this what we want? CACFA and ASLAG and those of us involved with the Utah efforts? We have to discuss this, the report needs to clearly and unmistakably support our conclusion. Concise declaration and arguments to support it. A lot of pulling the punches on what we expect.

Mead Treadwell – Need a stronger punched-up beginning. We are looking for transfer of public lands, true co-management on remaining federal lands, a process which takes away the partition and makes us competitive in the world and looking to see the promises we were made remedied in Congress and the courts. Broken promises is great, one thing lacking would be the promise language, what is inalienable and unambiguous. They find ambiguity in everything. Used whatever handles they have to make everything we have negotiable. It does not matter if we own it if we can still be pushed down. Moral and legal argument about what is there and what we are looking for.

JP Tangen – I have to disagree on adhering to the Utah model of transfer without strings. I believe Bill’s proposal on transfer of public domain lands on the condition they be used for the reason initially identified, a much stronger and more persuasive argument and puts us in a better position. We have a colorable chance at persuading Congress, or even just the court of public opinion, we can point to the statute and say “Why don’t you do this, give us the land and we’ll do this.”

Susan Smith – I’m wondering if it wouldn’t be more persuasive to have promises and breaches in the same sections, instead of all the promises and then all the breaches. Also, when we went to Utah, they felt the argument was more valid to demand all the land. Seems like what we are doing is making an argument that will pass rather than what we need. Why should we lock ourselves into the strings? If we are going to change the land management pattern. Restricting every land use to what Congress said it should be is not in our best interest. Ownership v. management, obviously up front the public uses BLM and Forest Service land, we should own. But refuges lands, it’s more management. As a CACFA member, I may not have been there for all the ASLAG conversations, but is this tied in stone as to what ASLAG is requesting? Also, can we have a bill written when we hand over our transmittal letter? If we are going to ask them to do something, should we have the document ready? One other thing, devolution. Interesting to include how “federal” job losses immediately became provincial job offers.

Mead Treadwell – Transfer of public lands becomes all these divisive arguments. Hunting issues, hunters Outside see loss of federal land as shutting down hunting, but up here it is more like the opposite. Environmental groups jump all over the idea of loss of parks. A bill has already passed which transfers management of Forest Service lands to the states.

John Crowther –Presenting the ideas in this form does not prevent us from pursuing other options. The broader we can have this discussion, the better. Ultimate goals and expressing every idea that favors it.

Stan Leaphart – The parks and refuges off the table at statehood, it would be a real reach to go back that far and say they should have gone to the State. We are looking at the statehood compact argument that we have no further claim than this, and people will beat us up with that argument. And the issue of do we go after the parks and the wildlife refuges, and on what grounds, can be avoided.

Bill Horn – Public domain and national forest land ownership transfers. I am not aware of any major proposals to transfer ownership of parks, wildlife refuges or wilderness areas to the states. The way the document is drafted, it will leave the essential administration of those areas intact, just transfers it.

Ray Kreig – Why wouldn’t you leave that open to negotiation and final settlement, rather than asking for it right at the beginning? Many national parks have little visitation, removing the latitude to negotiate. A much more aggressive statement that states have a good track record for making parks. Wood-Tikchik, Adirondacks, etc. More accommodating of having visitors enjoy it.

JP Tangen – You are 100% right that I would have erased the National Park Service in Alaska, but in conjunction with this report, we need to put not so much what we would ultimately like to have, but it is

more what we might reasonably be able to succeed in obtaining. Susan makes the point we need to go for the whole banana as a matter of principle, but also acknowledges the fact we are talking about something arguably achievable and would have marketability among those who would otherwise take offense at the idea of a national park being lost. I don't view my positions as being inconsistent, just addressed at the pragmatic in this instance.

Mead Treadwell – I also want the veto power on the remaining lands. Just as important, and also unfortunately the more achievable. There's no constitutional prohibition against sharing this power with the states. Existing state authorities and support for inholders needs to be supported. Utah says give it all, and I love it, wouldn't that be great. In the end, it is really easy for people to swat down, say it will hurt the environment, public use, etc. I think we need to move forward with something we can win. Give us a whole lot to say about what happens here. I would like to condition our report saying we would take the whole enchilada but here is what we might be able to get.

Susan Smith – Ask for the whole enchilada and negotiate down.

Mead Treadwell – Yes, and then sometimes we get shot down. If we were to ask for the whole enchilada, take a vote, what would be the feeling of this group?

Warren Olson – These are political considerations at the Governor's level and he'll be advised on this. One tool we have to break through is removing ourselves from this Ninth Circuit court on sovereign issues, which can only be decided by the US Supreme Court and state courts. Advance the proceedings using the appellate process is a waste of money. Ridiculous to have the Ninth Circuit investigate.

Stan Leaphart – Title VIII is the 500-pound gorilla in the room we have not talked about. The rural preference goes away. You will have a significant constituency that will adamantly oppose that happening. If we ask for the whole enchilada, we are looking at that preference going away, and we alienate a significant constituency from the argument.

Bud Fate – It is even broader than that. Under any scenario, unless we get most of the Native Corporations on board – Herculean effort but achievable – but unless we do, there will be no action taken on this petition.

Mead Treadwell – We need to make this document cognizant of what it going on for Native Alaskans. This has been mentioned since the beginning. What you have in Canada is an interminable three-way process, where the First Nations have asked to settle land claims in the transfer to the provinces. Right now, except for voluntary approaches by governors to work with tribes, there is no reason why the government-to-government relationship excludes the states, though many do not want it to include the states. There would be a string attached but it might be cause to help resolve that issue. The federal government is creating more of a subsistence problem.

Scott Ogan – Without concurrence by the Native Corporations of addressing the rural preference in Title VIII, the prospect of us going for any part of the enchilada is reduced. Easy fix (legally, not politically) to amend ANILCA to say “subsistence preference” instead of “rural preference” and then we have the fight amongst the family, but at least it is amongst the family and not dictated by the federal government. We eliminate the constitutional revision issue, equal protection arguments, Article 8 issue. This is all rhetorical unless we tackle this issue.

Bud Fate – There are other issues involved, too, that are rearing their head, like the issue of self-determination. Feel overlooking in decision making, not just in fish and game but in lands, allocation,

and these are the things that are important to them. Requires an understanding among the corporations. Solvable but to solve it you need stakeholders in on the discussions and they have not been so far on the level that we are talking about (e.g., co-management, devolution).

Stan Leaphart – Secretary Jewell’s speech last week to direct agencies to involve and cooperate with tribes, I hope that yields results, but I am very skeptical having sat across the table from the federal government with exactly the same or better mandate. The relationship doesn’t work. Secretary Jewell’s order isn’t really worth the paper it is written on. Idea that tribal interests need to be looped in causes significant pounding of heads at the federal agencies. Gull egg harvest in Southeast is a good example. Changed “cooperation” to “consultation.” Directing them to “cooperate” will probably ultimately become “consult” and then “consult” becomes they pick up the phone and tell you what to do. I hope I am wrong, from their perspective.

Frank Woods – It will be piecemeal. Regional Corporations will not do lands into trust. Village Corporations, coming from the shareholders, and tribes will enter MOUs to develop conservation zones. The subsistence issue is not my fight, but going forward you are right, this is the elephant in the room. It will come from people who live off the land. Without the methods and means to develop a management plan similar to the state or the federal agencies, you’ll see more lands into trust, budget requests, arguments. Without those people at the table, we are going to lose, Alaska is going to lose. As soon as we sign onto an unfunded mandate that affects Native people, we all lose. Offer co-management on village corporation land, have local management authority. Subsistence division is a data collecting agency in the State, without authority. How will that be fixed? Through local management authority. A lot of the villages do not have that infrastructure and capacity to take on management, but we all need to stand together and attack this in the regulatory system. People need to understand all this.

Ray Kreig – How do we address the coming financial crisis, need a little more perspective. So many important things captured in the meeting minutes. State and federal budget deficit was brought up at the last meeting, and you had indicated that the budget crisis makes federal aggrandizement more likely. The body politic does not react, or they put Hitler in place. Flabbergasted to see what people tolerate. Financial assets of future generations can be plundered well beyond rational thought. Talk to us more about your insights.

Bill Horn – I think fundamentally it is really an issue of scale. If you look at a \$1T+ federal budget, you have big ticket items, interest on the debt, government expenses and administering federal properties. Given the amount of money dedicated to that last part is so infinitesimal in the grand scheme of things, the big focus will remain on the big ticket items and the debt interest when the crisis hits. You could eliminate the budget for all the federal land management agencies and it is a drop in the bucket. Focus of the transfer movement has been on BLM lands and forest lands, no major effort to secure transfer of parks, monuments, refuges, etc. to the western public land states.

Ray Kreig – Two years ago we were told that, because BLM is plunging revenues and the Forest Service doesn’t harvest timber, the federal government has to write subsidies. Is that accurate?

Bill Horn – If you start looking at the money, it is miniscule. And remember something else, the largest budget for the Forest Service was the road system, enormous amount of recreation. For 20 years, there have been liberal east coast senators who would try to gut the road budget. Solution to federal public lands is put them under a glass dome and stand outside with their noses up against the glass. And it’s cheap. Before you hand it over as a budget savings measure, you will start to see more de facto wildernesses to reduce management costs and facilities.

Mead Treadwell – I wanted to raise one issue, the compact process. Congress will look and ask if there are enough votes to avoid or override presidential veto. Look at Senator Murkowski’s energy bill, so gridlocked it’s amazing. Starting an interstate compact process, the original idea in Utah, get states’ understanding and get Congress to approve up or down. Another legal track that we have.

WHITE BOARD

- 1) Transmittal Letter
- 2) ASLAG Recommendations
 - a. Petition: State asks for a transfer and to end the partition

This is enormous powerful, and would be a policy change for the State from its current position.

- b. Transition Plan: cease and desist

Veto authority right off, everyone here can stop being told what is going to happen. Stop violating the “no more” clause. No matter where you are in the legislative process, come to the states for a talk.

- c. Other Action
 - i. Confrontation/Litigation
 1. Wildlife (work with landowners, tribes)
 2. Waters (navigable, water rights)
 3. RS 2477
 4. War chest/indemnification
 5. Cold Bay to King Cove Road
 - ii. Legislation
 1. Transfer Lands/Authorities (Lee, Cruz)
 2. Alaska Land Use Council re-established
 3. CACFA refunded and strengthened
 4. RS 2477
 5. Compact clarities
 - iii. Cooperation/Negotiation

We have common cause with other western states. Want to maximize that so this second Sagebrush Rebellion doesn’t die. We need an answer, can revisit the compact process.

Bud Fate – Be careful in how we reinforce other states, one size does not fit all. A core set of rules can be applicable to all the states, but each state will have its own problems and, within those problems lie the seeds of destruction.

Ron Somerville – Is there any problem with us endorsing Utah and the momentum it has going?

JP Tangen – Nothing wrong with that, but what ought to be included in this report, and it is specific to these three statutes being implemented as intended and written.

Stan Leaphart – State of Arizona has a committee looking at this, Montana has been looking at the economic aspects, hopefully things will come out of other states focused on their issues, but there will be a common core set of issues that will need to be addressed, hoping reports can help us identify those.

Ray Kreig – Ask for all or ask for some, can we reserve our rights to ask for all later. Reinforce our belief that we have a right to ask for all.

Mead Treadwell – I have no problem with that approach. Reserving the right to ask for it all, we ask right now for the following things. Does that meet with a consensus in this group?

*Indication of assent from many members present
No objections raised*

Warren Olson – We have examples of what the other states don't or can't get into, to contribute to asking for it all.

[Craig Fleener joins the meeting]

Stan Leaphart – Courts expanded ANILCA §1323 outside Alaska on National Forest lands.

Mead Treadwell – Is it worth expanding ANILCA to other areas outside Alaska? Let's take a lunch break. What is the most efficient way to proceed this afternoon?

Bill Horn – Get the specific stuff from individuals to incorporate, spend time discussing major unresolved policy issues. Working with marked up documents will be more efficient for us, rather than doing it over the phone by committee.

Frank Woods – This is going to be presented to CACFA for final approval. How do we address keeping our own house in order in this transmittal document?

Sara Taylor – I recommend we start the process with stakeholder input. We cannot represent a recommendation by those not in this room. Have the State go to the Native community, go to the users, the conservationists, and understand those perspectives.

Frank Woods – Add a consensus list driven by a stakeholder process. Has to be addressed somewhere.

Mead Treadwell – Alaska is becoming more partitioned (allotments, trust lands, water management). Likewise, you cannot have that on fish and game. We already have significant partitioning there, and you can't manage the resource.

Frank Woods – There has to be an agreement somewhere. Good example of land stewardship plan. Every corporation adopt the management and conservation regulations the State has, then lobby for more subsistence. If we do not have a consensus list, and a Title VIII fix, we will never get past the issues we have. We will still have land managers coming in and dealing with their own issues. Might be impossible but I think it is possible.

Scott Ogan – I would like Bill Horn's insight on the subsistence amendment I mentioned earlier. Would that eliminate the tension between Alaska's constitution and Article 8 §3 discussion we have been wrapped around the axle on for dozens of years? Wrapped around the axle on the rural priority, amend it to say a "subsistence" priority.

Craig Fleener – It won't work, because every Alaskan is a subsistence user.

Scott Ogan – But you can give a preference for beneficial uses. There has to be a rational basis.

Craig Fleener – We can bat that around, but Alaska Natives will see right past that.

Warren Olson – They saw past it and didn't accept it 30 years ago.

Craig Fleener – As long as the discussion is being pushed away from the issues they hold dear. It goes back to the idea that many good people have argued we have a great constitution, we should get behind it. The feeling by many Alaska Natives is they had no say in the constitution and they are being asked to get behind something they were functionally shut out of developing. Things need resolving before asking people to jump on board with a really great idea. Unfortunate to this argument, tribes want to be at the table in this decision making and have it understood they have a unique relationship with the federal government that must be recognized in this state and by the State.

Bud Fate – I agree, but when you said they want a special relationship, you're right, but it could be because they have never been given one by the State.

1:55PM: LUNCH

2:47PM: RECONVENE

[Mike Fleagle and Rod Arno have joined the meeting]

Stan Leaphart – Per Bill's suggestion, make changes on written report and get changes to Sara or to John after Monday. If you like, copy the group.

Scott Ogan – How do we deal with substantive comments without sitting at the table?

JP Tangen – Should go directly to Bill for processing. Confidential comments should not go to Bill, let us flesh out our differences and see about coming to a unified consensus.

Sara Taylor – Limits on funding regarding this report. It is possible the comments being developed at this meeting and thereafter will be submitted to CACFA for development of the final report and not to Birch Horton for development of a final draft report.

Stan Leaphart – Discuss deadline for comments on the report to CACFA on Saturday morning.

2:56pm: Bud Fate – Motion to approve meeting minutes from May 4-5

Ray Kreig – Second

No objections

Motion Passes

2:57: Ray Kreig – Motion to approve meeting minutes from August 8

Bud Fate – Second

No objections

Motion Passes

2:57PM: DISCUSSION OF DRAFT REPORT (CONT.)

Scott Ogan – Are we going to go for the whole enchilada or not?

Ray Kreig – Unless the people of the state can develop a unified position, most of this is not going anywhere. The possibility of more land transfer to tribal trusts, Native Corporations, should we scale what we are asking for to account for that?

Craig Fleener – I think one of the reasons it has been difficult to bring tribes along with resource development projects is the tremendous potential for loss and the lack of a compelling upside, a lot of loss and not much gain. If you start talking about a shared approach for land transfer, stand to gain a lot more allies that way. Going forward to get more for the State and keep relationships the same, that will not get the kind of support we need.

Bud Fate – Senators have been trying desperately to get Native veterans who missed out on their allotments to get those allotments. Popular piece of legislation but the Secretary will not budge. Native people are very proud of their veterans, as they should be.

Stan Leaphart – Legislation quite some time ago to allow veterans who missed the deadline to make an application?

Mike Fleagle – Short-lived temporary legislation that covered the Tete Offensive. This would expand it to anyone who served in the Vietnam conflict who could not participate in the Homestead Act because they were not here. Expands timeframe and applicable federal lands.

Stan Leaphart – Have the allotments from that earlier two-year window succeeded?

Mike Fleagle – Yes, and this legislation fixes some of the problems that did arise, but it's mostly about expanding it.

Craig Fleener – Is it also a problem in Congress, not just the Secretary's Office?

Mike Fleagle – The Democratic side do not like having public lands go into private ownership.

Susan Smith – Other than just providing additional lands as an incentive, could there be a revenue sharing for development that happens on those lands?

Scott Ogan – Native Corporation lands are much easier to develop. Overriding federal laws they have to adhere to, but easier. State got 105M acres, Native Corporations got 44M acres, propose a split around that particular ratio.

Craig Fleener – The tribes must be involved in some way if you want a natural level of growing support. Right now we are looking statewide at a couple thousand acres that could go into trust, that is about all tribes own, corporations have no advantage to putting the land into trust. Some very good presentations at AFN, including about why it is bad to put lands into trust. Having said that, if the land does go to tribes, all of that would be eligible to go into trust. But the lands should go to the 231 federally recognized tribes.

Ron Somerville – Some intent to try to make a provision in federal law that the corporations should participate as if they were tribal members.

Craig Fleener – In some legislation, that recognition already exists for the purpose of Congress being able to work with them in specific ways.

Mike Fleagle – I am not aware of any pending legislation, it has been brought to our attention many times, but a lot of the federal agencies are already doing this. It is not a formal recognition as tribes, just for the purposes of the legislation, which is usually about consultation.

Susan Smith – Thinking of giving lands back to the Native entities and having those lands become trust lands, seems like we are just giving it back.

Craig Fleener – The challenge is more on the tribe than the State, having to get permission to do things on the property. The State will maintain its authorities. The trust was created to take care of people who could not take care of themselves, but we are well beyond that. For tribes, and the reason so many are talking about the importance of trust, is about loss of land. The tribes lost everything and want to protect what little they have left, see transference to the federal government as the only way to do that.

Ron Somerville – But the State would not maintain its authority to manage fish and game.

Craig Fleener – That has yet to be tested but is probably the case. Tribes are always worried about being food insecure, but you do not see the state or federal government go on those tribal lands to manage the wildlife. Not much by the State, less under the federal government. So there is a lot of interest in tribes managing tribal lands for productivity. Where predator control gets questionable is allocation of hunting. But if tribes actually start managing and increasing populations, that is a good trade-off to work with folks to allow that. Needs to be tossed on the table. As long as managed for abundance, a win-win.

JP Tangen – If we are talking about orders of magnitude here, it is not a significant amount of land in the scheme of things. Even a million acres would be a small percentage.

Warren Olson – This is over our head, this should be the subject of public meetings.

Stan Leaphart – Obviously we cannot resolve anything, regardless of what comes from this, but it is something that warrants some discussion.

Warren Olson – Once transferred to the State, everyone can use it, including tribes.

Ray Kreig – In my mind, do we accept the way Bill Horn has written this up, but assume we will continue to manage under statutory authority? I say no, you need to lift the restrictions on Native inholdings in these areas. If we are going to step in the shoes of the US Fish and Wildlife Service, we need to make sure we're not responsible for doing things like that.

Craig Fleener – If I get some clear guidance from ASLAG and CACFA, because of the Governor's experience at AFN last week, and the strong urging for more involvement by tribes and push for a better state-tribal relationship, I am pretty sure I could talk the Governor into starting down the path of pulling a table together of people to be involved in this conversation. We cannot keep pushing it down the road, federal intrusion will just continue to get worse. We might be able to come up with something pretty good through the round table concept.

Ron Somerville – One of the proposals I had, which CACFA did not accept, was sponsoring a summit on subsistence, allocation of fish and wildlife. CACFA is a good organization to do that, had a very successful first summit with broad applicability and support. Unfortunately, the Governor deleted CACFA from the budget, but it would have been a perfect venue for this discussion.

John Crowther – We owe a responsibility to have some deliverable. There is some discussion of the contents of this. We've talked today about this as a report, petition, and transmission recommendations, a cover letter, ASLAG reporting to CACFA. If we just polled this as a white paper, we flag things for CACFA. We have looked a lot at federal-state-public interactions, topics we have not spoken to the affected communities about, and that needs to happen. Flag in the transmittal letter or the cover letter, but we do not have the resources or the mission to bring this table together. Just to mention that in the preparation of a report to CACFA for it to advance this issue.

Scott Ogan – Do we accept the report as written or do we adopt a different approach?

Susan Smith – I do not think this is a finished document. Mead himself said he had a lot of corrections, should not consider it finished. Ray had a good solution for the enchilada issue, by saying we are entitled to the whole enchilada but are just asking for this piece. Not imply we could not get more.

Ron Somerville – It could be important to support the other states' claims. Susan is saying, this is essentially two different discussions. One here at ASLAG, and one at CACFA.

John Crowther – We can flag necessary things through principled statements or declarations. We have a principled belief it should be one way, but it has been another way for a long time, yet that does not dismiss the validity of those principles, and the fact we are not asking to go all the way does not dismiss the validity of those principles.

Stan Leaphart – This is a multi-phase process.

John Crowther – It's kind of what has been happening to us, right? We'll just take this refuge and no more, then later on, maybe one more; or, these lands will be multiple use, then later on, well these multiple use lands have special characteristics so we have to limit uses. Iterative expansion.

Charlie Lean – Need a solution that is palatable, I like Ray's idea of sharing the wealth.

3:36PM: PUBLIC PARTICIPATION

No one in the room or on the phone

Craig Fleener – Through my enjoyment of listening to CACFA representatives, would be a wise move to invite Native leadership to have this discussion, not move forward without input and representation. It is always going to hurt to sit around and solve other people's problems. Subsistence is the perfect wedge issue to help us hate each other, even though we all agree to it from a different mindset, it makes enemies. If we do not always start out by saying we need to sit down and solve this, it will always just be the more represented group making decisions for everyone. I would be happy to help with names.

JP Tangen – I think the editorial changes, even substantive ones, are still on the table for the Birch Horton report. But the train has left the station on larger scale changes. I'm not sure we get to ask for a rewrite to take the whole enchilada at this point.

Stan Leaphart – Would the group be comfortable making that recommended change to the Commission and see what their thoughts are on it? Including all lands and giving lands to tribes, revenue sharing, etc.? Is that something we'd recommend including for review by the Commission?

Bud Fate – You are adding something that is a question mark, whether the Native groups will sit down with us to arrive at a negotiated result. At the same time, this is representative of something we are recommending be done. Have to get the cart behind the horse and understand how that negotiated resolution will play out before it is circulated. We have a document that is about ready for public review, but we all agreed it is extremely important to reach some negotiated settlement, without which nothing is going to work.

Stan Leaphart – This is complicated by the fact of funding. At the federal overreach summit, we did not invite federal agencies, but we were going to have a follow-up meeting with them. Unfortunately, due to the shutdown, it had to be done piece meal over the next few meetings. So will this report also be a two-phased process, once with a report and once with workshops and negotiations? Maybe we have some time to actually do that, but it is nonetheless complicated by funding.

Scott Ogan – If we are looking for state primacy on this land, maybe we can do with a recommendation right now to make solid offers to the Native community, which could help bring everyone to the table.

JP Tangen – Are we saying this is not ready to give to CACFA? These discussions are relatively new, and they are enormous issues, and we need some path to resolution, cooperation with those on whom we are dependent, tribal representations, and we are divided. We may need to face the reality we are not ready for prime time.

Bud Fate – I am not averse to what Scott recommends, but we do not know what Native Alaskans want so making an offer is like telling them what they want. Need to negotiate with what they do want.

Susan Smith – I cannot believe I am even saying this, but what is the rationale for putting this out for public comment? I cannot think of anything CACFA has done that has been put out for public comment before. It is like giving agencies a look at our hand. Might be more effective building it in-house.

Sara Taylor – The idea of having a public review has been kind of an assumption on the table almost since the beginning. While CACFA has never really had a public review document, CACFA has never really done something like this. My thought in having a public review was that it is part of our mandate. We are a very diverse group but we are not as diverse as Alaska. Getting insights from every interested party can help us develop a document representative of multiple interests and a more unified position.

Ron Somerville – I am in favor of public review. I do not think we should try to solve subsistence. As a CACFA member, I would say part of our recommendation is CACFA should be funded again and given the resources to have a summit on these issues and our relationship with the Native community.

Ray Kreig – We should look at Native entities receiving some of this land from the federal government, which would help motivate us to look at the things which divide us. It would be another force in the room, but a formula or an offer just sounds like another entitlement, no motivation to get together and come up with a solution. Concerned about coming up with solid offers without using the process.

Scott Ogan – I would agree with that.

Bud Fate – Our Chair has presented an outline today of things to include in the report.

Stan Leaphart – To try to incorporate this into the body of the draft would be difficult. What about having it as an addendum?

Ray Kreig – The dialogue that started today, do we have enough here that could move the needle in the Governor's office to reactivate CACFA and take on something like the federal overreach summit but to work on the divisions in our communities? Maybe we don't want to finish this, but show we need money to produce something that would really have an impact. Obtain the funds necessary to do it right.

Craig Fleener – I have asked the Governor this, and invited him to come tomorrow to listen to the meeting, and there is so much he just heard at AFN, I think he is very interested in seeing us move this ball down the field, the question is how he wants to do that. I made a subtle recommendation of bringing the Governor's Tribal Council together with CACFA, since it is appointed specifically to advise the Governor on tribal issues. I am still waiting for a response.

Ron Somerville – The things we are talking about are not just tribal issues, we are also talking about the corporations. If we were to sponsor a summit, or just get together and determine what it would be, it transcends just the relationship with the tribes.

Craig Fleener – I completely agree, needs to be an open process.

Scott Ogan – Moving forward on this provides a transition document for the incoming administration. Some might be more willing than others to address the grievances outlined in here, and maybe by executive action or talking to the policy guys, fix some of these things. It is timely that we take action and I think it is ill advised that we do nothing.

Ron Somerville – Why wouldn't we use the report to show things need to be done? Advantage to get it out rather than hold it. This gives us a product.

JP Tangen – I think we are primarily discussing what the transmittal should say. I have no problem with identifying it as a work in progress.

4:08pm: Scott Ogan – Motion we move the report, as written, with recommendations that it is not a finished product, include what is on the white board as general working notes for transmittal, with the idea the report would be used for transmission to the incoming administration, to include discussion and alignment with Native groups moving forward.

Bud Fate – Second

Discussion

Ray Kreig – What do we do with the comments we made with Bill Horn this morning and the individual comments we are going to send in? What do we do with the last few pages, the alternatives to land transfers? Are we meaning with this motion that we move this forward as is?

Craig Fleener – To move it forward as a draft to CACFA and make it a working document.

Susan Smith – And commissioners will have their own insights.

Scott Ogan – My motion may be a bit premature.

Craig Fleener – We can move it forward as a working document and give them our comments.

JP Tangen – We talked in terms of editorial and substantive comments. Are we talking about that second comment letter, saying CACFA can expect substantive comments from the advisory group, individual members, minority report, etc.? We retain the right to clarify positions on a variety of things. We have a division on the enchilada approach. Our commentary on this subject should accompany the document, not necessarily simultaneously but as CACFA considers it.

4:19pm: Bud Fate – Friendly Amendment to clarify it is the “federal” administration

Scott Ogan – Second

No objections

Call the Question, as amended

All Ayes

Motion Passes

4:21PM: CLOSING COMMENTS

Susan Smith – Having you as a group is one of the best things we ever did. This think tank that is together has done amazing things. I hope we can find the funding to continue to use your expertise.

JP Tangen – Would not be averse to outside funding, perhaps a grant.

4:27PM: SET NEXT MEETING DATE

January 26, 2016 in Juneau

4:26PM: ADJOURN