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"Helping Protect Idaho's Natural Resources"

February 18, 2013

To: Interested Parties

From: The Idaho Outfitters and Guides Licensing Board

Subject: Negotiated Rulemaking Update

The Idaho Outfitters and Guides Licensing Board (IOGLB) began a process of negotiated rulemaking last fall in an effort to:

- Clarify existing rules pertaining to private membership organizations and clubs and the requirement for licensure.
- Clarify processes related to outfitting on private land and the requirements for licensure.
- Establish rules with the force and effect of law that will set appropriate limits on outfitted turkey and waterfowl hunting.

Negotiated rulemaking public workshops were held across the state in November and December 2012 to identify stakeholder interests for the Board to consider as it moves forward. To date, IOGLB has received numerous comments on these matters and on several progressive drafts of rules offered by IOGLB in response to comments. An updated draft called "Option C" is now available; it and other information can be viewed on IOGLB's website at oglb.idaho.gov/rules/promulgations.

Many comments challenge the Board's decision to move forward with this rule. IOGLB members recognize that they, as representatives of a State of Idaho Regulatory Board, have a public responsibility to establish legal processes to handle and respond appropriately to applicants. Applicants include landowners hoping to capture the recreation value of their land through outfitting, or individuals looking for business opportunities to provide outfitted facilities and services to the public. The law requires that the Board possess a reasonable basis in law and fact to deny or limit an application. Other comments oppose lifting a long standing moratorium on outfitted turkey and waterfowl hunting due to concerns that hunting access available to the public would decrease. The Board has determined that this moratorium may not withstand a legal challenge but recognize the concern. This negotiated rulemaking is a good faith effort allowing various viewpoints to become transparent. It has succeeded in helping the Board hear them, and it has led to revision and refinement of the proposed rules in ways that we hope, serve to balance competing interests. The aforementioned "Option C" draft addresses these concerns in several ways:

- Outfitting for waterfowl hunting will be explicitly prohibited on many public and private lands and waters as well as on most large public waterways in Idaho identified in the rule. These areas have been clarified.

- Outfitting will be limited to no more than 3% of turkey hunters and 3% of duck hunter days in each IDFG region. A single outfitter will initially be limited to no more than one-fifth of the available opportunities for outfitters in a region with the Board being able to modify individual limits between licensed outfitters within that 3% cap.
- Outfitter leasing of private lands is limited to a total of 1,000 contiguous acres, comprised of no more than 4 leases by any single outfitter. This addresses concerns over outfitters potentially locking up all prime hunting spots.
- Minimum parcel sizes of 100 acres for waterfowl outfitting and 160 acres for turkey outfitting are established.
- Buffer distances between neighboring outfitters and between an outfitter and a non-outfitted hunting area will be set on a case-by-case basis.
- The rule continues to provide that the IOGLB will not initiate any outfitting of turkeys or waterfowl on public land or waters. However, under its MOU with the BLM and the USFS, the IOGLB recognizes that it cannot expressly prohibit outfitting on federal lands, leaving that to the land management agencies and their legal processes.

Additional access considerations not limited to outfitted turkey and waterfowl hunting would include:

- Recognizing a land owner's right to control use of their lands, the rules provide that an outfitter's lease may not cause a private land owner to deny or limit public access to public or private lands or waters accessible through the private land owner's property and cannot cause or require non-outfitted fishing or hunting opportunities to be excluded from the private land owner's property.
- The Board has also tried to clarify existing rules to address the expressed concern over the loss of access due to the proliferation of hunting clubs. Changes being offered clarify the standing of hunting clubs, and require those offering outfitted facilities or services to the general public to apply to become licensed outfitters. In doing so, hunting clubs will be governed by the same limits/restrictions set forth in these rules.

One thing that has been repeatedly communicated to the Board throughout this process is the passion that Idahoans feel about protecting the abundant, high quality habitat in Idaho and their opportunities to hunt within it. IOGLB shares this passion and supports the long tradition of non-outfitted hunting that relies on the goodwill of Idaho landowners to permit access to their lands to hunt a public wildlife resource. In this changing world, responsible outfitters are a way to provide access for a small set of hunters (residents and non-residents alike) who lack the knowledge and/or equipment for hunting, or who prefer to purchase the convenience and security of an outfitted hunt. This includes youth, seniors and hunters with disabilities, as well as busy working people.

We thank everyone who has submitted comments or testimony on this issue thus far. Using the negotiated rule making process, the Board is making a sincere attempt to find common ground and in doing so, hopes to advance a fair and balanced policy.

Going forward, the Board will continue to receive comments up to and during a hearing at their April 3 -5, 2013, IOGLB meeting. Following the April meeting, the proposed rules may be modified again prior to the Board's meeting in August 2013, when the Board is expected to adopt a final set of rules to move forward to the Idaho Legislature in their 2014 session. In August 2013, the Board will begin the State's formal rule promulgation process, and there will continue to be opportunities to make comments on the final set of rules the Board has adopted. After legislative review, and if approved by the Legislature, the rules would go into effect in the spring of 2014. Additional information can be viewed on IOGLB's website at oglb.idaho.gov/rules/promulgations.

Written comments may be sent to the Idaho Outfitters and Guides Licensing Board at licensing@oglb.idaho.gov or to the Idaho Outfitters and Guides Licensing Board, 1365 North Orchard, Room 172, Boise, Idaho 83706.