

**STATE OF IDAHO
OUTFITTERS AND GUIDES LICENSING BOARD
AUGUST 22 - 24, 1994**

APPROVED MINUTES

**(Key: MSC = Motion made, seconded & carried)
(MSF = Motion made, seconded & failed)**

The regular meeting of the Idaho Outfitters and Guides Licensing Board convened at 8:30 AM, August 22, 1994, with Board members Dale Baird, Tom Kovalicky, and Leo Crane present. Also present were Board Executive Director, Dean Sangrey, and Board Counsel, Steve Scanlin.

Bill Vetesy, Education/Enforcement Supervisor: Director Dean Sangrey reported that Mr. Vetesy is currently attending the Idaho Peace Officers Standards and Training Academy (POST) and will be involved in this course for a total of seven weeks.

Financial Report: The Board reviewed the current financial reports as presented by the Executive Director. After review and discussion, MSC (Crane--Kovalicky) THAT THIS REPORT BE APPROVED.

- **Forest Service Co-Op Agreement:** The Executive Director reported on the present status of the cooperative law enforcement agreement that was being negotiated with the Palisades Ranger District on the Targhee National Forest. Following a review of this document at the June meeting, a revised proposal was presented to the District and they indicated it would not be acceptable with the modifications as shown. Based on this decision, the District was informed the Board would not approve the agreement.

Steve Scanlin, Deputy Attorney General: Mr. Scanlin reported on active cases and other matters on which he is working.

USFS Audit: The Director reported he had received verbal notification from the Region 1 Forest Service office in Missoula, Montana, that they had completed their review of the Board's response to the audit and have accepted our documentation in rebuttal. Once the audit is complete, the Director was instructed to continue to work with both Regions 1 and 4 to try to finalize a cooperative enforcement agreement for this current fiscal year.

Legislation: The Board instructed the Executive Director to initiate procedures through the legislative process to have the retirement classification for the enforcement supervisor position upgraded in accordance with Public Employment Retirement System policy.

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Guide Licenses: The Board reviewed the report of guide licenses issued since the last meeting. After review and discussion, MSC (Kovalicky--Crane) THAT THESE GUIDE LICENSES BE APPROVED.

Joe Anthony: The Board reviewed a guide license application submitted by Mr. Joe Anthony, noting he had been convicted of an Idaho Fish & Game violation in 1991 for shooting a fox out of season. After review and discussion, MSC (Crane--Kovalicky) THAT THIS LICENSE BE ISSUED PROBATIONARY FOR A PERIOD OF ONE YEAR, WITH TERMS OF PROBATION THAT HE NOT VIOLATE ANY LOCAL, STATE, OR FEDERAL LAWS, AND THAT NO AMENDMENTS WILL BE GRANTED TO HIS LICENSE DURING THE TERM OF PROBATION, WHICH WILL EXPIRE ON MARCH 31, 1995.

Jimmie Dwayne Blair: In accordance with the provisions of Board Rule 015.01.c, Mr. Blair appeared before the Board regarding the delinquent renewal of his outfitter license for 1994-95.

Anirudh Singh: The Board reviewed a guide license application from Mr. Singh, taking note of the boating qualification log submitted from India. After a review and discussion, MSC (Kovalicky--Crane) THAT THE TRAINING CREDENTIALS AND BOATING LOG SUBMITTED BY MR. SINGH BE ACCEPTED, AND THAT HIS GUIDE LICENSE BE APPROVED.

Jeffrey Yoakam: The Board reviewed a guide license application submitted by Mr. Yoakam for employment with White Cloud Outfitters, noting his conviction for violation of Ohio Fish & Game laws in early 1994. Mr. Yoakam also submitted a letter of further explanation with his application. After review and discussion, MSC (Kovalicky--Crane) THAT MR. YOAKAM'S GUIDE LICENSE BE ISSUED PROBATIONARY FOR A PERIOD OF TWO YEARS. THE TERMS OF PROBATION ARE THAT HE NOT VIOLATE ANY LOCAL, STATE, OR FEDERAL LAWS, AND THAT NO AMENDMENTS WILL BE PERMITTED TO HIS LICENSE DURING THE TERM OF PROBATION WHICH WILL EXPIRE ON MARCH 31, 1996.

William Macoy: The Board reviewed a guide license application received from Mr. Macoy for employment with Tim Craig, Boulder Creek Outfitters, noting that investigation of Mr. Macoy's application has determined that the effective date of his first aid card appears to have been altered. After a review and discussion, MSC (Kovalicky--Crane) THAT THIS GUIDE LICENSE APPLICATION BE DENIED.

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Paul Butski: The Board reviewed a guide license application received from Mr. Butski for employment with Tim Craig, Boulder Creek Outfitters, noting that investigation of Mr. Butski's application has determined that the effective date of his first aid card appears to have been altered. After a review and discussion, MSC (Kovalicky--Crane) THAT THIS GUIDE LICENSE APPLICATION BE DENIED.

Greg Loree: The Board reviewed a guide license application submitted by Mr. Loree, noting that he had been convicted for a violation of Idaho Fish & Game laws in 1991. A check of the records showed that Mr. Loree was charged with purchasing a resident license without having lived in the state for six months. After review and discussion, MSC (Crane--Kovalicky) THAT MR. LOREE'S GUIDE LICENSE BE ISSUED PROBATIONARY FOR A PERIOD OF ONE YEAR. THE TERMS OF PROBATION ARE THAT HE NOT VIOLATE ANY LOCAL, STATE, OR FEDERAL LAWS, AND THAT NO AMENDMENTS WILL BE APPROVED FOR HIS LICENSE DURING THE TERM OF PROBATION, WHICH WILL EXPIRE ON MARCH 31, 1995.

The Board meeting recessed for lunch at 11:50 AM and reconvened at 1:00 PM. Board member Diana Haynes joined the meeting at 1:30 PM.

Boulder Creek Outfitters: The Board conducted a preliminary review of an amendment request submitted by Boulder Creek Outfitters to include chukar hunting on private property. The director was instructed to continue with routine evaluation procedures with affected resource management agencies and outfitters.

Licensing Procedures Ad Hoc Committee: The Committee, consisting of members Darl Allred, Grant Simonds, Shelly Fisher (absent), Dale Baird, and Dean Sangrey, met with the Board to report on the results of their discussions. The general consensus and recommendations of the group were to modify the current guide license application form, arrange for employment of additional personnel during peak workload periods, and establish a guaranteed turn-around time for complete applications. The committee feels these changes would enhance overall licensing procedures and help to eliminate a potentially serious licensing problem encountered by outfitters each year. The committee was thanked for their participation, and their recommendations were taken under consideration.

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Ray Torrey Operating Area Vacancy: The director informed the Board that it had now been three years since Ray Torrey had relinquished his operating area within a portion of Fish & Game Unit 29. At that time, it was determined through a cooperative effort of the IDF&G, Bureau of Land Management, U.S. Forest Service, and the Board, to refrain from relicensing this particular area, but that the situation would be reevaluated again in three years. Following discussion, it was decided the director should take this matter up again with the managing agencies to re-examine the potential for licensing this area for outfitted services, particularly non-consumptive recreational opportunities.

Larry Heathington: The Board reviewed the decision memo rendered by the Pocatello Ranger District relative to the amendment request submitted by Larry Heathington to modify the types of deer hunts he can provide within his operating area on the Caribou National Forest. After review and discussion, MSC (Kovalicky--Crane) THAT THIS LICENSE BE AMENDED TO ALLOW MR. HEATHINGTON TO TAKE EIGHT DEER HUNTING CLIENTS TOTAL FOR THE ARCHERY AND RIFLE SEASONS.

Casey John Kennedy: Mr. Kennedy appeared before the Board to discuss his guide license application for employment with Darl Allred, informing them that he was convicted of a felony violation approximately 6 years ago when he was 17 years old. He informed the Board that he is currently serving a 10 year probation for that offense. After a review and discussion, MSC (Kovalicky--Haynes) THAT MR. KENNEDY BE GRANTED A PROBATIONARY GUIDE LICENSE, WITH THE STIPULATION THAT HE ACT ONLY IN THE CAPACITY OF A PACKER AND THAT HE NOT BE ALLOWED ANY DIRECT SUPERVISION OF HUNTING CLIENTS. FURTHER, THE TERMS OF THIS PROBATION ARE THAT HE NOT VIOLATE ANY LOCAL, STATE, OR FEDERAL LAWS, AND THAT NO AMENDMENTS WILL BE GRANTED TO HIS GUIDE LICENSE DURING THE TERM OF PROBATION, WHICH WILL EXPIRE ON MARCH 31, 1995.

Robert Hennefer: In accordance with the provisions of Board Rule 015.01.c, Mr. Hennefer appeared before the Board regarding the delinquent renewal of his outfitter license for 1994-95.

Meeting adjourned at 4:45 PM, and reconvened at 8:20 AM, Tuesday, August 23, 1994.

June Minutes: The minutes from the June 27-29, 1994, Board meeting were reviewed and approved as presented.

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Idaho Whitewater Unlimited: The Board reviewed a request for a waiver of rule requirements from Idaho Whitewater Unlimited. Board Rule 054.02. requires that an extra paddle be carried in paddle rafts, and Mr. & Mrs. Fisher feel this is an awkward and cumbersome requirement that creates an uncomfortable, and potentially unsafe, situation for their clients. After review and discussion, MSC (Haynes--Crane) THAT THIS WAIVER BE GRANTED.

Jim Powell, Idaho Guide Service: Mr. Powell came before the Board to discuss the situation with regards to the annual relicensing of the Idaho Guide Service outfitter business. He explained he is currently involved in an ownership dispute with Olin Gardner, former designated agent for the company. They are working to resolve their differences, but in the interim, Mr. Powell is making efforts to satisfy the basic licensing requirements so that normal business operations can be maintained. He stated he'll keep the Board informed of any progress.

FY 1996 Budget: The director presented the preliminary FY 1996 budget to the Board for review. Following this presentation, and detailed discussion, the Board directed that several modifications be considered in some of the areas of anticipated expenses, and the adjusted figures be reviewed with the Chairman prior to submission of the budget to the Division of Financial Management.

The Board recessed for lunch at 12:00 PM, and reconvened at 1:30 PM.

Mac Farlane Adkins and Dennis Moedl: Mr. Adkins, represented by his attorney Mr. Dan Hawkley, appeared before the Board regarding the denial of his designated agent license, and Mr. Moedl appeared before the Board regarding the denial of his guide license earlier this summer. At the conclusion of testimony, the following Findings of Fact were established: 1) Mr. Adkins and Mr. Moedl did act in the capacity of guides for clients of outfitter Jack Adkins; 2) Neither Mr. Adkins nor Mr. Moedl at the time of the incident, had a valid guide license; and 3) Mr. Adkins and Mr. Moedl pled guilty in Magistrate Court to the charge of guiding without a license. Therefore, the Conclusions of Law are that these actions do constitute a violation of §§36-2104 and 36-2113(a)(14), Idaho Code, and Idaho Outfitters and Guides Licensing Board Rules 004.01, and 004.04.a. Pursuant to these findings, MSF (Kovalicky--Haynes)(Crane-nay, Kovalicky-aye, Haynes-nay, Baird-nay) THAT THE

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DENIAL OF THESE LICENSES BE SUSTAINED. MSC (Crane--Baird) THAT THE DENIAL OF MR. ADKINS' DESIGNATED AGENT LICENSE AND MR. MOEDL'S GUIDE LICENSE BE RESCINDED AND THAT THEY BE ISSUED PROBATIONARY GUIDE LICENSES FOR THE REMAINDER OF THE 1994-95 LICENSE YEAR, AND FOR THE 1995-96 LICENSE YEAR. THE TERMS OF PROBATION ARE THAT MR. ADKINS AND MR. MOEDL NOT VIOLATE ANY LOCAL, STATE, OR FEDERAL LAWS, AND THAT NO AMENDMENTS WILL BE CONSIDERED FOR THEIR LICENSES DURING THE TERM OF THE PROBATION, WHICH WILL EXPIRE ON MARCH 31, 1996.

Jack Adkins: Mr. Adkins appeared before the Board in a show cause hearing regarding the employment of unlicensed guides. At the conclusion of testimony, the following Findings of Fact were determined: 1) Mr. Adkins provided guided services for clients on August 5, 1993, in the Henrys Lake area; and 2) he utilized the services of two unlicensed guides during the conduct of these outfitted services. Thus, the Conclusions of Law are that these activities constitute a violation of §36-2113(a)(9), Idaho Code, and Idaho Outfitters and Guides Licensing Board Rule 004.01. Pursuant to these findings, MSC (Crane--Haynes) THAT MR. JACK ADKINS BE FINED IN THE AMOUNT OF \$200.00, WITH NO FURTHER SANCTIONS AGAINST HIS OUTFITTER LICENSE. SAID FINE MUST BE PAID PRIOR TO ANY LICENSE RENEWAL FOR MR. ADKINS.

Lost Creek Outfitters, Inc., Ken Price, Designated Agent: Mr. Price appeared before the Board in a show cause hearing regarding alleged unethical and unprofessional conduct, and a substantial breach of contract, relating to a commercial elk hunting trip conducted during the fall of 1993. Telephone conference testimony was taken from witnesses Oscar Raba, Edward F. Davis, and J. Harper Wilson, and oral testimony was presented by Mr. Price. At the conclusion of all testimony in this matter, the following Findings of Fact were established: 1) Mr. Price did contract with a number of hunters to provide an outfitted elk hunting trip in 1993; 2) Mr. Price failed to supply facilities and accommodations as provided for in the terms of his contract; 3) he did not offer any alternatives for the clients for the inconvenience and delays suffered by the clients, nor for the services he failed to provide; 4) failure to provide these services was due, in part, to circumstances beyond Mr. Price's control; and 5) better planning and organization on Mr. Price's part may have alleviated at least a portion of the inconvenience and loss of services as identified by the complainants. Thus, the Conclusions of Law are: 1) these acts did constitute a substantial breach of contract with the clients of Lost Creek Outfitters, as provided in §36-2113(a)(7), Idaho Code; and 2) the Board finds that while the failure to

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provide services may have been the result of incompetence on the part of Mr. Price, there were no unethical actions on his part and this charge is dismissed. After discussion, MSC (Kovalicky--Haynes) THAT MR. PRICE'S OUTFITTER LICENSE BE SUSPENDED FOR THE 1995-96 LICENSE YEAR. FURTHER, THAT HE MAKE FULL RESTITUTION TO THE COMPLAINANTS FOR THE BALANCE OF THE BOOKING AGREEMENT FEE, AND BE REQUIRED TO APPEAR BEFORE THE BOARD PRIOR TO REINSTATEMENT OF HIS OUTFITTER LICENSE TO REVIEW WITH THE BOARD THE STEPS HE HAS TAKEN TO BECOME MORE COMPETENT IN THE OUTFITTING BUSINESS.

The Board meeting recessed for the day at 8:00 PM, and reconvened at 8:30 AM, August 24, 1994. All Board members except John A.K. Barker present.

Randall Lemburg, Lemburg's Priest Lake Outfitters: Mr. Lemburg appeared before the Board to discuss the present status of his outfitter business and the circumstances regarding non-use of his licensed activities. He explained he couldn't conduct business in 1989 due to injuries he received in an accident, and then he sold the business in 1990 to Steve Glynn. Mr. Glynn actively operated the Priest Lake fishing part of the business, but not the land-based portion, through 1991, and then defaulted on the sales contract. Lemburg got the business back in late 1992 and the outfitter license was finally reissued in his name in mid-1993. Since that time, he has been trying to get things organized to begin operations again, but cannot reach agreement with the Forest Service regarding his special use permit. The Priest Lake Ranger District states they will not issue him a special use permit because he hasn't had one since 1988. Following this discussion, the Board instructed the director to work with Mr. Lemburg and the Forest Service to help resolve their dispute. Until this situation is settled, the Board won't take any further action on the decision memo issued by the Priest Lake District for new recreational opportunities in that area.

Larry Cross, dba: Cross Outfitters: Mr. Cross appeared before the Board in a show cause hearing regarding the alleged employment of an unlicensed guide, and an alleged breach of contract and unethical/unprofessional conduct relating to a deer hunting trip that was booked in 1992 and 1993. Testimony was taken over the telephone from Mr. & Mrs. Scott Snyder, and oral testimony was presented by Mr. Cross. At the conclusion of testimony, the following Findings of Fact were established: 1) Mr. Cross did employ Mr. Cal Sears as a guide during the 1993 hunting season; 2) Mr. Cross did utilize Mr. Sears' services guiding clients during this time; 3) Mr. Cross contracted with Mr. and Mrs. Scott Snyder

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to furnish a mule deer buck hunt and to provide them an opportunity to shoot a mature buck; 4) this agreement was initiated for the 1992 hunting season, and upon advice from Mr. Cross, Mr. Snyder postponed this opportunity until the 1993 hunting season; 4) Mr. Cross failed to provide the contracted hunt for the 1993 season; 5) Mr. Cross retained the entire booking fee for both of the hunts, as well as maintained possession of the Department of Fish & Game licenses and tags issued in the Snyder's names; 6) Mr. Cross did not contact the Snyders at any time after the date of the beginning of their contracted hunt in 1993 to discuss any reasons for not proceeding with the hunt; and 7) the Snyders paid between \$3,000.00 and \$3,500.00 to Mr. Cross for these hunts. Conclusions of Law are: 1) employment of an unlicensed guide constitutes a violation of §36-2113(a)(9), Idaho Code; 2) the failure of Mr. Cross to provide a hunt for the Snyders', or at least to refund the fees for their hunts, is a violation of §36-2113(a)(5) and (7), Idaho Code. Pursuant to these findings, MSC (Crane--Haynes)(Kovalicky recused himself as he was absent for a portion of the hearing) THAT, FOR THE COUNT OF EMPLOYING AN UNLICENSED GUIDE, MR. CROSS BE FINED IN THE AMOUNT OF \$500.00; FOR UNETHICAL/UNPROFESSIONAL CONDUCT, MR. CROSS BE FINED IN THE AMOUNT OF \$200.00; AND, FOR BREACH OF CONTRACT, MR. CROSS' LICENSE BE PLACED ON PROBATION FOR THE REMAINDER OF THE 1994-95 LICENSE YEAR, AND ISSUED PROBATIONARY FOR THE 1995-96 LICENSE YEAR. THE TERMS OF MR. CROSS' PROBATION ARE THAT HE NOT VIOLATE ANY LOCAL, STATE, OR FEDERAL LAWS, AND NO AMENDMENTS WILL BE CONSIDERED FOR HIS OUTFITTER LICENSE DURING THE PROBATIONARY PERIOD, WHICH WILL EXPIRE ON MARCH 31, 1996. FURTHER, MR. CROSS IS INSTRUCTED TO REFUND \$2,500.00 TO THE SNYDERS, WHICH CONSTITUTES A PORTION OF THE FEES PAID TO HIM NET OF THE COST HE EXPENDED FOR THE HUNT.

Complaints: The Board reviewed the status of pending complaints. Following this review, MSC (Crane--Kovalicky) THAT THE BOARD SUSTAIN THE EXECUTIVE DIRECTOR'S ACTIONS IN THESE MATTERS.

Richard Phillips: The Board reviewed the late license renewal application for Richard Phillips. Mr. Phillips has completed all the necessary paperwork and submission of fees for relicensing. MSC (Kovalicky--Crane) THAT THE REQUIREMENT TO APPEAR BEFORE THE BOARD BE WAIVED, AND THE OUTFITTER LICENSE FOR MR. PHILLIPS BE ISSUED UNRESTRICTED.

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Trail Creek Outfitters, Layne Davis, Designated Agent: The Board reviewed an amendment request from Trail Creek Outfitters. After review and discussion, MSC (Crane--Kovalicky) THAT THIS REQUEST BE DENIED BASED ON INPUT FROM THE DEPARTMENT OF FISH AND GAME.

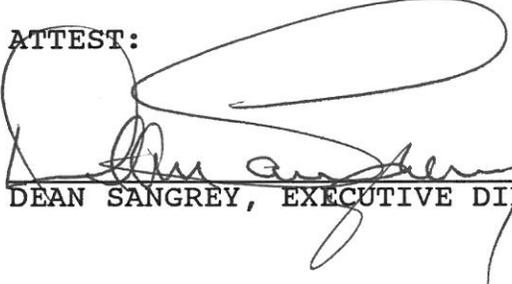
Loomis Recreational, Inc.: The Board reviewed the delinquent outfitter license renewal application submitted by Loomis Recreational, Inc., for their 1994-95 license. All necessary paperwork (except an operating plan) and fees have been submitted. MSC (Crane--Kovalicky) THAT THIS LICENSE BE APPROVED AND ISSUED.

Rich Cook, Cook's Idaho Outfitters: Following a discussion regarding a complaint filed against Mr. Cook, the Board directed that he be cited to appear in a show cause hearing regarding this matter.

With no further business to come before the Board, the meeting was adjourned at 5:30 PM.



DALE BAIRD, CHAIRMAN OF THE BOARD

ATTEST:


DEAN SANGREY, EXECUTIVE DIRECTOR