

STATE OF IDAHO
OUTFITTERS AND GUIDES LICENSING BOARD
DECEMBER 1 - 3, 1994

APPROVED MINUTES

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

A special meeting of the Idaho Outfitters and Guides Licensing Board convened at 8:30 AM, December 1, 1994, with Board members Dale Baird, Leo Crane, Tom Kovalicky, John Barker, and Diana Haynes present. Also present were Board Executive Director Dean Sangrey, Education/Law Enforcement Supervisor Bill Vetesy, and Board Attorney Steve Scanlin.

Executive Director Report: The Director reported on various topics, including: the status of Board pre-filed legislation dealing with police officer status recognition within PERSI for the Board Education/Enforcement Supervisor position; gubernatorial transition information provided to Governor-elect Batt transition team; update on MOU review task force meeting; agenda for the forthcoming interagency meeting scheduled for December 5; and other related administrative issues. These reports were followed with an extensive review of proposed changes to the guide license application form.

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

Bill Vetesy, Education/Law Enforcement Supervisor: Bill Vetesy reported to the Board regarding the status of various ongoing investigations and other related enforcement matters. Some discussion was shared relative to the Board's current philosophy on enforcement procedures and direction.

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

The meeting recessed at 11:30 AM to allow the Board to travel to Department of Fish & Game Headquarters to attend a working lunch meeting with the Fish & Game Commission.

Idaho Fish & Game Commission: The Board met with Commissioners Hansen, Carlson, Rose, Racine, and Meiers, regarding donated trips and commercial chukar hunting activities. At the conclusion of these discussions, the Commission requested the Licensing Board place a moratorium on approving any additional commercial chukar hunting activities until such time as they can review the management and resource implications and provide the Board with an updated recommendation.

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Board reconvened at 2:00 PM with all Board members present as well as the Board Executive Director, Education/Enforcement Supervisor, and Counsel.

Idaho Fish & Game Commission: Pursuant to discussion with the IDF&G Commission, MSC (Kovalicky--Haynes) THAT A MORATORIUM BE PLACED ON APPROVING FURTHER CHUKAR HUNTING REQUESTS UNTIL ADDITIONAL RESEARCH IS COMPLETED AND RECOMMENDATIONS RECEIVED FROM THE DEPARTMENT OF FISH & GAME.

Lost Creek Outfitters, Inc., Ken Price, Designated Agent: Mr. Price, along with his attorney Mr. William Litster, appeared for a re-hearing regarding the Board's decision in August to suspend his outfitter license privileges for the 1995-96 license year. Following the presentation of additional testimony, and after review and discussion, MSF (Kovalicky--Crane) (Crane-nay, Kovalicky-aye, Haynes-nay, Baird-nay) THAT THE BOARD NOT RECONSIDER THEIR DECISION IN THIS MATTER. After further discussion, MSC (Crane--Haynes) THAT THE BOARD RESCIND ITS EARLIER SUSPENSION OF MR. PRICE'S LICENSE FOR THE 1995-96 LICENSE YEAR AND APPROVE THE ISSUANCE OF A PROBATIONARY LICENSE FOR LOST CREEK OUTFITTERS UPON SATISFACTORY SHOWING OF EFFORTS BY MR. PRICE TO EDUCATE AND FURTHER HIS UNDERSTANDING OF PROPER BUSINESS PROCEDURES AND CONDUCT. SOME SUGGESTIONS FOR ACCOMPLISHING THIS DIRECTIVE INCLUDED ATTENDING A S.C.O.R.E. CLASS, DEVELOPMENT OF A DETAILED BUSINESS MANAGEMENT PLAN, AND FURTHERING DISCUSSIONS ABOUT OUTFITTER BUSINESS MANAGEMENT GOALS WITH LICENSED AND EXPERIENCED OUTFITTERS.

Administrative note: When issued, this license should be probationary for two years.

Trail Creek Outfitters, Inc./Layne Davis, Designated Agent: Layne Davis, along with his brother, Sid Davis, appeared before the Board in a hearing regarding the denial of an amendment request considered earlier in the year for possible expansion of their licensed outfitter activities. At the conclusion of testimony the Board directed that further analysis be conducted with the Department of Fish & Game to develop an updated record of the issues and concerns in this matter. After review and discussion, MSC (Haynes--Crane) THAT THE EXECUTIVE DIRECTOR PURSUE ADDITIONAL INVESTIGATIONS, INCLUDING PUBLIC ANNOUNCEMENT, THAT THIS ISSUE WILL BE CONSIDERED FOR FINAL ACTION AT THE FEBRUARY MEETING.

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Board recessed for the evening at 6:30 PM, and reconvened at 8:30 AM, Friday, December 2, 1994, with all Board members, except Tom Kovalicky, present. The Executive Director, Education Supervisor, and Counsel were also present.

Andre Molsee, dba: Shattuck Creek Ranch and Outfitters: Mr. Molsee appeared before the Board for two show cause hearings regarding alleged violation of the Outfitters and Guide Act and Licensing Board rules. The Board heard argument in the show cause hearing for Andre Molsee. In reference to Case #94-0261-14, Mr. Molsee approved a stipulated settlement relating to those charges and agreed to pay an administrative fine of \$1500.00 while denying the allegations to these charges but waiving his right to contest them. After review and discussion, MSC (Haynes--Crane) (Crane-aye, Barker-nay, Haynes-aye, Baird-aye) TO ACCEPT THIS STIPULATED SETTLEMENT, AND REQUIRE THAT MR. MOLSEE'S 1995-96 OUTFITTER LICENSE BE ISSUED CONDITIONALLY IN THAT THE PAYMENT OF THIS FINE MUST BE RECEIVED WITHIN 6 MONTHS FOLLOWING RECEIPT OF NOTIFICATION OF THE BOARD'S DECISION. The Board then addressed Case #94-0261-24, relating to alleged unethical/unprofessional conduct. At the conclusion of the hearing, the following Findings of Fact were established: 1) A Licensing Board enforcement agent did attempt to serve multiple citations on Mr. Darwin VanderEsch, an employee of Mr. Molsee; 2) Mr. Molsee attempted to interfere with the agent in the conduct of his official duties regarding the issuance of those citations. Further, the Conclusions of Law are: these actions by Mr. Molsee constitute a violation of §36-2113(a)(5), Idaho Code. In accordance with these findings, MSC (Haynes--Crane) (Crane-aye, Barker-nay, Haynes-aye, Baird-aye) THAT MR. MOLSEE BE FINED IN THE AMOUNT OF \$300.00. LIKEWISE, PAYMENT OF THIS FINE MUST BE RECEIVED WITHIN SIX MONTHS FOLLOWING RECEIPT OF NOTIFICATION OF THIS DECISION.

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

August Minutes: Following a review of the August Board minutes, MSC (Crane--Haynes) THAT THESE MINUTES BE APPROVED AS WRITTEN.

1299

Frank Nesmith, IDF&G: Department of Fish & Game Enforcement Bureau Chief Frank Nesmith visited with the Board to share comments and information regarding his perception of how well the Board's new education and enforcement program is doing. He also complimented Mr. Vetesy on his satisfactory completion of the seven week POST Academy course.

John Valvo: Mr. Valvo met with the Board in a reconsideration hearing regarding the penalties assessed against him following the show cause hearing in June, 1994. The circumstances surrounding the conduct of that hearing were explained to Mr. Valvo, and he stated he didn't understand how a person could be convicted for hunting outside his assigned area when that isn't what he was doing. He asked for a transcript of the June hearing and requested another appointment with the Board during the February meeting.

The meeting recessed at 5:20 PM and reconvened Saturday morning, 12/3/94, at 8:30 AM. All Board members except Tom Kovalicky present.

Chris Porter: The Board reviewed a letter submitted by Mr. Porter asking that the Board consider accepting his course work at the University of Washington School of Medicine in Seattle as a satisfactory alternative for medical training which meets the requirements of Licensing Board rules. After review and discussion, MSC (Barker--Haynes) THAT WE ACCEPT THIS AS A SATISFACTORY SUBSTITUTE. **Administrative Note:** The Board directs that the Executive Director take responsibility for reviewing all future alternative first aid credentials to determine their adequacy for Board licensing requirements.

USFS/IOGLB Enforcement Cooperative Agreement: Following a general discussion regarding the former cooperative agreement that existed between the Board and Regions 1 & 4 of the Forest Service, the Board directed that the Chairman and Executive Director continue to correspond with appropriate Forest Service personnel in an attempt to reinstate this agreement.

Two-Top Mountain Area Snowmobiling Analysis: The Board reviewed a request from the Island Park Ranger District regarding licensing requirements for potential snowmobile tour activities on the continental divide in the Two Top Mountain area of the Targhee National Forest. Following a thorough discussion and review of the matter, the Board determined any operation of this type coming into Idaho would require the operators to have an Idaho outfitter license.

Olivia Expeditions, Inc./Olivia James, Designated Agent: The assigned time having arrived for the scheduled show cause hearing for Olivia Expeditions, Inc., it was noted for the record that Olivia James contacted the Board office on December 2 and advised she would not be appearing for the hearing, due to weather conditions and travel distance. The Board proceeded to review the citation relating to this matter, and following that discussion, they directed that these charges be dismissed and no further action taken against this outfitter license in this regard.

Holiday River Expeditions, Frogg Stewart, Designated Agent: Mr. Stewart appeared before the Board in a show cause hearing regarding his alleged violation of §36-2113(a)(14), Idaho Code, and Idaho Outfitters and Guides Licensing Board Rule 012.04, for allowing a guide to provide services without having a valid guide license in possession. At the conclusion of testimony, the following Findings of Fact were established: 1) Holiday River Expeditions did have a guide working on a river trip on or about June 22, 1994, without a guide license in possession; 2) the subject guide license had been applied for and issued by the Licensing Board office prior to start of the trip; and, 3) the designated agent for Holiday River expeditions did not verify with the guide whether her license had arrived prior to the departure on the trip. Conclusions of Law are that this action does constitute a violation of §36-2114(a)(14), Idaho Code, and Licensing Board rule 012.04. Pursuant to these findings, MSC (Barker--Haynes)(Crane-aye, Barker-aye, Haynes-aye, Baird-nay) THAT THE CHARGES PENDING BEFORE THE BOARD IN THIS ACTION AGAINST MR. STEWART BE DISMISSED. FURTHER, THAT A LETTER BE PLACED IN MR. STEWART'S FILE EXPRESSING THE BOARD'S CONCERN ABOUT HIS FAILURE TO TAKE PROPER RESPONSIBILITY TO ENSURE THAT THIS LICENSE HAD BEEN ISSUED AND WAS IN THE GUIDE'S POSSESSION.

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Dan Duncan: Mr. Duncan met with the Board to review his 1994-95 guide license application for employment with George Duncan. Dan Duncan further explained the information shown on his application relative to a felony conviction and fish and game violation in Utah. He provided a complete explanation of the circumstances surrounding both issues, stating he has successfully completed a court ordered probation for the felony and has also satisfied all concerns regarding his fish and game violation. After a review and discussion, MSC (Barker--Haynes) THAT THIS LICENSE BE ISSUED PROBATIONARY FOR THE 1994-95 LICENSE YEAR. TERMS OF PROBATION ARE THAT HE NOT VIOLATE ANY LOCAL, STATE, OR FEDERAL LAWS DURING HIS PROBATION, WHICH WILL EXPIRE ON MARCH 31, 1995.

Board recessed for lunch at 11:45 AM and reconvened at 1:00 PM.

Randy Berry, Teton Valley Lodge: The Board reviewed a citation issued to Mr. Berry for allegedly permitting an employee to guide without having his license in possession. After a review and discussion, MSC (Crane--Barker) THAT THIS CITATION BE DISMISSED AND NO FURTHER ACTION BE TAKEN AGAINST THE OUTFITTER LICENSE.

Frankie Valvo: The Board reviewed the files and records of Frankie Valvo, noting that appropriate steps had been taken earlier this year to revoke the outfitter license of Mr. Valvo. Following a discussion, the Board directs the Executive Director to initiate required research and analysis to determine if this vacated operating area should be considered for relicensing. The analysis should include the possibility of either assigning a new licensee or incorporating the area into that of an existing operator with an adjacent area.

Ray Torrey Vacant Operating Area: The Board reviewed responses received from the Idaho Department of Fish & Game and the Bureau of Land Management regarding relicensing consideration of this former outfitter area. Based on recommendations from these agencies that this area not be made available for relicensing, the Board directs that no applications be considered for licensing in this area at the present time.

1302

Eastern Washington University: The Board reviewed a letter received from EWU advising they want to relinquish the floatboat outfitter licenses they currently have on the SA7A, SA7B, and SA8 sections of the Salmon River and on the Moyie River. After review and discussion, MSC (Barker--Crane) THAT THIS LICENSE BE DECLARED RELINQUISHED.

Executive Director's Actions: The Board reviewed the special actions handled by the Executive Director on the Board's behalf since the August meeting. After review and discussion, MSC (Barker--Crane) THAT THESE ACTIONS BE APPROVED.

Walker McCutchen, Aaron Miller, and William Macoy: The Board reviewed guide applications submitted by these three individuals, noting each had supplied falsified American Red Cross training cards with their applications. After review and discussion, MSC (Haynes--Crane) THAT THESE APPLICATIONS BE DENIED.

Donald Parrish: The Board reviewed a guide license application from Mr. Parrish, noting he has been convicted of a Fish & Game violation. After review and discussion, MSC (Crane--Barker) THAT THIS APPLICATION BE DENIED. **Administrative Note:** The Board enforcement bureau is requested to follow up on these individuals to ascertain, through appropriate channels, if they have been employed by any licensed outfitters during the past fall hunting season.

Priest Lake Ranger District Recreation Opportunity: The Board reviewed a proposed new opportunity that has been identified adjacent to Priest Lake on the Panhandle National Forest. After review and discussion, it was determined, due to several ongoing controversies in the area at this time, that the Board is not in a position to make a decision at this time. Therefore, MSC (Haynes--Barker) THAT THIS MATTER BE TABLED UNTIL A FUTURE MEETING.

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Rule 030 Vacancy Consideration/SA7A and SA7B: In response to public advertisement regarding the availability of a floatboating opportunity on the Salmon River, the Licensing Board received five applications for consideration. At the conclusion of the analysis of these applications by the Board, MSC (Crane--Haynes) (Crane-aye, Barker-nay, Haynes-aye, Baird-aye) THAT THE BOARD ACCEPT THE APPLICATION OF JIMMIE DWAYNE BLAIR FOR THIS FLOATBOATING OPPORTUNITY. THIS ADDITION WILL CONSTITUTE AN AMENDMENT TO CURRENT OUTFITTER LICENSE.

The Board meeting recessed at 4:45 PM, and reconvened in the conference room at the Shilo Inn Riverside at 7:00 PM for a meeting with the Idaho Outfitters and Guides Association Board of Directors. Items for discussion included education and enforcement concerns, as well as a detailed review of the proposed rules amendments being considered by the Licensing Board. Meeting recessed at 10:20 PM.

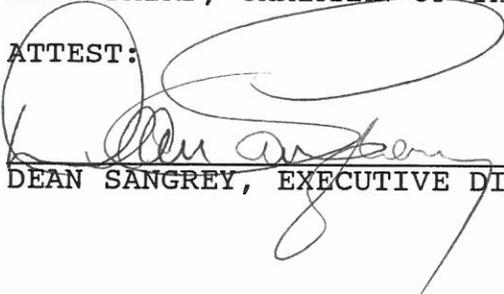
The Licensing Board meeting reconvened at 9:00 AM, Tuesday, December 6, at the Red Lion Riverside Convention Center, with all members present except Tom Kovalicky. Also present was Executive Director Dean Sangrey and Board Counsel Steve Scanlin.

Proposed Rules Amendment Package: The final draft of proposed rules changes was reviewed by the Board. Following this discussion, MSC (Crane--Barker) THAT THE PROPOSED RULES CHANGE PACKAGE BE ENACTED, EFFECTIVE IMMEDIATELY, AS TEMPORARY RULES. The Director was instructed to prepare the amended rules for appropriate submission to the Administrative Rules Office and Legislative Services prior to the December 15 deadline.

There being no further business to come before the Board, the meeting was adjourned at 9:30 AM.



DALE BAIRD, CHAIRMAN OF THE BOARD

ATTEST:


DEAN SANGREY, EXECUTIVE DIRECTOR

1304