

STATE OF IDAHO

OUTFITTERS AND GUIDES LICENSING BOARD

DECEMBER 7 - 9, 1995

APPROVED MINUTES

(Key: MSC = Motion made, seconded, carried)

(MSF = Motion made, seconded, failed)

A regularly scheduled meeting of the Idaho Outfitters and Guides License Board convened at 8:35 AM, December 7, 1995, in the board room located at 1365 North Orchard, Room 172, Boise, Idaho. All Board members were present, as well as Board Executive Director Dean Sangrey, Education/Enforcement Supervisor Bill Vetesy, and Board Counsel, Mr. Steve Scanlin.

EXECUTIVE DIRECTOR: The Executive Director presented his report to the Board which included a status report on development of the licensing criteria task force efforts; a reminder that the Fish & Game Commission meeting is in session the same time as our meeting, and Board member Dick Schwarz was planning to visit with the Commission at about 11:30 this morning; scheduling, etc., for the IOGA fall meeting; review of agenda items for the Inter-Agency Meeting to be held on Wednesday, December 13; reviewed meetings attended since August with Senator Lin Whitworth, the advisory group for the South Fork Snake River Water Management Plan, and the Andrus Center Public Policy Conference on the Snake River; the results of a meeting with personnel from the State of Maine Guide Advisory Board; participation in a training session with IDF&G personnel on their GIS mapping system; and Board member confirmation hearings that will be scheduled in February.

FISCAL REPORT: The Director reported on the current status of the FY96 operating budget for the Board. Following discussion, MSC (Schwarz-Haynes) THAT THE BUDGET REPORT BE ACCEPTED. Director Sangrey also reviewed the results of the legislative audit of the Board's operations for FY 1993 and 1994, noting the audit resulted in two findings dealing with internal bookkeeping procedures. Director reported that the office staff was working with advisors from the State Controllers Office to resolve the discrepancies. He also updated the Board on the current status of the proposed FY97 budget.

STEVE SCANLIN: Board Attorney Steve Scanlin reported on his work on the Board's behalf for the last three months, including research on a temporary guide permit form, water adjudication issues, registration of trademark for the Board, results of a lengthy analysis of state regulation on navigable waterways, and updates on numerous cases which are pending before the Board.

Board member Dick Schwarz left the meeting at 11:10 AM to attend the Fish & Game Commission meeting at their headquarters office.

JEFF SMITH AND RICK CADDY: Mr. Smith and Mr. Caddy appeared to talk with the Board about their interest in applying for one of the vacancies for powerboat fishing on Lake Coeur d'Alene. They reviewed their background and experience, what types of equipment they own, how they would hope to operate the business, etc.

The Board recessed for lunch at 12:00 PM and reconvened at 1:15 PM, with all members present.

JARROD ANTHONY: Mr. Anthony came before the Board to discuss his idea for starting a float business to assist private kayakers with support rafts, etc., for day and overnight float trips. He was informed that this type of operation would necessitate an expansion of authorized boating activity on any of the licensable rivers in the state and it was unlikely any increase would be considered by the resource managers or the Licensing Board.

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KELLY ROGERS: Mr. Rogers is the director for the Outdoor Adventure Program at Boise State University, and visited with the Board to explain the operation of their program, how their participants are recruited, and what activities are available. Education Supervisor Vetesy explained that the office periodically receives complaints alleging that BSU is providing outfitted excursions to individuals and they should probably have an outfitter license to engage in those activities. Following this discussion, it didn't appear there were any irregularities in the conduct of the OAP, and Mr. Kelly promised to provide Mr. Vetesy with information and materials relating to the curriculum for their various projects.

DON HOUK: Mr. Houk appeared for an interview with the Board to discuss his interest in the powerboat fishing opportunities on Lake Coeur d'Alene. Mr. Houk described his proposal, provided information on his background and experience, and answered questions from the Board.

BILL VETESY: Education/Law Enforcement Supervisor Bill Vetesy presented his regular report to the Board, including his first quarterly summary on accomplishments of his program from July through September. He reported on educational endeavors including the statewide billboard message program, development of several brochures addressing pertinent issues focused on the outfitting industry as well as the public, numerous field trips to meet with and brief agency personnel around the state, and continuing efforts to improve the visibility of agency staff for improved public awareness. Bill also provided a report on the amount of field activity that occurred during the quarter, including investigations of alleged Board violations, inspections, and undercover operations. He also informed the Board he intends to arrange for temporary employment assistance through the intern program available from the Criminal Justice Program at Boise State University. The Board has been very successful in utilizing this program in the past.

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BOARD LAW ENFORCEMENT PRIORITIES: Board members Diana Haynes and Leo Crane suggested the Board should revisit the six-item enforcement priorities list that was adopted earlier this year. The purpose of the list was to establish guidelines that would give direction to the law enforcement bureau in addressing the varied issues for which they have responsibility. The initial priorities list established:

- #1 Complaints by clients against licensed outfitters and guides;
- #2 Complaints by the general public against licensed outfitters and guides;
- #3 Complaints on licensed outfitters and guides by other agencies;
- #4 Licensing provisions (compliance inspections);
- #5 Outfitter/guide complaints against other outfitters and guides; and
- #6 Unlicensed outfitting and guiding.

Following a lengthy discussion, with additional input from Enforcement Supervisor Vetesy and Director Sangrey, MSC (Haynes--Bernt) THAT THE PRIORITIES LIST FOR THE LAW ENFORCEMENT BUREAU BE REVISED TO REFLECT A MORE PRACTICAL APPROACH TO FOCUSING ON THE RESPONSIBILITIES OF THE BUREAU AND THE BOARD. THE LIST WAS CONDENSED TO:

- #1 Complaints;
- #2 Unlicensed outfitting and guiding;
- #3 Compliance with Board Rules (inspections, etc.).

The meeting adjourned at 5:45 PM and reconvened at 8:40 AM, Friday, December 8, 1995, with all Board members present, as well as the executive director and Board attorney.

AUGUST, 1995, BOARD MINUTES: After review and discussion, MSC (Haynes--Hunsucker) THAT THE AUGUST, 1995, MINUTES BE APPROVED AS WRITTEN.

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TETON VALLEY LODGE, RANDY BERRY, DESIGNATED AGENT: Mr. Berry appeared in a show cause hearing to answer charges that he was allegedly operating outside of his assigned operating area. Mr. Berry stipulated on the record to the violation that he had instructed his employee to take a client fishing on Pine Creek, a tributary of the South Fork Snake River, knowing full well that Pine Creek was not included in his authorized area. Following the conclusion of testimony, the following Findings of Fact were established: 1) John Silverman, a licensed guide for Teton Valley Lodge, was observed guiding two clients approximately seven to eight miles upstream on Pine Creek from the confluence with the South Fork Snake River; and 2) Pine Creek is not included in the operating area assigned to Teton Valley Lodge. Based on these findings, the Conclusions of Law are that Mr. Berry willfully conducted outfitting and guiding activities outside his assigned operating area boundary, which constitutes a violation of § 36-2113(a)(8), Idaho Code, and Board Rule 007.01. As a result of these findings and conclusions, MSC (Haynes-Schwarz), THAT A FINE IN THE AMOUNT OF \$500.00 BE ASSESSED AGAINST TETON VALLEY LODGE, RANDY BERRY, DESIGNATED AGENT, FOR VIOLATION OF IDAHO CODE AND BOARD RULES.

ELLEN SHAW, GREEN FEATHER ADVENTURES: Ms. Shaw appeared before the Board to discuss the current status of her outfitted operation situated near Lowman, Idaho, on the Lowman Ranger District of the Boise National Forest. She explained that following the fire that destroyed the South Fork Lodge, their base of operations, in 1993, they've had difficulty acquiring suitable facilities to continue their hunting and recreational activities. The situation was further complicated due to recent family health issues. Green Feather Adventures failed to renew their outfitter license in a timely fashion following its expiration on March 31, 1995. In accordance with the provisions of Board Rule 015, additional requirements must be met if the outfitter license is not renewed prior to July 1 of the ensuing license year. These requirements have been satisfied, and the Board intends to complete this renewal as soon as possible.

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Board adjourned for lunch at 11:55 AM, and reconvened at 1:10 PM, with all members present.

RICH LINDSEY, BLUE RIBBON CHARTERS: A conference call was conducted with Mr. Lindsey to provide him an opportunity to discuss his opinion of relicensing consideration for powerboat fishing activities on Lake Coeur d'Alene. He feels there would be a potential for over-use on the lake that might lead to severe detrimental impacts to the fishery. He doesn't think it would be advisable to expand the number of licensees beyond the current five authorizations. Mr. Lindsey also shared comments regarding an amendment request the Board is presently reviewing for him. He has requested additional fishing opportunities on several northern Idaho rivers, and the initial response provided to the Board by the Department of Fish & Game has not been supportive of this idea. Lindsey explained that he practices a strong catch and release ethic in his operations and would continue to do so if licensed on these additional areas. The Board suggested that he continue to pursue his efforts with Fish & Game to reach a compromise.

LAYNE DAVIS, DESIGNATED AGENT, TRAIL CREEK OUTFITTERS: Mr. Davis appeared before the Board to discuss the status of the Trail Creek Outfitters, Inc., (TCO) amendment request that has been pending before the Board for over a year. TCO is trying to expand their area for big game hunting beyond the current boundary in IDF&G Unit 76 to include additional areas of private property in portions of IDF&G Units 69, 72 and 75 in the vicinity of Soda Springs. A final decision on the matter has been delayed by the Licensing Board hoping a compromise could be reached with the IDF&G, who have expressed ongoing concerns about any expansion of commercial hunting activities in the area. Rather than conducting any further discussions with the IDF&G, Mr. Davis asked the Board for a final decision in the matter. At the conclusion of thorough deliberations regarding this matter, MSC (Haynes-Schwarz) **THAT THE AMENDMENT REQUEST BE DENIED FOR ALL REQUESTED ACTIVITIES BASED ON THE INPUT RECEIVED FROM THE**

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DEPARTMENT OF FISH & GAME AND ALSO THE POTENTIAL FOR CONFLICTS
WITH THE UNGUIDED PUBLIC.

GARY HAIGHT: Mr. Haight has requested an amendment to his guide license so he can add an additional outfitter for employment during the winter. His license is currently issued probationary with a provision that he not be allowed any amendments. The Board reviewed Mr. Haight's performance since being placed on probation, noting he hasn't had any additional problems during the last three years. Following discussion of the matter, MSC (Hunsucker-Schwarz) THAT AN AMENDMENT BE ALLOWED TO MR. HAIGHT'S GUIDE LICENSE TO ALLOW HIM TO WORK FOR FLYING B RANCH, INC., IN KAMIAH.

The Board meeting adjourned at 6:00 PM, and reconvened Saturday, December 9, 1995, at 8:30 AM. All Board members present.

RICK PEVERLEY, BIRCH CREEK OUTFITTERS: Mr. Peverley appeared before the Board in a show cause hearing to answer charges that he had employed an unlicensed guide. Mr. Peverley stipulated on the record that his guide, Tom LeMay, did work for him during the 1994 big game hunting season, without having obtained an Idaho guide license. During testimony, the following Findings of Fact were established: 1) On or about September 16, 1994, Tom LeMay was working as a guide for Birch Creek Outfitters; and 2) at this time, Mr. LeMay had not been issued an Idaho guide license. Based on these facts, the Conclusions of Law are: 1) Birch Creek Outfitters did employ an unlicensed guide during the 1994 big game hunting season; and 2) this constitutes a violation of § 36-2113(a)(9), Idaho Code. In consideration of the foregoing findings and conclusions, MSC (Bernt-Hunsucker) THAT BIRCH CREEK OUTFITTERS BE ASSESSED A FINE IN THE AMOUNT OF \$500.00, WITH THE SENTENCE WITHHELD UNTIL MARCH 31, 1997. IF BIRCH CREEK OUTFITTERS HAS NO FURTHER VIOLATIONS DURING THIS TIME, THE CHARGES WILL BE DISMISSED.

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ROBERT HENNEFER, LITTLE WOOD RIVER OUTFITTERS: Board prosecuting attorney Steve Tobiason presented a report to the Board regarding a case involving licensed outfitter Robert Hennefer. Mr. Hennefer was cited for allegedly employing two unlicensed guides during the 1995 hunting season. In negotiations with Mr. Tobiason, he admitted to the allegations and, in a stipulated settlement, agreed to pay a fine in the amount of \$250.00 for each violation. Following discussion, and on recommendation from Mr. Tobiason, MSC (Schwarz-Haynes) THAT THIS STIPULATED SETTLEMENT BE ACCEPTED WITH THE UNDERSTANDING THAT ACCEPTANCE IS CONTINGENT UPON PAYMENT OF THE \$500.00 FINE, AND RECEIPT OF THE STIPULATED SETTLEMENT BEARING MR. HENNEFER'S SIGNATURE.

SPENCE WARNER AND ED EMORY, SOUTH FORK LODGE: Mr. Warner and Mr. Emory appeared and on the record stipulated to a combined show cause hearing to answer charges that Mr. Emory had violated Board rules by guiding clients in an area for which he was not licensed, and that Mr. Warner was his licensed outfitter when this alleged violation occurred. At the conclusion of their testimony, the following Findings of Fact and Conclusions of Law were established: Findings of Fact, 1) Mr. Emory was employed as a guide for South Fork Lodge during the 1995-96 season; 2) he was observed fishing with clients from South Fork Lodge on Bear Creek during the afternoon of July 15, 1995; 3) Bear Creek is a tributary of Palisades Reservoir and is not situated within the authorized operating area for South Fork Lodge. Conclusions of Law: 1) In accordance with the provisions of Outfitters and Guides Licensing Board Rule 012.4, Mr. Warner is responsible for the actions of his guide, Mr. Emory; 2) Mr. Emory guided clients for South Fork Lodge outside of their approved operating area; 3) Mr. Emory was employed by South Fork Lodge when the violation occurred on Bear Creek; and 4) these actions constitute a violation of § 36-2113(a)(8), Idaho Code. Pursuant to these findings, MSC (Hunsucker-Schwarz) THAT MR. EMORY BE FINED IN THE AMOUNT OF \$100.00 AND THAT A LETTER OF REPRIMAND BE SENT TO HIM AND MADE A PART OF HIS PERMANENT RECORD ADDRESSING THE ETHICAL STANDARD EXPECTED OF LICENSED GUIDES IN THE CONDUCT OF THEIR SERVICES TO CLIENTS. FURTHER, MSC (Haynes-Crane) (Schwarz-nay, Hunsucker-aye, Bernt-aye, Haynes-aye, Crane-aye) THAT SPENCE

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WARNER BE FINED IN THE AMOUNT OF \$1,000.00 AND A LETTER OF REPRIMAND ALSO BE SENT TO HIM ADMONISHING THAT HE DO A BETTER JOB OF TRAINING SOUTH FORK LODGE'S GUIDES IN THE AREA OF CUSTOMER RELATIONS AND ETHICAL PRACTICES REGARDING THE OPERATION OF HIS OUTFITTER BUSINESS. PAYMENT OF THIS \$1,000.00 FINE IS WITHHELD UNTIL MARCH 31, 1997. IF MR. WARNER HAS NO FURTHER VIOLATIONS DURING THIS TIME, THE CHARGES WILL BE DISMISSED.

The Board recessed for lunch at 11:58 AM, and reconvened at 1:30 PM, with all members present.

DON CANINE: Mr. Canine met with the Board in a conference call from his home in Pocatello to discuss the fact that his outfitter license has been relinquished due to non-renewal under the provisions of Board Rule 027. He said due to health problems he had been unable to maintain any semblance of operation for his floatboat business on the Snake River. Following this discussion and review with Mr. Canine, MSC (Hunsucker-Haynes) TO ACKNOWLEDGE THE RELINQUISHMENT OF THIS OUTFITTER LICENSE IN ACCORDANCE WITH THE PROVISIONS OF BOARD RULE 027, AND THE DIRECTOR IS INSTRUCTED TO FOLLOW APPROPRIATE PROCEDURES TO ADVERTISE THIS VACANCY AND SOLICIT APPLICATIONS FOR FUTURE LICENSING CONSIDERATION.

GORDON FROST, WARM SPRINGS OUTFITTERS: Mr. Frost appeared for his show cause hearing to answer charges of alleged cruel treatment of animals. He appeared with his attorney, Mr. Jon Wyman, who requested a continuance because he had just been hired by Mr. Frost the night before the hearing. The Board granted his request, setting the new hearing date for the February meeting.

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PALISADES RANGER DISTRICT, TARGHEE NATIONAL FOREST: The Board reviewed a prospectus for proposed recreational activities on certain portions of the Palisades Ranger District. The proposal includes commercial services for trailrides, wagonrides, day hikes, llama packing, mountain bike touring, survival courses, backpacking, and photography trips during the months of May through August. After reviewing the information and maps, MSC (Hunsucker--Bernt) THAT THE BOARD CONCURS WITH THE RECOMMENDATIONS FROM THE DISTRICT AND THEY SHOULD PROCEED WITH THEIR SOLICITATION PROPOSAL.

JEFF BAYES: The director reviewed a guide license application submitted for Mr. Bayes for employment with Heavens Gate Outfitters. It was determined that Mr. Bayes was recently convicted for violating IDF&G laws for hunting during a closed season. Based on this information, the Board concurred with the director's decision to deny the application.

DOUG LENIUS AND STEVEN MILLSAP: The director also informed the Board of his denial of guide applications for Doug Lenius, for altering his first aid card, and for Steven Millsap, for his conviction of IDF&G laws. The Board upheld these decisions.

SHOW CAUSE HEARINGS FOR TRAIL CREEK OUTFITTERS AND RICH COOK: Board Counsel Steve Scanlin, following discussion with Board Prosecutor Steve Tobiason, presented a recommendation to the Board regarding the forthcoming show cause hearings to be scheduled for Trail Creek Outfitters and Rich Cook at the February meeting. Appearing that these hearings may be quite lengthy and technically involved, it was recommended that the Board consider appointing a hearings officer to hear these matters and, hopefully, have reports available for the Board to review at the February board meeting. After hearing these recommendations, MSC (Schwarz-Hunsucker) TO APPOINT A HEARINGS OFFICER FOR THESE CASES AND TRY TO ACCOMPLISH THIS WORK PRIOR TO THE FEBRUARY MEETING. IT WAS RECOMMENDED THAT MS. JEAN URANGA, OF BOISE, WOULD BE SUITABLE FOR THIS PURPOSE AND SHOULD BE CONTACTED. **Administrative Note:** If it is determined that Ms.

Uranga is not available, a suitable alternate should be appointed. Ms. Uranga was later contacted and agreed to hear these cases.

LAKE COEUR D'ALENE: The Board evaluated 14 applications that were submitted for the powerboat fishing opportunity on Lake Coeur d'Alene. At the conclusion of this analysis, MSC (Haynes-Hunsucker) TO AWARD THE THREE OPENINGS TO JEFF SMITH, GARY BROOKSHIRE, AND ROBERT CARBONE.

INSTITUTIONAL OUTFITTING, BONNERS FERRY RANGER DISTRICT: In accordance with the guidelines established by the MOU, the Board reviewed applications that had been submitted to the Bonners Ferry Ranger District in response to a prospectus for institutional outfitting in several areas of the Panhandle National Forest. After analyzing the applications, the Board accepted the proposals submitted by ASCENT and LEAP, Inc., and requested that further inquiry be conducted into the application of Explorations, Inc. Following additional review by the director, MSC (Hunsucker--Bernt) THAT THE APPLICATIONS FOR ASCENT AND LEAP, INC., BE ACCEPTED FOR THESE INSTITUTIONAL OUTFITTER OPPORTUNITIES, AND THAT THE BONNERS FERRY AND SANDPOINT RANGER DISTRICTS BE ADVISED ACCORDINGLY.

MICHAEL R. SMITH: Mr. Smith was selected by the Board at the August meeting to fill an outfitter vacancy on the CL3 section of the Clearwater River. Following that selection, the IDF&G established catch and release only fishing on the Clearwater for the fall fishing season and Mr. Smith decided it would be more reasonable to delay activating this new license until the 1996 license year. After reviewing this matter with the director, the Board concurred with this postponement.

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KIRK EIMERS AND CAROL SAXTON: The director informed the Board that two former licensed outfitter businesses, one operated by Mr. Kirk Eimers and the other by Ms. Carol Saxton, have been relinquished, in accordance with the provisions of Board Rule 027, due to non-renewal by April 1, 1995.

INCIDENTAL FISHING OF TRIBUTARY WATERS: During the course of this Board meeting, the legality of fishing on tributary waterways not specifically authorized on outfitters licenses was discussed on several occasions. Under the Board's current interpretation, unless an individual body of water (river, stream, lake, reservoir) is precisely identified on the outfitter license and operating area description, it is not legal for the outfitter to guide clients on that water as though it were just "incidental" to his authorized area.

GARY LANE AND RICHARD BRADBURY: The Board reviewed letters that had been sent by Mr. Lane and Mr. Bradbury in which they voiced their concerns about increased commercial activities, particularly steelhead fishing, on the Salmon River upstream from Riggins. After reviewing the letters, Bill Bernt said he would look into the matter and work with the director to further analyze the situation.

EXECUTIVE DIRECTOR: The Board reviewed the special actions taken by the Director since the August, 1995, meeting. Following this review, MSC (Schwarz--Haynes) THAT THESE ACTIONS BE APPROVED.

With no further business to come before the Board, the meeting was adjourned at 7:00 PM.

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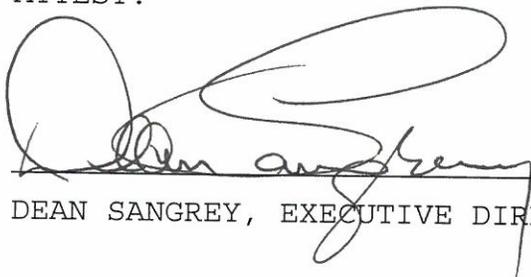
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LEO CRANE, BOARD CHAIRMAN

ATTEST:



DEAN SANGREY, EXECUTIVE DIRECTOR

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