

**STATE OF IDAHO
OUTFITTERS AND GUIDES LICENSING BOARD**

FEBRUARY 23 - 26, 1998

“MSC” (Motion made, seconded, and carried)

“MSF” (Motion made, seconded, and failed)

The regular meeting of the Idaho Outfitters and Guides Licensing Board was called to order at 9:00 AM, Monday, February 23, 1998, in the Boardroom located at 1365 North Orchard, Rm 172, Boise, Idaho. Board Chairman Leo Crane, Vice Chairman Diana Haynes, and members Bill Bernt and Ray Lyon were in attendance. Board member Wayne Hunsucker had a prior commitment and will miss the entire meeting. Also present were Board Executive Director Dean Sangrey, Board Counsel Steve Scanlin, and Board Education/Law Enforcement Supervisor Bill Vetesy.

Staff Reports: Dean Sangrey - FY1999 Budget The Director reported that he had just returned from the Joint Finance and Appropriations Committee hearing on the Board's proposed FY1999 budget conducted at the statehouse. That review was favorable and the self governing agency budget proposals will now be presented to the full legislature for approval/acceptance. **Board Legislation** The Board was brought up-to-date on the status of SB 1338 and SB 1339, the legislative proposals currently being considered by the Idaho Senate. The bills were passed out of the Senate Resources and Environment Committee with do-pass recommendations and are presently on the third reading calendar on the floor of the Senate. **Licensing Review Committee** Director Sangrey has continued to pursue several efforts identified by the Licensing Review Committee, including research of possibilities for initiating credit card payment capabilities for outfitter and guide license applications. Initial costs for setting up the procedures through the State Treasurers office and with Key Bank have been identified and negotiations are continuing with representatives from the bank to procure the necessary computer software, etc. The Board hopes to get the necessary procedures identified and initiated sometime during the upcoming license renewal season. **MOU Review Task Force** The Task Force has completed its initial efforts to update the existing Memorandum of Understanding (MOU) between the Licensing Board and the U.S. Forest Service and the Board and Bureau of Land Management. The new draft MOU is designed to incorporate the present cooperative agreements between the three agencies into one multi-agency document. The draft is being distributed within the agencies for review at the present time and a final modified version is expected to be agreed upon in the near future and will be circulated for formal acceptance and signature as necessary.

Steve Scanlin - Mr. Scanlin presented his report to the Board which covered: **Status of Rules Review and Promulgation** He reported that the legislative review of the Board's proposed rules has been completed, which resulted in removal by the legislative oversight committee of the Board's recommendation to include goatpacking and parasailing as licensable activities. The position of the committee was that

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parasailing did not warrant regulation and oversight by the Licensing Board because there is such a small number of parasailing services provided in Idaho. The Board agreed to remove this recommendation from the rule package and it was determined that removal of the parasailing activity would also affect goatpacking because they were included in the same portion of the rules promulgation package. **Fairchild AFB** Mr. Scanlin reported he has renewed the Board's request to staff at Fairchild AFB in Spokane, Washington, relative to obtaining information about disciplinary action taken against their Outdoor Adventure Program (OAP) administrators. It was determined earlier that the OAP program appeared to be in violation of Idaho outfitting and guiding statutes relative to floatboating trips they have been conducting on several rivers in Idaho.

Richard Cook Settlement Agreement Two payments have been received and deposited in appropriate escrow toward eventual settlement of the penalties assessed against licensed outfitter Richard Cook as a result of his disciplinary hearing in December, 1996.

Bill Vetesy - Mr. Vetesy presented his second-quarter report for FY98 which included: **Education Program** Efforts continue to develop a televised educational program about the Licensing Board with the local PBS channel; upcoming participation on the IDFG radio talk show; discontinuation of the statewide educational highway billboard program for FY1999; an update on the Board's ongoing agency briefing program schedule; lecture presentation at Northwest Nazarene College; and educational briefings to IOGA chapters. **Enforcement Efforts** During the second quarter 31 new cases were opened. Of that total, 12 cases involved unlicensed outfitters and guides and 18 dealt with licensed individuals. Six of the cases against licensed outfitters were determined to be unfounded and were closed; the rest are pending at this time. One citation was issued to a licensed guide. Additionally, three warning letters were sent to licensed outfitters and guides and one was sent to an unlicensed outfitter suspected of providing guided services. Efforts were made to develop a \$20,000 grant from the U.S. Forest Service for assistance with the Board's law enforcement program. This request was coordinated with Region One Special Agent Tom King, but no funding is currently available under this program. Efforts will be reinitiated in the future.

Steve Huffaker, Wildlife Bureau Chief, IDFG, and Lonn Kuck, Wildlife Bureau Staff: Mr. Huffaker and Mr. Kuck appeared before the Board to discuss the current status of deer and elk allocation considerations in the Lolo Zone (Management Units 10 and 12). Because of severe winter mortality of the elk herds in these units in 1997, the Department is considering a drastic reduction in the number of potential elk tags that will be available for the upcoming 1998 elk harvest season. As a result of these potential restrictions, it will be necessary to implement the first stage of an allocation program for the state in this Lolo Zone. A formal decision that would initiate these allocation steps will be considered by the Fish and Game Commission at their next regular meeting which is scheduled on March 5 and 6 in Idaho Falls. If they take this action it will be necessary for the Board to prepare historical use figures and allocation distribution formulas for the 25 outfitters licensed to provide deer and elk hunting services in these two management units. Director Sangrey initiated staff contacts with the outfitters who have not yet

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submitted their activity use reports for the 1997 season. The group also discussed the Board's present position regarding commercial bobcat hunting and the Board agreed to examine this issue further with Department staff.

The meeting recessed for lunch at 12 noon and reconvened at 1:15 PM at the Senate Resources and Environment Committee meeting room for the confirmation hearing for Vice Chairman Diana Haynes' reappointment to the Licensing Board. Her presentation and response to committee member's questions was concluded at approximately 2:00 PM.

Consideration of HB 652 was scheduled before the House Resources and Conservation Committee at approximately 2:00 PM which the Board intended to attend. However, floor debate on other legislative issues continued at that time so the Board returned to the Licensing Board office to continue with other scheduled appointments and Board Counsel Steve Scanlin remained at the Statehouse to attend the House Resources Committee meeting.

Jim Cleveland, Blaine County Police Activities League (P.A.L.) - Mr. Cleveland, along with P.A.L. program coordinators Tasha Bradshaw and Tommy Larson, appeared before the Board to discuss their unique program and request a decision from the Board relative to a proposal to provide floatboat trips for school age children in the Blaine/Camas County area. The Police Activities League provides a means for law enforcement officers and community volunteers to help prevent and combat juvenile delinquency and substance abuse. At the present time, Mr. Cleveland and his associates are trying to develop a new aspect of their community service program which would provide opportunities for rafting trips on the SA1 section of the Salmon River below Stanley, Idaho. These trips would be organized and the services provided by Mr. Cleveland, Ms. Bradshaw, and Mr. Larson. Bradshaw and Larson are both accomplished kayakers (Ms. Bradshaw currently holds an Idaho guide license from the Board) and the three plan to complete additional floatboat training under the direction of licensed outfitters in the Stanley area. They have reviewed their proposal with the Sawtooth National Recreation Area and received acceptance from that office with the understanding that no special use permit will be required for their program. At the conclusion of this presentation by the P.A.L. coordinators, MSC (Haynes—Lyon) **THAT THE BOARD APPROVE AN EXEMPTION FROM STATUTORY LICENSING REQUIREMENTS PURSUANT TO THE PROVISIONS OF SEC. 36-2103, IDAHO CODE, FOR THE BLAINE COUNTY POLICE ACTIVITIES LEAGUE.**

Jeff Herbek: Mr. Herbek appeared before the Board to discuss the status of his Idaho guide license and to review the circumstances surrounding his conviction for violation of Idaho Fish & Game resident licensing procedures. He explained that he purchased an Idaho resident hunting license in June, 1997, before he had satisfied the minimum residency requirements to qualify for such a license. IDFG Conservation Officer Mark

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Rhodes submitted a letter of explanation detailing his involvement with Mr. Herbek and a history of the circumstances leading to the issuance of the citation. Following a review of Mr. Herbek's file and a thorough discussion of the situation, MSC (Bernt—Lyon) NOT TO TAKE ANY PUNITIVE ACTION AGAINST MR. HERBEK'S 1997 GUIDE LICENSE AND THAT FUTURE GUIDE LICENSE APPLICATIONS BE APPROVED NON-RESTRICTED AS LONG AS HE DOESN'T HAVE ANY FURTHER PROBLEMS.

George Duncan/James T. Reilly: The Board reviewed the circumstances of an incident reported by outfitter George Duncan involving James T. Reilly, one of his guides. Mr. Duncan had informed Reilly it was not legal to hunt bobcat commercially, but Reilly allegedly took a client on a hunt and the client harvested a bobcat. At the conclusion of the hunt, Reilly advised Duncan of the results and he, Reilly, was immediately terminated from employment with Duncan Outfitters. Mr. Duncan contacted the Licensing Board and informed the Director of the incident and action he had taken in firing his guide. Duncan was advised there was no intent to initiate any action against him or his outfitter license, at least at this point. The matter will be reviewed by the Board at its next regular meeting and he will be advised.

The meeting recessed at 5:00 PM and reconvened at 8:05 AM, Tuesday, February 24, with all members except Ray Lyon and Wayne Hunsucker present.

Outfitter Policy Act of 1997 - Licensed outfitter Randy Berry, Teton Valley Lodge, contacted the Board and expressed his concerns about some of the provisions of the Outfitter Policy Act of 1997 which is currently being considered by the U.S. Congress. A conference call was arranged which included Mr. Berry, Washington lobbyist Scotch Pankonin, IOGA Executive Director Grant Simonds, and the Licensing Board. Berry reviewed his concerns having to do with "pooling of unallocated principal use" and other provisions dealing with reduction of allocated use by a licensed outfitter if a certain minimum percentage of annual authorized use is not maintained by the licensee. The group also discussed the potential for certain states rights to be jeopardized and regulation of the outfitting industry to be usurped by Congress. Ms. Pankonin assured the meeting that the language in the bill will protect current state regulations and rules that are in affect. Board Counsel Steve Scanlin drafted some clarifying language to this effect and it was forwarded to Pankonin in Washington. She will continue to work on this issue and keep everyone apprised of the progress of the bill.

Larry Jarrett, Lazy J Outfitters - The Director reviewed the circumstances of the special authorization approved for outfitter Larry Jarrett to conduct a mountain lion hunt in IDFG Mgmt Unit 32A. Mr. Jarrett had a trip booked for four hunters to pursue mountain lion in his assigned area within Unit 39. The hunt was scheduled to begin in late January and at the last minute the female quota was filled, closing down all cougar hunting in the unit for the season. Jarrett asked if there was some alternative location the

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clients could be permitted to hunt as they were preparing to fly from their home in the Dominican Republic to Idaho. He was advised the Board could consider a temporary authorization to hunt in another location if approval for that type of move were deemed acceptable by the Department of Fish & Game and the land manager, the U.S. Forest Service. Approval was given to Mr. Jarrett by the Forest Service for a short term (three week) temporary hunt in a portion of Unit 32A. The IDFG also agreed to a temporary hunt in the area with the stipulation that only one female cougar be harvested by the group. With these approvals in place, the proposed temporary amendment to Mr. Jarrett's outfitter license was approved by the Board.

Justin Wright, Little Lost Outfitters - Mr. Wright and his wife Sandy met with the Board do discuss his proposed purchase of a portion of the big game hunting outfitting business currently operated by John Cranney in IDFG Mgmt Unit 51. The Board reviewed his license application, the proposed operating plan and financial viability statement, and his past record and experience as a licensed outfitter in Wyoming. He was convicted for two separate violations of Wyoming Game and Fish regulations, in 1989 and 1991, and ultimately lost his outfitter license as a result of these convictions. At the conclusion of this interview with Mr. Wright and a review of his files and records, MSC (Haynes--Lyon) THAT THE OUTFITTER LICENSE APPLICATION FOR JUSTIN WRIGHT, dba: LITTLE LOST OUTFITTERS, BE DENIED.

Travis Reggear, dba: Reggear Outfitters - Mr. Reggear appeared before the Board to discuss his proposal for purchasing part of the hunting outfitter business operated by Mike Stockton in IDFG Mgmt Units 8A and 10A. The Board reviewed his application, private land use authorizations, financial statement, sales contract, and input received from the Department of Fish & Game. They recommended several alternatives for the development of Mr. Reggear's operation, including suggestions regarding public access, appropriate posting of private lands, and possible harvest limits for big game. Following this review and discussion, MSC (Bernt--Haynes) THAT THE SALE AND TRANSFER OF THAT CERTAIN PORTION OF THE MIKE STOCKTON OUTFITTER BUSINESS TO TRAVIS REGGEAR, dba: REGGEAR OUTFITTERS, BE APPROVED. THIS APPROVAL WILL INCORPORATE 4 COUGAR AND 6 BEAR HUNTING CLIENTS, AND THE BEAR HUNTERS WILL BE DIVIDED EQUALLY BETWEEN SPRING AND FALL HUNTING SEASONS. UPON SATISFACTORY COMPLETION OF ANY REMAINING ADMINISTRATIVE REQUIREMENTS, THE OUTFITTER LICENSE WILL BE ISSUED.

James E. Gellein - Mr. Gellein appeared before the Board to submit his application for a guide license for employment with Laura Bagley, dba: Nats So Koos Outfitters. The Board reviewed Mr. Gellein's file and application and discussed the circumstances surrounding his felony conviction in Oregon in 1984 and U.S. District Court felony conviction in Idaho in 1991. At the conclusion of this discussion and thorough review of

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Mr. Gellein's file, MSC (Haynes--Lyon) THAT THE 1997-98 GUIDE LICENSE APPLICATION FOR MR. JAMES E. GELLEIN BE DENIED.

The Board meeting recessed for lunch at 11:55 AM and reconvened at 1:15 PM with all members present.

Nate Luther - The show cause hearing scheduled at this time for Nate Luther was vacated as an agreement was reached for payment of an administrative fine and therefore this matter is concluded.

Jaason Pruett - Mr. Pruett appeared before the Board in a show cause hearing regarding the denial of his 1997-98 guide license application. It was originally denied in July, 1997, based on information provided on his application and his conviction for violating IDFG regulations earlier that year. He was cited for not having his license in possession and was convicted because he hadn't purchased the license in the first place. Following this discussion and review with Mr. Pruett, MSC (Lyon--Haynes) TO APPROVE THE ISSUANCE OF MR. PRUETT'S GUIDE LICENSE FOR THE 1997-98 SEASON, UNRESTRICTED.

E. McLeroy, Jr. - Mr. McLeroy appeared before the Board to review his outfitter license application for powerboat fishing on the Bliss Dam to the headwaters of C.J. Strike Reservoir (SN9) section of the Snake River. He has applied for the last of five boating opportunities available on that stretch of the river and has satisfied all of the license requirements including submission of an operating plan, financial statement, land manager sign-off sheet, completion of the outfitter exam, bonding and liability insurance. Based on this review and discussion, MSC (Bernt--Haynes) TO APPROVE THE OUTFITTER LICENSE APPLICATION FOR POWERBOATING AND FISHING ON THE SN9 SECTION OF THE SNAKE RIVER FOR JAMES MCLEROY.

Memorandum of Understanding (MOU) - Chairman Crane and Director Sangrey presented a report to the Board regarding recommended changes to the Memorandum as developed by the MOU Task Force. The task force has proposed that the agreement be modified to include the Bureau of Land Management along with the U.S. Forest Service as participating agencies with the Licensing Board. Several other changes have also been recommended, including modification of the performance evaluation form and consolidation of the guidelines for issuing new outfitter licenses and permits from 10 steps down to 8 steps. Chairman Crane suggested that changes were necessary in parts of Steps 5 and 6 relating to application procedures and evaluation and selection of qualified applicants, as proposed by the Task Force. The Director was instructed to forward these recommended changes to the members of the Task Force for further review and consideration.

The meeting recessed at 5:00 PM and reconvened at 8:15 AM, Wednesday, February 25, with all members except Wayne Hunsucker present.

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Trail Creek Outfitters / Malone Properties - Sale and Transfer - The Director updated the Board on the status of the sale and transfer of the Trail Creek Outfitters (TCO) business to Malone Properties. The buyers are working through the application processes and have finally settled on an agreement for licensing of an acceptable designated agent. Previous licensing for TCO incorporated a special use permit from the Caribou National Forest for a portion of USFS land within IDFG Mgmt Unit 76. That permit expired and was not renewed by the Soda Springs Ranger District. Based on the resultant non-use in that area, the District Ranger has recommended consideration be given to another licensed outfitter for possible operations in most or all of the previously permitted operating area. Phil Baker, the outfitter licensed on some adjacent private land, and his mother Kathy Baker, appeared before the Board to discuss this potential opportunity. Layne Davis, representative for TCO, was also present. The Director confirmed that the Forest Service does not intend to consider any special use authorization on the National Forest for Malone Properties. They have accepted a proposal from Phil Baker and recommend that he be considered for a license amendment by the Board to expand his operation onto this adjacent National Forest property. The Board suggested that Mr. Baker and Mr. Davis try to meet and discuss possible options for sharing parts of the Caribou National Forest lands. They indicated they would take this under consideration.

Kirk Bachman, Sawtooth Mountain Guides - Mr. Bachman appeared before the Board to discuss the issue of contract guides and to review the present status of his ongoing discussions with the Idaho Department of Labor (DOL) on this matter. Some potential apparently exists for DOL to reconsider their earlier position regarding independent contracting of guides for outfitted services. They have provided an opportunity for Mr. Bachman to appeal their previous position on this matter, and he asked the Board to consider sending a letter to the agency restating our position. Mr. Scanlin will prepare a response this week.

Lolo Zone Allocation Policy - Darl Allred, Scott Farr, and Ken Smith appeared before the Board representing the IOGA for a discussion of policy development for the deer and elk allocation procedures in the Lolo Zone. IOGA member Mike Stockton and Executive Director Grant Simonds were also in attendance. The group discussed the February 20 decision by the Idaho Fish & Game Commission to terminate the sale of elk tags in the Lolo Zone temporarily based on immediate concerns over the status of the elk herds in the Zone. Current observations have determined a significant reduction in numbers of bulls due to winter mortality and maybe other factors. They have directed that the allocation process be implemented as soon as possible to help determine distribution figures for the outfitters in the Zone. Accurate historic use figures need to be established so the Commission can decide on the total tags to be made available for outfitter use and then reopen the sale of both resident and non-resident tags as soon as possible. Steve Scanlin had prepared a draft policy for Board consideration and presented it for discussion with the group. It was agreed the tag distribution should be calculated and

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based on a previous five (5) year average, not the best four out of five or best three out of five. There are a total of 23 elk hunting outfitters in Units 10 & 12 and Director Sangrey was instructed to work on determining an accurate historic use figure for each of the outfitters in those units. The historic use figure based on an average of use of all the outfitters over the previous five years will then be provided to the Fish & Game Commission so they can establish the total number of tags to be distributed to the outfitters. Following this discussion and exchange of ideas, MSC (Haynes--Lyon) TO ADOPT THE IOGLB DEER AND ELK ALLOCATION POLICY #98-01 AS AMENDED.

The Board meeting recessed for lunch at 12:40 PM and reconvened at 2:00 PM, with all members present.

Mike Stockton, B Bar C Outfitters - Mr. Stockton appeared before the Board to request early termination of the probationary status on his outfitter license. The license was placed on one year probation in 1997 for violation of the provisions of the Outfitters and Guides Act. The term of probation will expire on May 9, 1998, and he is restricted from having any amendments considered for the license while it remains on probation. He has several amendment requests currently before the Board for review. Following a discussion and review of this request, MSC (Lyon--Bernt) TO DENY MR. STOCKTON'S REQUEST FOR TERMINATION OF HIS PROBATION PRIOR TO THE ESTABLISHED EXPIRATION DATE OF MAY 9, 1998. THE DIRECTOR WILL CONTINUE TO EVALUATE THE AMENDMENTS PRESENTLY FILED WITH THE BOARD. CHAIRMAN CRANE RECUSED HIMSELF FROM THIS DELIBERATION.

Michael Liner, Salmon Field Office, Bureau of Land Management - Mr. Liner met with the Board to discuss licensing considerations on the SA3 and SA4 sections of the Salmon River. Several floatboating opportunities presently exist on these sections through normal attrition or relinquishment. There has been extensive discussion among local residents, outfitters, IDFG and BLM personnel, regarding the pros and cons of reestablishing the license slots that are not currently being used. Mr. Liner confirmed that the BLM generally supports the idea of filling the available opportunities on the river with qualified, professional businesses that will compliment the other permittees. They continue to have some concerns about the lack of commercial use by several of the existing businesses that are licensed on these stretches, and they plan to deal with these issues along with the Licensing Board in the near future. At the conclusion of this discussion, MSC (Haynes--Lyon) TO PROCEED WITH ANALYSIS AND REVIEW OF THESE OPPORTUNITIES AND SOLICIT APPLICATIONS TO FILL THE FLOATBOAT SLOT ON SA3 AND THE TWO AVAILABLE FLOATBOAT SLOTS ON SA4A. FURTHER, THE DIRECTOR IS TO INITIATE RESEARCH TO DETERMINE THE EXTENT, IF ANY, OF NON-USE ON THE SA4B SECTION OF THE SALMON RIVER AT THE PRESENT TIME.

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Meeting recessed at 4:50 PM and reconvened at 8:15 AM, Thursday, February 26, with all Board members present except Wayne Hunsucker.

Clearwater River Boundaries (CL2) - The Board reviewed concerns that had been expressed by the IDFG and some local outfitters regarding the operational boundary of the CL2 section of the Clearwater River (Kooskia to Orofino). As a result of flooding that occurred in 1997, an access ramp located just upstream from Kooskia on the Middle Fork of the Clearwater River, used extensively by outfitters and others in the area, was destroyed. Just downstream from this put-in is a stretch of river that provides good fishing and is a highlight for trips provided by the outfitters. During the recent steelhead fishing season, some of the outfitters began using another access point a little further upstream so they could continue to make use of the good fishing opportunity. Conservation Officer Roger Westfall has expressed his concern relative to where the official upper boundary for the CL2 section is located. He feels that by going further upstream into what is actually CL1 that the outfitters could be violating their license provisions if they are not licensed on CL1. He requested some interpretation and guidance from the Board in this matter. Licensed outfitter Evelyn Kaide attended the meeting and provided her perspective into what has actually occurred on this stretch and described the alternatives to be considered. She explained it is very important not to miss the opportunity for fishing at the extreme upper end of CL2 at Kooskia, and the only safe option for providing that service was to use the alternative put-in. After review and discussion, MSC (Bernt--Haynes) TO TEMPORARILY ADJUST THE UPPER BOUNDARY OF THE CL2 (Kooskia to Orofino) SECTION OF THE CLEARWATER RIVER TO INCLUDE KING'S BLUFF, AN AREA THAT PROVIDES SAFE ACCESS TO LAUNCH BOATS AND CLIENTS. THE BOARD INTENDS THAT THIS TEMPORARY LOCATION WILL BE CONSIDERED PART OF THE CL2 SECTION UNTIL NEEDED REPAIRS ARE COMPLETED AT THE SCOTT'S BLUFF RAMP. AFFECTED OUTFITTERS WILL BE ADVISED THEY CAN USE THIS TEMPORARY AREA FOR LAUNCHING, BUT UNDER NO CIRCUMSTANCES CAN FISHING BEGIN UNTIL THE BOAT AND CLIENTS HAVE REACHED THE SCOTT'S BLUFF POINT ON THE RIVER.

IOPA Spring Meeting/Lewiston - The Director reviewed plans and schedules for the upcoming spring meeting for the IOPA to be held in Lewiston. Leo Crane, Diana Haynes, and Wayne Hunsucker said they planned to attend at least part of the meeting. Bill Bernt will try but is not certain about his schedule at this time.

December, 1997, Board Meeting Minutes - Following review and discussion of the minutes from the December, 1997, Board meeting, MSC (Haynes--Bernt) TO APPROVE THE DECEMBER MINUTES, AS CORRECTED.

IDFG Report Card - With input from members of the IOPA, the Board reviewed a draft copy of a proposed hunter report card being developed by the IDFG. At the conclusion

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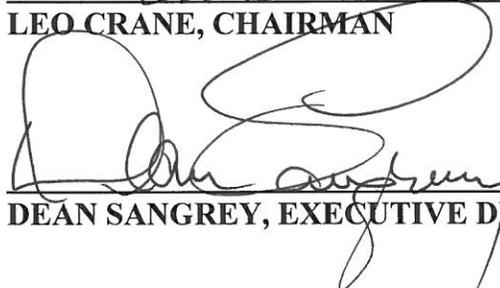
of this discussion, the Director was instructed to send a letter to the Commission suggesting they consider adding a spot on the form for reporting when the hunter was hunting, whether they were successful or not.

With no further business to come before the Board, the meeting was adjourned at 11:30 AM.

ATTEST:



LEO CRANE, CHAIRMAN



DEAN SANGREY, EXECUTIVE DIRECTOR