

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

**MINUTES**

**February 22 – 24, 2005**

**(KEY: MSC = MOTION MADE, SECOND, CARRIED)  
(MSF = MOTION MADE, SECOND, FAILED)**

THE REGULAR MEETING OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD WAS CALLED TO ORDER AT 8:31 AM, TUESDAY, FEBRUARY 22 2005, IN THE BOARD ROOM, 1365 NORTH ORCHARD, ROOM 172, BOISE, IDAHO. CHAIRMAN WAYNE HUNSUCKER, VICE CHAIRMAN SCOTT FARR AND MEMBERS BILL BERNT, AND RAY LYON WERE IN ATTENDANCE. ALSO PRESENT WERE EXECUTIVE DIRECTOR JAKE HOWARD, BOARD COUNSEL STEVE SCANLIN AND SECRETARY KIM WALLETT.

**Review of Agenda and Consent Agenda:** Director Howard reviewed the agenda with the Board. Director Howard explained that this was the first meeting that a consent agenda was used. He indicated that Board Member Judge had requested that several items be placed on the agenda for discussion. Those items were financial report, probationary license report and allocation hardship requests. Director Howard also indicated that Rusty Bentz has stipulated to charges and probably will not appear.

MSC (MOTION BY FARR, SECOND BY JUDGE – UNANIMOUS) TO REMOVE THE RATING INFORMATION WITHIN THE SNOWMOBILE PROSPECTUS MOTION FROM THE DECEMBER MEETING AND ONLY INDICATE THE SELECTEE WITHIN THE MOTION.

MSC (MOTION BY FARR, SECOND BY LYON – UNANIMOUS) TO ACCEPT DECEMBER MINUTES AS AMENDED.

**Discussion of Rules & Fees – Grant Simonds, IOGA, and Dennis Stevenson, Dept of Administration:** Mr. Simonds indicated that he was in attendance with respect to issues surfacing with proposed rules during the January presentation of the rules to the House Resources Committee. He said that the controversy from the discussion during that hearing which surfaced in the press statewide lead to IOGA's requesting that the Board withdraw the rules in their entirety. He explained that several members of the association felt that they did not have enough time to review the rules and comment on them. Director Howard said that he was concerned that discussion during meeting was taken out of context and the articles that appeared in the media misinterpreted the intent of these rules. Chairman Hunsucker indicated that these rules had been placed on the board meeting agendas for discussion, notification was mailed to the industry early in the year to make them aware of the rules and then again during the rule promulgation process, and comment time was provided with no comments received by IOGLB other than from Mr. Simonds. He said that comments provided by Mr. Simonds were considered and largely implemented. The Chairman also indicated that these rules were placed on the board

meeting agendas for discussion several time and that the Director and several Board members met with the IOGA governmental affairs committee to discuss the rules during the IOGA winter meeting. Board members Judge and Farr stated that they felt that too much detail was being put into the Rules and much of what is handled in rules can be address in board policy. Mr. Simonds stated that rules should have a broad basis while the detail and clarification should be present in the procedures and policies of the Board. Mr. Stevenson indicated that a rule of thumb when preparing rules and policies would be: “Can you take it outside and impose it on the public? Then it should be a rule.” He said that policy was largely used for internal operation such as personnel policy or other matters that do not directly affect the public. Director Howard suggested that by using Negotiated Rule Making, the Board should prepare the rules and supply them to the industry for comment prior to submitting to the Governor’s Office. Director Howard indicated that this is the process that is currently followed however it is not formalized at this time. Mr. Simonds requested that the rules be given to the industry early in the year and having discussions with regard to the proposed changes. Mr. Judge stated that the rule make process had started in February last year and that he felt that adequate time had been allowed the industry. Mr. Simonds suggested that the Board be prepared to explain to IOGA: Why the rule is being proposed; what are the issues precipitating this change; how large is the issue; is this a housekeeping rule? Mr. Simonds also presented some comments from the industry with regard to fees and online licensing. He indicated that an alternative form of communication would be desirable with regard to incomplete applications and renewals.

**MSC (MOTION BY JUDGE, SECONDED BY BERNT – UNANIMOUS) FOR THE YEAR 2005 ONLY, BEING THE FIRST YEAR OF THE NEW DEADLINE AND THE DIFFICULTY WITHIN THE ONLINE SYSTEM, THE SPECIAL HANDLING FEE WILL BE WAIVED FOR 30 DAYS FOLLOWING JANUARY 31.**

**MSC (MOTION BY BERNT, SECONDED BY JUDGE – UNANIMOUS) TO CHARGE THE DUPLICATE LICENSE FEE BE CHANGED TO \$25.**

**Operating Area Expansion Hearing:** Present for this discussion was Darwin Vander Esch, Idaho Outdoor Wilderness; Larry Jindrich, IDFG; and Gary Elliott, USFS. Other persons present are listed on the sheet attached to these minutes. Mr. Elliott presented a request that Mr. Vander Esch had provided to expand his licensed operating area into an area near Lost Valley Reservoir allowing him additional opportunity for outfitted bear and cougar hunting and in an area in Hells Canyon that lies north of Klienschmidt grade that would allow him multiple outfitted big game opportunities and a partial clarification of his operating boundaries.

Mr. Elliott explained that the McCall Ranger District coordinated an assessment following National Environmental Protection Act (NEPA) requirements that allow the public to understand and comment on this proposed expansion. He reminded the Board that both the federal land managing agencies and the board have overlying responsibilities in determining whether to federally permit and to state license outfitters operating of federally lands acknowledged in a Memorandum of Understanding existing between the USFS and the Board. Director Howard pointed out that this review had been initially scheduled for the April Board meeting but was moved forward at Mr. Vander Esch’s request. Mr. Elliott stated that there were a number of letters submitted in response to the USFS assessment notice posted in local papers in opposition

to the expansion. He felt that after discussing this matter with Director Howard that it would be best for the Board to review this matter and determine the appropriate course of action.

Mr. Vander Esch explained that obtaining this expansion would clean the area boundaries for both outfitted and public use. He also stated that he would only operate a drop camp out of Six Lakes Basin and felt that his clients would have a minimal impact on the public using the new area made available in Hells Canyon. Mr. Elliott responded to the Board's questions that the McCall Ranger District was going to allow Mr. Vander Esch a camp in this area, which is already permitted to him, but probably would not restrict the type of hunts Mr. Vander Esch could take from this area.

A number of individuals who attended the meeting and several of those individuals spoke regarding opposition to the expansion and a petition representing a number of land owners in the Bear and Cuprum area was presented to the Board list of approximately 40 additional individuals with concerns. No one spoke in favor of either expansion. Most individual spoke specifically in opposition to the Hells Canyon Expansion and concerns were limited in the Lost Valley area.

Respondents showed concern that this area was accessible to the public, was somewhat unique in the opportunities it provides and that outfitted services were not needed and in some instances could impair the public's enjoyment of the area.

In addition, the IDFG representative voiced concern with regard to the Deer/Elk Management Objectives in Unit 22 not being met and shared the same concerns as mentioned above. They expressed concern with the impact to the public at large should this expansion be allowed.

Mr. Vander Esch also presented some information with regard to the private land that he had previously been licensed for. He stated that the Galli Ranch should not have been removed from his license when the private land lease was issued to Bigfoot Outfitters and not him last year. Mr. Vander Esch said that when an outfitter loses a lease for a while he did not feel a major amendment was necessary every time an outfitter renewed the private land lease on his license. Director Howard pointed out that not only did Mr. Vander Esch loose the lease but also it was issued and licensed to another individual. Chairman Hunsucker informed Mr. Vander Esch that the Board policy is that a current lease or land manger statement must be maintained in order for outfitters to retain a license on private lands. He said the Board's policy is to recover costs associated with an outfitter's actions. Director Howard clarified out that the only time a major amendment fee was necessary was when an area required an assessment in order to be used, which was almost always the first time when a License is initially considered. From that point on it would require a minor amendment if it were lost for a period of time and then re-added to the license.

**MSC (MOTION BY JUDGE, SECOND BY LYON – UNANIMOUS) TO GRANT THE LOST VALLEYAREA AND TO DENY THE BEAR/CUPERUM AREA.**

***Recessed for lunch @ 12:22 PM and reconvened at 1:35 PM with Chairman Wayne Hunsucker, Vice Chairman Scott Farr, and members Bill Bernt, Will Judge and Ray Lyon present. Also present were Executive Director Jake Howard, Board Counsel Steve Scanlin, Enforcement Chief BJ Snooks, and Secretary Kim Wallett.***

**STEVE TOBIASON – SHOW CAUSE HEARING – BRIAN SIMI:** The other persons present are listed on the attached sheet. Previous clients from Wisconsin also testified via telephone with regard to the hunt that they had attended with Mr. Simi in November of 2004. The clients from Wisconsin testified that there were numerous confrontations with regard to firewood, lantern fuel, and other items available and not available for the hunt. They also testified that they were told that the hunt would be a full seven days of hunting and they were led to believe that Mr. Simi would stay for two or three extra days in order to fill their tags. It was also indicated that Mr. Simi did not like them going too far from camp for hunting in order to have ample time for packing game out. Also appearing via telephone was Jacob Versailles, a guide for Brian Simi. Mr. Versailles indicated that he completed a guide school in June of 2004 and was hired by Mr. Simi that fall. He also indicated that Mr. Larry Losch also attended the guide school with him and was hired as a packer by Mr. Simi at the same time. Mr. Versailles indicated that he had been instructed by Mr. Simi to “sand-bag” the clients and that he did not feel that it was professional. He stated that there were confrontations between him and Mr. Simi concerning Mr. Simi’s alleged treatment of the clients and conditions in camp. He indicated that he eventually received the monies owed to him. He also stated that he does not intend to guide any longer due to his experience with this hunting trip.

Mr. Simi called witnesses to testify before the Board with regard to his character. Mr. Robert Gillihan indicated that he has known Mr. Simi for many years and has worked as a camp cook for during several hunts. He stated that he had not seen Mr. Simi lose his temper or composure with clients. Mr. Johny Whisenhunt indicated that he observed Mr. Simi consuming no more than two alcoholic drinks per night, after 6:30 pm and after all camp duties had been completed for the day. Ethan Crossley (14 years old) worked as a camp helper, for no compensation, for Mr. Simi for the duration of the 2004 season. He stated that he never witnessed any hostility from Mr. Simi and that he did learn a lot from Mr. Simi during his time in camp. He also indicated that all other clients for that season stated that they had an enjoyable hunt and that only the clients on the last hunt (from Wisconsin) expressed dissatisfaction.

Mr. Simi expressed that this is his livelihood and there may be times when you cannot please every client. He did not feel that the accusations were accurate and that a phone call from the clients could have resolved the matter. He stated that he had completed the tasks that the Board requested previously. Mr. Simi indicated that he felt the clients from Wisconsin were always unhappy, unreasonable, and over-reacted to things that were said while in camp.

**MSC (MOTION BY FARR, SECOND BY JUDGE – UNANIMOUS) THERE BE NO ADDITIONAL ACTION TAKEN AGAINST BRIAN SIMI’S LICENSE.**

**MSC (MOTION BY FARR, SECOND BY BERNT - UNANIMOUS) DUE TO DETAILS THAT WERE ADDRESSED IN THE HEARING, A LETTER OF CLARIFICATION BE PREPARED TO BRIAN SIMI EXPLAINING THAT HE HAS BEEN WORKING WITH AN APPARENT THIRD PARTY AGREEMENT AND THERE HAVE BEEN SOME QUESTIONS REGARDING HIS EMPLOYMENT ACTIONS.**

**Executive Session:** In accordance with the provisions of Sec. 67-2345, Idaho Code, **MSC (MOTION BY, SECOND BY – HUNSUCKER, FARR, JUDGE, LYON, BERNT, - YEA) TO MOVE THE BOARD INTO EXECUTIVE SESSION AT 7:00 PM TO DISCUSS LITIGATION**

MATTERS. MSC (MOTION BY, SECOND BY – HUNSUCKER, FARR, JUDGE, LYON, BERNT - YEA) AT 7:50 PM TO COME OUT OF EXECUTIVE SESSION WITH NO DECISIONS MADE.

*Meeting recessed at 7:58 PM and reconvened at 8:35 AM, Wednesday, February 23, 2005, with Vice Chairman Scott Farr, and members Bill Bernt, Will Judge and Ray Lyon present. Chairman Wayne Hunsucker was not present for the second day of the meeting. Also present were Executive Director Jake Howard, Board Counsel Steve Scanlin, Technical Records Specialist Leanne Reincke, and Secretary Kim Wallelt.*

**STEVE TOBIASON – SHOW CAUSE HEARING – RUSTY BENTZ, RICHARD EGGLESTON, & PATRICK KELLEY:** Present for this Hearing was Mr. Frank Stopello, attorney for Mr. Bentz, Mr. Eggleston, and Mr. Kelley. Mr. Tobiason gave a brief explanation of what had transpired to bring this matter before the Board. Mr. Tobiason presented a Motion to Dismiss with regard to Mr. Eggleston. Mr. Tobiason also presented information with regard to Mr. Kelley and explained that he was not in fact licensed at the time. He told the Board that a stipulation was made to revoke Mr. Kelley's license for the remainder of the 2004/2005-license year and upon application for 2005/2006, his license will be issued on a probationary status. Mr. Tobiason lastly presented an Amended Administrative Complaint and the stipulation that was prepared for Mr. Bentz. This stipulation outlined that no further action would be taken against Mr. Bentz; \$4,000 in fines would be paid, \$1,000 at the time of the hearing, \$3,000 in 60 days; Mr. Bentz would be placed on probation for a period of 2 years; all equipment leases will be in writing and the owners of said equipment will be hired as guides and will be separate from those leases.

MSC (MOTION BY JUDGE, SECOND BY LYON – UNANIMOUS) TO ACCEPT THE MOTION TO DISMISS AND THE STIPULATIONS AS PRESENTED BY MR. TOBIASON.

**Discussion of Third Party Agreements – Director Howard:** Director Howard discussed with the Board the complications that have arisen due to apparent third party agreements. He also stated that he was planning to present this matter at the April Board meeting and still intends to do so in more depth.

**Discussion of changes to IDFG Big Game Regulations – Leanne Reincke:** Ms. Reincke presented the proposed changes to the IDFG Regulations with regard to allocated tags in capped zones and controlled hunts. The Board asked Director Howard to contact the outfitters being affected in the IDFG Commission changes and notify them of the potential loss of allocated tags. The Board also asked that Director Howard discuss with IOGA the possibility of requesting that IDFG allow the outfitters in Units 75, 77, and 78 to take booked clients on the hunt for this year only as the hunt will be cancelled effective this year.

**APPOINTMENT – LAURA LEA BAGLEY, JIM GELLIEN:** Also present for this discussion was Teresa Saucedo, IOGLB Office Specialist II. Director Howard explained to the Board that Ms. Bagley had submitted an outfitter amendment requesting a DBA change for the outfitter business. The name change appeared to name a guide as the outfitter. Ms. Bagley stated that she wished to make this name change in order to involve her children in the business.

MSC (MOTION BY LYON, SECOND BY JUDGE – UNANIMOUS) TO ACCEPT THE DBA CHANGE AS PROPOSED BY LAURA LEA BAGLEY.

**Executive Session:** In accordance with the provisions of Sec. 67-2345, Idaho Code, MSC (MOTION BY LYON, SECOND BY JUDGE – FARR, JUDGE, LYON, BERNT, - YEA) TO MOVE THE BOARD INTO EXECUTIVE SESSION AT 11:52 AM TO CONSULT WITH LEGAL COUNSEL. MSC (MOTION BY LYON, SECOND BY BERNT – FARR, JUDGE, LYON, BERNT - YEA) AT 12:01 PM TO COME OUT OF EXECUTIVE SESSION WITH NO DECISIONS MADE.

*Recessed for lunch @ 12:02 PM and reconvened at 1:35 PM with Vice Chairman Scott Farr, and members Bill Bernt, Will Judge and Ray Lyon present. Also present were Executive Director Jake Howard, Board Counsel Steve Scanlin, and Secretary Kim Wallett.*

**Budget Review – Director Howard:** Director Howard presented and reviewed the budget for fiscal year 2005. The Board informed Director Howard that they would like Enforcement to be able to spend their entire budget each year. The Director said that was his desire and intent, the problem being is that most of the costs in the Office and Board budgets were fixed or directed costs of keeping licensing moving and to administer the agency. He said that historical cost like seasonal staff and other licensing costs have been reduced, but other costs such as personnel benefits, like absorbing \$3500 cost this year and \$3000 annual to replace the internet router enabling the agency to be linking with the controllers office and other that had been provide for free are anticipated funding costs. He said that because the Board is generating less review than it has spending authority for cuts have to be made somewhere and the enforcement budget appears to him to be the only area where there is much flexibility. See said that when work with the Board in April to set the 2006-operating budget. He said that Enforcement is effectively handling many more cases each year than ever before. 131 in 2001 the year prior to Mr. Snooks, versus in 262 in 2004. He said that enforcement generated \$35,000 in revenue in FY 2004 versus maybe \$2500 preceding Mr. Snooks.

MSC (MOTION BY LYON, SECONDED BY BERNT – UNANIMOUS) TO APPROVE THE FINANCIAL STATEMENT AS PRESENTED.

MSC (MOTION BY JUDGE, SECONDED BY LYON – UNANIMOUS) TO CONTACT THE SECRETARY OF STATE WITH REGARD TO INCREASING ALLOWABLE EXPENSE REIMBURSEMENT AMOUNTS FOR ENFORCMENT PERSONNEL SO THAT THEY BE THE SAME STANDARD WITH IDFG.

MSC (MOTION BY LYON, SECOND BY JUDGE – UNANIMOUS) TO DIRECT THE DIRECTOR TO RESEARCH INCREASING SALARIES FOR ENFORCEMENT STAFF.

Director Howard indicated to the Board that the Senate Resources and Environmental Committee requested that the Probationary Report the Board Minutes be sent to them following Board meetings. The Board so directed Mr. Howard and staff to do so.

**Probationary License Review – BJ Snooks, Enforcement Chief:** Mr. Snooks presented the probationary license report for Board review. The Board indicated that they would like to see the date that probationary licenses expire put on the report.

MSC (MOTION BY LYON, SECOND BY JUDGE – UNANIMOUS) TO APPROVE CONSENT AGENDA.

**Board Counsel Report – Steve Scanlin:** Board Counsel Steve Scanlin reported that with regard to the Monumental Outfitters matter, the past due accounts have been resolved but monies from the purchasing outfitter. He also presented to the Board an opinion pertaining to when photography trips become outfitted or guided.

**Allocation Hardship Review – Leanne Reincke, Technical Records Specialist:** Leanne presented letters received requesting hardship consideration in the recalculation of capped zone allocation. The Board established criteria to determine when hardship will be granted. They also stated that they wanted to review all requests.

MSC (MOTION BY JUDGE, SECONDED BY LYON - UNANIMOUS) THAT THE BOARD ADOPT THE FOLLOWING CRITERIA FOR HARDSHIP CASES RELATED TO ALLOCATED TAGS: #1-ACTS OF NATURE BEYOND THE OUTFITTERS CONTROL, EXCLUDING PREDATION; #2 PROVEN SERIOUS PERSONAL HEALTH ISSUES OF BUSINESS OWNERS; #3 ADDITIONAL CIRCUMSTANCES MAY BE CONSIDERED AT THE DISCRETION OF THE BOARD ON A CASE-BY-CASE BASIS.

MSC (MOTION BY BERNT, SECONDED BY LYON – UNANIMOUS) TO DENY THE REQUEST OF JASON CLINKENBEARD FOR ALLOCATION HARDSHIP BASED ON THE BOARD ESTABLISHED CRITERIA.

MSC (MOTION BY LYON, SECONDED BY BERNT – UNANIMOUS) TO DENY THE REQUEST OF TIM CRAIG FOR ALLOCATION HARDSHIP BASED ON THE BOARD ESTABLISHED CRITERIA.

**Discussion of Rules Change Consideration for One-Time Overlaps:**

*Meeting recessed at 5:23 PM and reconvened at 8:35 AM, Thursday, February 24, 2005, with Vice Chairman Scott Farr, and members Bill Bernt, Will Judge, and Ray Lyon present. Chairman Hunsucker was not in attendance for the final day of the meeting. Also present were Executive Director Jake Howard, Board Counsel Steve Scanlin, and Secretary Kim Wallett.*

**PROSPECTUS – UNIT 45 – REVIEW OF APPLICATIONS:** Also present were Dave Parrish, IDFG and John Kurtz, BLM. The Board reviewed the applications submitted for this opportunity. Mr. Parrish stated that the primary F&G representative working on this matter is Randy Smith and that Mr. Smith has indicated that there has been only one viable applicant at this time. The Board stated that agreements would be required in writing between the outfitter and the rancher.

The Board directed Mr. Howard to meet with John Kurtz, Dave Parrish or Randy Smith, the applicants and the respective landowner to obtain clarification on the intentions of the applicants with regard to public access. The Board also expressed that One-time Amendments will not be accepted at this time and until the agreement within Area #2 is completed. Upon negotiations, Area #1 may be revisited and possibly revised.

MSC (MOTION BY LYON, SECONDED BY JUDGE – UNANIMOUS) TO PRELIMINARILY ACCEPT GEORGE PETER AS THE SUCCESSFUL APPLICANT IN AREA #2 IN UNIT 45 PROVIDED THE CRITERIA CAN BE MET THROUGH NEGOTIATIONS; AND TO REVIEW AND ASSESS HOW THE AREA WILL MEET THE STANDARDS OF THE PROSPECTUS.

**PROSPECTUS – BUFFALO RIDGE – REVIEW OF APPLICATIONS:** Present for this discussion Tom Montoya & Russ Camper, USFS. Mr. Camper presented a brief overview of the area available with this prospectus and it's relation to surrounding outfitters. The Board reviewed the applications and selected three applications to be reviewed during the April Board meeting in Challis. The Board directed Mr. Howard to schedule these three individuals to be interviewed and to notify the other applicants that their applications would receive no additional consideration.

*Recessed for lunch @ 11:45 AM and reconvened at 1:00 PM with Vice Chairman Scott Farr, and members Bill Bernt, Will Judge and Ray Lyon present. Also present were Executive Director Jake Howard, Board Counsel Steve Scanlin, Technical Records Specialist Leanne Reincke, and Secretary Kim Wallett.*

**PROSPECTUS – BUFFALO RIDGE – REVIEW OF APPLICATIONS – Cont.:**

**Executive Session:** In accordance with the provisions of Sec. 67-2345, Idaho Code, MSC (MOTION BY FARR, SECOND BY LYON – HUNSUCKER, FARR, JUDGE, LYON, BERNT, - YEA) TO MOVE THE BOARD INTO EXECUTIVE SESSION AT 2:02 PM TO DISCUSS APPLICATIONS. MSC (MOTION BY BERNT, SECOND BY LYON – HUNSUCKER, FARR, JUDGE, LYON, BERNT - YEA) AT 4:18 PM TO COME OUT OF EXECUTIVE SESSION WITH NO DECISIONS MADE.

*With no further business to come before the Board, the meeting was adjourned at 4:14 PM, February 24, 2005.*

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WAYNE HUNSUCKER, CHAIRMAN

ATTEST:

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JAKE HOWARD, EXECUTIVE DIRECTOR