

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

FINAL MINUTES

June 26 - 28, 2007

**(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 8:45 A.M. JUNE 26, 2007, IN THE BOARD ROOM, 1365 NORTH ORCHARD, ROOM 172, BOISE, IDAHO. MEMBERS WILL JUDGE (CHAIRMAN), SCOTT FARR (VICE CHAIRMAN), WAYNE HUNSUCKER AND MARCUS GIBBS WERE IN ATTENDANCE. ALSO PRESENT WERE EXECUTIVE DIRECTOR JAKE HOWARD AND BOARD SECRETARY LORI THOMASON, TOM LONG BOARD MEMBER WAS NOT PRESENT.

Prospectus Interviews for Vacated Area in Unit 20A - Prospectus interviews were conducted by the Board for applicants for the area administered by the Salmon Challis National Forest formerly held by Stan Potts in IDFG unit 20A and later vacated by Horse Mountain Outfitters as the result of their license being revoked. At their April meeting, the Board narrowed down the list of applicants to the following four outfitters who were then scheduled to be interviewed during this meeting: Dave Melton, Big Horn Outfitters; George Peter, High Country Outfitters; Travis Bullock, Mile High Outfitters and Roger Ball, Salmon River Lodge. Each outfitter was given 30 minutes to explain how they would operate in this area and how it would benefit their business. The Board recognized that allocated Middle Fork A and B tags for the aforementioned area that were formerly associated with Potts and HMO's businesses had been reduced to 4 A and 8 B Middle Fork tags during the last recalculation. The Board recognized that these tags remain uncommitted and are now in the surplus pool waiting to be committed to the successful applicant.

Chairman Judge recessed the meeting for lunch break at 12:05 p.m. and reconvened at 1:30 p.m. with all Board members present except Tom Long.

Territorial Conflict Hearing Follow up - Salmon River Lodge and Horse Creek Outfitters - Director Howard summarized direction given by the Board at their April meeting where both outfitters were asked to make every attempt to come to an agreement regarding an area land exchange that could be approved by the Board. He stated that the Board had directed if they are not able to come to an agreement by the June meeting, the Board will make a decision resolving the matter. In this regard, the Director presented proposal letters that Salmon River Lodge and Horse Creek Outfitters had submitted.

MSC (MOTION, GIBBS; SECOND, FARR – NAYES - JUDGE) THAT THE PROPOSAL FROM HORSE CREEK OUTFITTERS ON THE TERRITORIAL DISPUTE BETWEEN SALMON RIVER LODGE BE ACCEPTED BY THE BOARD.

MSC (MOTION, GIBBS; SECOND, HUNSUCKER – AYES JUDGE, FARR; NAYES –NONE) THAT THE BOARD LOOK AT USAGE BY OUTFITTERS WITH LARGE LAND BASED OPERATING AREAS AND WHERE MORE ADEQUATE INFORMATION IS NEEDED, THE BOARD SUBDIVIDED THE AREA INTO SMALLER FUNCTIONAL AREAS AND ASSIGNED ADDITIONAL OPERATING AREA NUMBERS TO GET MEANINGFUL DATA ON THE USE REPORTS RELATIVE TO THE LAND RESOURCES USED BY THE OUTFITTER.

The Director explained that the Board had asked him at their April meeting to clarify Salmon River Lodge's operating area to two or three functional operating areas where outfitter use can be more accurately reported to the Board annually and to prepare a recommendation. He said at that meeting the Board discussed that Salmon River Lodge's operating area description encompasses too large of an area for good use reporting. He said that he hopes to have a recommendation on or before the August meeting.

Third Party Agreements, Employment and Booking Agents – At their April meeting, the Board discussed the rules under consideration pertaining to third party agreements, booking agents and the employment relationship between outfitters, their designated agents and guides and decided to focus on these rules at this meeting. The Board had indicated earlier that clarification is needed and discussed how that clarification might come about. They felt that it would be desirable to do so without modifying existing statutes or rule if possible. Prosecuting Attorney, Steve Tobiason and Director Howard said that they had reviewed existing statutes and rules and felt that the general intent was clear but that they were not being administered properly. He said that there had been confusion with the past interpretations and cited a letter from a former Enforcement Chief as an example and then explained the differences with that letter verses what should be done. He said that he cannot find where the Board had been consulted on the interpretation before the letter was sent and that they should have been. He said he believed that this letter and letters like it are partly the source of growing confusion within the industry. Mr. Tobiason explained that the Board may interpret an existing statute or rule and provide guidance to the industry on how existing statutes or rules will be administered and enforced. He further explained that providing guidance does not give the Board the ability to enforce a violation that is outside of an existing statute or rule. In other words, the guidance cannot in itself become a rule. Mr. Tobiason suggested that a letter of guidance be sent out to outfitters on the matters at hand. Director Howard was asked to write a draft guidance letter to the industry about this matter and to have it ready on or before the August Board meeting. Director Howard provided the Board a summary outline of what would be provided in the letter and said that Mr. Tobiason needed to verify several matters with the State Tax Commission. He said that he thought

he could have the letter done by the end of August or sooner and that he probably would provide it to the Board via email.

Cost Recovery – Mr. Tobiason explained that cost recovery is often accrued during enforcement action for investigative time, hearing officer time, staff time and other operational costs. He said that in 2006 the Idaho Supreme Court issued a decision that requires the Board's policy to have some minor clarification. Mr. Tobiason presented a draft outline of the changes that needed to be made. The Board directed Mr. Howard to work with Mr. Tobiason to implement the changes.

Electronic Records – Mr. Tobiason gave an explanation of a policy that needs to be set on handling electronic records. He stated that the state of California has a policy set for Electronic Communications and the Board might want to examine their policy and modify it.

MSC (MOTION, GIBBS; SECOND, HUNSUCKER – AYES JUDGE, FARR, ; NAYES – NONE) TO START THE PROCESS TO ESTABLISH A POLICY FOR HANDLING OF ELECTRONIC COMMUNICATIONS AND THE BOARD SET UP A REVIEW OF THE CALIFORNIA POLICY AND REVIEW IT AT THE AUGUST BOARD MEETING.

Prosecuting Attorney Fees – Mr. Tobiason explained increased staff and operating cost with his firm and requested an increase in fees.

MSC (MOTION, HUNSUCKER; SECOND, GIBBS – AYES JUDGE, FARR, ; NAYES -- NONE) AT 3:30 P.M. THAT THE BOARD ADJOURN TO EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF SEC. 67-2345, IDAHO CODE. CONTRACTUAL MATTERS WERE DISCUSSED. MSC (MOTION, HUNSUCKER; SECOND, GIBBS, AYES JUDGE, FARR; NAYES - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED AT 4:30 P.M. WITH NO DECISION MADE.

MSC (MOTION, HUNSUCKER; SECOND, FARR – AYES JUDGE, GIBBS; NAYES – NONE) MOTION TO INCREASE HOURLY RATE FOR PROSECUTING ATTORNEY'S HOURLY RATE TO \$125.00 DOLLARS AN HOUR. EFFECTIVE JULY 1, 2007.

Chairman Judge recessed the Board Meeting for the day at 5:00 to reconvene tomorrow, Wednesday June 27, 2007, at 8:30 a.m.

Chairman Judge reconvened the meeting at 8:30 a.m. on Wednesday June 27, 2007, with the following present: Board Members Will Judge, Scott Farr, Wayne Hunsucker, Tom Long, Marc Gibbs, Director Howard, Enforcement Chief Bob Lund and Board Secretary Lori Thomason, April Heesacker USFS.

Hearing – Territorial Conflict: Flying Resort Ranches, Inc. and Middle Fork Outfitters - The following parties were sworn in by Chairman Judge: Ron Ens representing Middle Fork Outfitters, Mike Rust and Mike Boren representing Flying Resort Ranches Inc. Chairman Judge explained how the hearing would proceed according to IDAPA Rule 026 - Operating Area Adjustments. Vice Chairman Farr asked if the two of them had tried to come to any agreement but they said that they had been unsuccessful. A discussion then ensued where the two came to an agreement. A new boundary was set and is as follows. A new boundary will be *from southerly on trail 043 to the watershed divide between the North Fork of Aparejo Creek and the South Fork of Aparejo creek to their confluence. Then down Aparejo Creek to the Middle Fork Salmon River then up stream along the Middle Fork Salmon River* as previously described on the existing area description. The entire Aparejo Creek drainage will be included in the Middle Fork Outfitters license area for Wolf (when available for licensing), Mountain Lion and Bear hunting only.

MSC (MOTION, FARR; SECOND, LONG – AYES JUDGE, GIBBS; NAYES – NONE) TO ACCEPT THE COMPROMISE BETWEEN MIDDLE FORK OUTFITTERS AND FLYING RESORT RANCHES INC.

MSC (MOTION, GIBBS; SECOND, HUNSUCKER – AYES JUDGE, LONG, FARR; NAYES -- NONE) TO APPROVE CONSENT AGENDA

Enforcement Report - Chief Lund explained the process of his probationary licenses and how he investigates the citations. With felonies a background check is being run to investigate the extent of the violation. Chief Lund informed the Board that there had been three new enforcement officers hired. He explained their law enforcement background and how they will operate. He is increasing enforcement efforts and hours.

MSC (MOTION, LONG; SECOND, GIBBS – AYES FARR, JUDGE, HUNSUCKER; NAYES – NONE) TO ACCEPT PROBATIONARY REPORT

MSC (MOTION, FARR; SECOND, HUNSUCKER – AYES JUDGE, LONG, GIBBS; NAYES – NONE) TO APPROVE FINANCIAL REPORT

IDFG MOU – The Board reviewed a draft of a MOU that Director Howard and Board Member Gibbs presented following a meeting with IDFG Director Cal Groen. The Board agreed that the MOU document was to a point where it was acceptable though bearing in mind that the document recognized a dynamic process that could be modified and amended over time. They also discussed holding a joint meeting with the FG Commission in the near future where this document could be recognized and related matters discussed. The Director said that he would discuss this with the IDFG Director and would schedule a meeting accordingly.

MSC (MOTION, GIBBS; SECOND, HUNSUCKER– AYES JUDGE, LONG, FARR; NAYES -- NONE) TO ADOPT THE DRAFT OF THE MOU PRESENTED THAT HAS BEEN PREPARED BETWEEN THE IOGLB AND IDFG AND TO

RETURN IT TO DIRECTOR OF IDFG FOR IDFG'S APPROVAL AND FINALIZATION.

Hells Canyon Power Boat Outfitter Permits & Land Based Overlap Issues -

Discussion took place about ongoing permitting and licensing issues involving several outfitters in Hells Canyon. Director Howard provided minutes from prior Board meetings and letters to and from Don Vogel, Vogel Outdoor Adventures and from Jody Luther, Snake River Adventures. He explained that it appears these outfitters have done little to clarify state and federal permits with their licenses as requested by the Board several years ago and what had been provided to the Board did not properly respond to the Board's request or was not sufficient to bring the permit and licenses in sync as directed by the Board. Ms. Luther provided a letter from Mary DeAguiro, Hells Canyon National Recreation Area District Ranger stating that they have staffing resource issues that have prevented them from processing Snake River Adventures permit application. Ms. Luther indicated that they would like additional time to get the permit with the USFS resolved. The Board said allowing Snake River Adventures additional time was acceptable considering the response from the USFS. Director Howard said that this matter was continuing to take his time to repeatedly track these outfitters' progress and that after several years there was little to show for it. He recommended that the Board consider modifying the Snake River Adventures license to recognize where they are currently permitted and with a note on their area description recognizing the historical perspective must be included and that they would be able to amend their license providing historical federal permits can be documented to support earlier licensure. The Board directed Director Howard to send a letter to Snake River Adventures explaining this concept and what would be expected. The Director also provided a draft response to Mr. Vogel explaining that from the information Mr. Vogel had provided it appeared that Vogel Outdoor Adventures had not been permitted for most of the areas they had been licensed. The Director said that considering that Mr. Jon Barker had expressed concern with potential overlaps at the April meeting, and particularly with the recent issuance of a sheep permit, to Vogel Outdoor Adventures in an area that overlapped him, this matter should be addressed by the Board as soon as possible. He said that he would schedule this matter for the August Board meeting probably as a territorial conflict hearing.

Survey - Director Howard talked about the time limit on the industry survey that Board member Hunsucker had prepared said that he would like to rework it so it took no more than 10 minutes to take. Director Howard and Board member Hunsucker will work together to adjust the survey. He said that the survey would be administered to different elements of the industry over the next year during different segments of time. For an example, the hunting outfitters in late winter or the early spring after the hunting season.

Chairman Judge recessed the meeting for lunch break at 12:00 p.m. and reconvened at 1:15 p.m. with all Board members present

August Board Meeting - The July/August Board Meeting is scheduled for July 30 through August 3rd. The Board will be in Cody, Wyoming on August 2nd.

Prospectus Interviews for Vacated Area in Unit 20A – Continued

MSC (MOTION, HUNSUCKER; SECOND, LONG– AYES JUDGE, FARR, GIBBS; NAYES -- NONE) AT 1:20 P.M. THAT THE BOARD ADJOURN TO EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF SEC. 67-2345, IDAHO CODE. TO DISCUSS PROSPECTUS INTERVIEWS. MSC (MOTION, HUNSUCKER; SECOND, GIBBS, AYES JUDGE, FARR, GIBBS; NAYES - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED APPROXIMATELY 2:30 A.M. WITH NO DECISION MADE.

MSC (MOTION, HUNSUCKER; SECOND, LONG – UNANIMOUS) TO AWARD THE VACATED AREA IN UNIT 20A TO GEORGE PETER, HIGH COUNTRY OUTFITTERS

The Board directed that Papoose Lake needs to be clear on High Country Outfitter's License and Mile High outfitters who will share the area. The Board also assigned the 4 A and 8 B Middle Fork Tags to High Country Outfitter's License.

Outfitter Invitation: Middle Fork Outfitters – Third Party Agreement - Director Howard introduced this matter by stating that the Board had asked him to invite Mark Troy, Idaho Adventures; Dave Mills, Rocky Mountain River Tours; Fran Tonsmier, Wilderness River Outfitters & Trail Expeditions appear before the Board to discuss matters of the Board's concern with respect to third party agreements, booking agents and the employment relationship between outfitters, their designated agents and guides. Director Howard said that he had received a letter from Dave Mills, indicating that he could not attend due to other commitments. He said that he had a call from Fran Tonsmier and had learned that Fran's husband, Joe, had recently passed away preventing her from attending. Mark Troy was in attendance. Director Howard reminded everyone that this invitation was being done for the Board to get information and it was not investigative or disciplinary in nature though the Board was free to provide guidance. Chairman Farr explained that several Board members became aware of Mr. Troy's booking activities on the Middle Fork of the Salmon River where he is not licensed as an outfitter and were concerned with what he was doing. The Board explained that they were being confronted with a growing number of guides acting as booking agents who appear to have booked and guided clients under some third part arrangements with an outfitter. They mentioned that they had discussions about these concerns several times in a recent meeting. Mr. Troy explained how he was advertising excursions on the Middle Fork of the Salmon River while only being licensed as a guide for that river. The Board explained to Mr. Troy that he can guide on the Middle Fork only as employee for another outfitter. They explained that a guide cannot be contractors and that the differences in state employment requirements and contracting requirements are distinctive. In addition, they explained that as a guide advertising independently of the outfitter, then booking trips, taking the money, guiding the clients and using his own equipment as a guide is a third party agreement with the outfitter that they provide this service for . To clarify, they explained that the responsible outfitter is the first (1st) party, the individual acting as the

guide is second (2nd) party and an individual conducting business as a booking agents or who is advertising becomes the third (3rd) party. Outfitters and guides in a third party relationship are illegal. Guides can only advertise for outfitters using the outfitters name and cannot advertise themselves and all bookings (money) must be handled by the outfitter. Guides who have a booking agent business are free to do so as long as they don't expect to also guide the clients. The Board explained that they anticipated providing guidance to the industry in the near future. Director Howard met with Mr. Troy separately to provided additional clarification and direction.

MSC (MOTION, HUNSUCKER; SECOND, LONG– AYES JUDGE, FARR, GIBBS; NAYES -- NONE) AT 1:20 P.M. THAT THE BOARD ADJOURN TO EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF SEC. 67-2345, IDAHO CODE TO DISCUSS LITIGATION ISSUES. MSC (MOTION, HUNSUCKER; SECOND, GIBBS, AYES JUDGE, FARR, GIBBS; NAYES - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED APPROXIMATELY 2:30 A.M. WITH NO DECISION MADE.

MSC (MOTION, FARR; SECOND, HUNSUCKER – UNANIMOUS) A MOTION THAT A MORATORIUM BE PLACED ON SA 4 A AND B UNTIL THE BOARD HAS THE OPPORTUNITY TO REVIEW THE SITUATION AND ADDRESS ISSUES, THOSE ISSUES TO BE PLACED ON THE AUGUST AGENDA.

Board Elections - The Board discussed elections for Chairman and Vice Chairman. In April, Wayne Hunsucker had been elected as Treasurer.

MSC (MOTION, LONG; SECOND, GIBBS – AYES JUDGE, FARR, HUNSUCKER; NAYES -- NONE) TOM LONG NOMINATED SCOTT FARR AS CHAIRMAN. AND WILL JUDGE AS VICE CHAIRMAN

Chairman Farr recessed the Board Meeting for the day at 4:30 to reconvene tomorrow, Thursday June 28, 2007, at 8:30 a.m.

Chairman Farr reconvened the meeting at 8:30 a.m. on Thursday June 28, 2007, with the following present: Board Members Will Judge, Scott Farr, Wayne Hunsucker, Tom Long and Marc Gibbs, Director Howard, Enforcement Chief Bob Lund and Board Secretary Lori Thomason, BJ Snooks, Bob Lund, Barry McHugh, Sandy Podsaid, James Michaud, Hearing Administrator, Steve Scanlin, Prosecuting Attorney Steve Tobiason and Bill Sever by phone.

Re-hearing, Sandy Podsaid - The following parties were sworn in by Hearing Officer Scanlin: former Enforcement Chief, BJ Snooks; Enforcement Chief, Bob Lund; Sandy Podsaid; James Michaud and Bill Sever were sworn in by teleconference. Mr. Podsaid was represented by Counsel, Barry McHugh. The Board was represented by Board Prosecutor Steve Tobiason.

Chairman Judge recessed the meeting for lunch break at 12:00 p.m. and reconvened at 1:00 p.m. with all Board members present with the exception of Wayne Hunsucker.

MSC (MOTION, GIBBS; SECOND, FARR-- AYES JUDGE, HUNSUCKER, GIBBS; NAYES -- NONE) AT 4:15 P.M. THAT THE BOARD ADJOURN TO EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF SEC. 67-2345, IDAHO CODE. ROLL CALL WAS TAKEN ALL PRESENT WITH EXCEPTION OF WAYNE HUNSUCKER WHO HAD BEEN EXCUSED. FOR DELIBERATION, THE BOARD REVIEWED DOCUMENTS AND RECORDS WHICH WERE EXEMPT FROM PUBLIC DISCLOSURE AND DISCUSSED LEGAL ISSUES WITH THE BOARD'S LEGAL COUNSEL. (MOTION, JUDGE; SECOND, LONG, AYES, FARR, GIBBS; NAYES - NONE) THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED APPROXIMATELY 4:55 P.M. WITH NO DECISIONS MADE.

MSC (MOTION, GIBBS; SECOND, LONG-- AYES JUDGE, FARR; NAYES -- NONE) BASED ON THE ABOVE FINDINGS OF FACT AND CONCLUSIONS OF THE LAW, THE BOARD HEREBY ORDERS THAT THE RESPONDENT, SANDY PODSAID BE FOUND TO HAVE COMMITTED THE VIOLATIONS IN COUNT I OF THE COMPLAINT, AND FURTHERMORE THAT FOR THE VIOLATIONS FOUND IN COUNT I:

- 1. THE RESPONDENT BE ASSESSED AN AMOUNT UP TO AND INCLUDING \$3,000.00 FOR RECOVERY OF COSTS OF BRINGING THIS ADMINISTRATIVE ACTION; THAT HE BE GIVEN CREDIT FOR THE AMOUNT ALREADY PAID TO THE BOARD IN THE AMOUNT OF \$3,000.00; THAT NO FURTHER COSTS BE ASSESSED; THAT AS DIRECTED BY FIRST JUDICIAL DISTRICT JUDGE FRED GIBLER, THE BOARD WILL PAY TO RESPONDENT HIS COSTS OF ATTENDING THE HEARING BUT NOT TO INCLUDE HIS ATTORNEY FEES; AND,**
- 2. THAT HIS WEBSITE CONTINUE TO BE SHUT DOWN UNTIL THE BOARD, THROUGH THE EXECUTIVE DIRECTOR, APPROVES OF ITS CONTENTS; AND,**
- 3. THAT PROBATION BE APPLIED TO ANY NEW GUIDE LICENSE, IF ISSUED, FOR A PERIOD OF THREE (3) YEARS FROM NOVEMBER 28, 2006 UNDER THE FORMER CONDITIONS OF PROBATION ON HIS MOST RECENT GUIDE LICENSE, SUBJECT TO ANY CHANGE BY APPROVAL OF THE BOARD.**
- 4. THE BOARD'S ADMINISTRATIVE COUNSEL AS HEARING ADMINISTRATOR WILL DRAFT AND SEND TO THE PARTIES A PROPOSED ORDER REFLECTING THE ASSESSMENT OF THE COSTS OF BRINGING THIS ACTION.**

MSC (MOTION, GIBBS; SECOND JUDGE -- AYES LONG, FARR; NAYES -- NONE) THAT SANDY PODSAID'S GUIDE LICENSE APPLICATION BE POSTPONED UNTIL AFTER THE NEXT PENDING DISCIPLINARY HEARING.

With no further business to come before the Board, Chairman Farr adjourned the meeting at 5:00 p.m., Thursday, June 26, 2007.

SCOTT FARR, CHAIRMAN

ATTEST:

JAKE HOWARD, DIRECTOR