

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

MIINUTES

August 20, 2008

**(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. AUGUST 20, 2008, IN THE BOARD ROOM, 1365 NORTH ORCHARD, ROOM 172, BOISE, IDAHO. MEMBERS (CHAIRMAN), WAYNE HUNSUCKER, TOM LONG, CHRIS KORELL AND ALEX IRBY WERE IN ATTENDANCE. ALSO PRESENT WERE EXECUTIVE DIRECTOR JAKE HOWARD, BOARD SECRETARY LORI THOMASON, AND ROGER HALES, BOARD ATTORNEY. WILL JUDGE WAS NOT PRESENT.

License Review - Rulon Jones Broad Mouth Canyon Ranch (BMCR) – Rulon & Kathy Jones, BMCR; Brian Oakey, Idaho State Department of Agriculture (IDA);, Doug Schleis, Wild Idaho News; Brad Compton, Idaho Department of Fish and Game (IDFG); and Grant Simonds, IOGA were present. Director Howard indicated that Broad Mouth Canyon Ranch's application was completed earlier in the year and that Mr. Jones had indicated on his designated agent application that there had been an earlier violation and it was for these reasons and IDFG's concerns that he had deferred the license applications to the Board for a decision.

Chairman Hunsucker explained that at this meeting the Board intended to review their decision in April to license BMCR as an outfitter as the result of accusations by Wild Idaho News and concerns expressed by the Idaho Department of Fish and Game. He explained that he felt the information presented at the April meeting was complete and that the Board had reviewed it in its entirety, but that the Board wanted to clear the record and give IDFG an additional opportunity to express their concerns. He said if the Board felt that they needed to revisit the earlier decision, and that doing so would likely require a formal hearing in order to give Mr. Jones time to prepare. He explained to Mr. Jones that some of the same questions were likely to be asked again due to the fact that new Board members had been appointed following the April meeting. Chairman Hunsucker asked that anyone present who had additional questions or information to present.

Chairman Hunsucker asked if there was scientific data available that high fence operations are an attractant to domestic elk. Mr. Oakey stated that he did not know of any data available but that was largely the charge of the IDFG. A question was raised about holes in the fence and elk escaping. Board Member Chris Korell asked how often the IDA checked the fence. Mr. Oakey stated that they check it once a year unless there is

a complaint to check it more often. Mr. Oakey went on to say that the IDA has stated that the owner/manager is required to maintain the fence so domestic elk don't escape. In case of a high snow pack the IDA recommendation would be moving the elk to a different enclosure to ensure they won't jump the fences. Mr. Oakey said if a violation is issued, then the IDA acts on the violation as a regulatory agency. Mr. Jones explained a situation where elk had escaped appeared to be due to snowmobiles frightening the animals and causing them to escape. There was a video taken of this happening.

An issue of disposing of carcasses was brought up. A consent agreement was presented that was obtained by staff through a public records request to IDA. It involved BMCR and IDA, and indicated that the matter was resolved and outlined how BMCR would dispose of dead animals in the future. Mr. Oakey responded to a question that BMCR now appeared to be in compliance.

The question was asked about a citation in Utah. Mr. Jones stated the citations issued by the State of Utah for the disposing of carcasses were wildlife violations, not felonies, and for these reasons he was not obligated to report either under the IOGLB rules and did so voluntarily after discussing the situation with Director Howard. He said the matter in Utah happened over ten years ago and explained if a landowner had more than 10,000 acres they could apply for moose tags. Mr. Jones (CWMU) had received two moose tags which he used. A third hunter who had his own tag contacted him asking him to take him hunting. He explained that the hunter could not use the tag for the weekend in which it needed to be used and it was going to expire before he could use it. The state of Utah allows hunters some flexibility when tags might be used, and as such, the hunter told him that he had contacted Utah Fish and Game and was given permission to use the tag the following week. The moose was shot on CWMU and had been tracked off the property. Another hunter saw that they were hunting after season, two days after the season had ended and off the CWMU. The hunter reported this to Utah Fish and Game. A Utah Fish and Game officer contacted Mr. Jones and they investigated this as a poaching incident. After the investigation was completed it was found to be a non violation by Utah Fish and Game. However, he had not posted his fences properly and he did not instruct the hunter properly to insure that the hunter complied with the 60 day hunting season. It was Mr. Jones's responsibility to inform the hunter that the season could not be extended even after contacting the Utah Fish and Game. IOGLB had obtained a copy of the court records and they indicated that Mr. Jones had pled guilty for failure to post boundaries and had paid a fine.

Brad Compton, Idaho Department of Fish and Game (IDFG) joined the meeting and apologized for being late and explained that that had been a mix up with the time of the meeting. Board attorney Hales asked about establishing a buffer zone around a high fence operation where no hunting would be allowed. Mr. Compton said IDFG had looked into prohibit hunting around a high fence operation. The question was asked how much of the land around Mr. Jones' property was public and Mr. Jones stated there was a significant amount. There was further discussion about scientific data available that high fence operations are an attractant to domestic elk. Mr. Compton indicted that there was and that information had been presented. There was discussion whether this was an issue

where the Board would have clear jurisdiction. The Board indicated restrictions of this sort should be imposed on the public at large and not just an outfitter and that those general restrictions should be addressed by the IDFG and the IDL.

In response to a question, Director Howard stated that the Idaho Department of Lands (IDL) had provided a preliminary Land Managers statement indicating they were moving forward in issuing BMCR a user permit. Lori Thomson stated that she contacted IDL and explained that they will send the final Land Manager Statement once the leases have been signed. They are waiting on signatures. The Board can expect the final within the next few weeks.

MSC (MOTION, IRBY; SECOND, LONG – AYES HUNCKER, KORELL NAYES -- NONE) AT 10:20 A.M. THAT THE BOARD ADJOURN TO EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF SEC. 67-2345, IDAHO CODE TO DISCUSS PENDING LITIGATION AND PERSONNEL MATTERS. MSC (MOTION, KORELL; SECOND, LONG, AYES, HUNSUCKER, IRBY; NAYES - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED AT 11:15 A.M. WITH NO DECISION MADE.

Zip Line Operations – Eric Faul, Zip Idaho; Randy Hall with Tamarack, Joe Steuard and Steve Gustafson Experience Base Line were present at the meeting to discuss Zip Line Courses being a licensable activity. Steve Gustafson stated that Zip lines are built with very stringent guide lines and standards as far as the lines he installs. The Board feels that if we are going to license this activity then there needs to be the same installations standards installed by all. The Board will take this under advisement. Steve Gustafson will supply the Executive Director with some additional information on the safety standards.

Allocation Report – Susan Knappek introduced Jim Thomas he has developed a database to deal with allocation. Susan gave a brief summary of the allocation is being billing/recap this year and she presented a new recalculation calendar. She explained that the Lolo zone had been recalculated and that comments were requested by October in order to allow time to addresses questions or appeals at the December Board meeting and to prepare for the start of distribution of vouchers starting in December.

MSC (MOTION, LONG; SECOND, IRBY– AYES, HUNSUCKER; NAYES -- NONE) ACCEPT RECALCULATION OF THE LOLO ZONE AND FOR STAFF TO NOTIFY APPLICBLE OUTFITTERS WITH THE OPPORTUNITY FOR THEIR INPUT IN TIME FOR DECEMBER MEETING.

Allocation Manual – Director explained the Board had accepted a draft allocation manual at their meeting in June and that he had been asked to provide the draft manual to the industry for comment, to notify them that comments will be considered and the document finalized and adopted at this meeting. He explained that the request for

comments had been complete and there were none. He said the staff had indicated there was a need to clarify that allocation billing/recap schedule.

MSC (MOTION, LONG; SECOND, IRBY– AYES, HUNSUCKER; NAYES -- NONE) ACCEPT THE ALLOCATION MANUAL WITH THE EXCEPTION TO GIVE THE DIRECTOR THE DISCRETION TO CLAIRIFY THE ALLOCATON BILLING/RECAP SCHEDULE.

Chairman Hunsucker recessed the meeting for lunch break at 12:30 a.m. and reconvened at 1:30 p.m. with all present.

SA4 - Salmon River Non Use – Revocation - The Director explained that a non-use review was conducted by the Board at the April meeting involving SA4A and SA4B. Direction was given to contact all outfitters who use records indicated non-use for the previous three years and ask them to respond following rule 25.01.01.024 with unresolved non-use issues to be addressed by the Board at this meeting. He explained that the formal letter had been sent to Silver Cloud Expeditions, Mike Richie, Twin Peaks and Salmon River Lodge. He explained that Silver Cloud Expeditions provided a written explanation and from it, he determined that three years had not taken place since the outfitter had purchased the business and they had adequate use during the time they held the license. He explained that other responses from Mike Richie and Twin Peaks did not fall within the non use rule and there were no request for a hearing. Twin Peaks had indicated they needed a license to conduct search and rescue activities and Mike Richie had called explaining that he intended to use the license in the future. The Director indicated there was not a response from Salmon River Lodge.

MSC (MOTION, LONG; SECOND, KORELL– AYES , HUNSUCKER; NAYES -- NONE) THE BOARD EXECUTE THE REVOCATION OF THE SA4 SECTION OF THE SALMON RIVER FOR NON USE ON RICHIE OUTFITTERS, SALMON RIVER LODGE AND TWIN PEAKS BASED ON THEIR NON-USE OF THAT RIVER SECTION.

Guide Training – The Director explained that at the June meeting Tom Long had brought to the Board’s attention an earlier effort to clarify the guide training requirement outlined in existing rules. He explained that an industry working group in 2007 had determined that it would be appropriate to modify guide training. He explained that guide training cannot be easily verified and staff handling the training forms requires a significant time commitment and the submission of the guide training forms appear to be a source of frustration for the industry. He said that Working Group discussion was that guide training be processed like first aid cards and have the outfitters sign an affidavit during licensing that a guide has met the state’s training requirements and the outfitters would then maintain guide training documentation and the IOGLB would not review individual guide training records before issuing a license and would no longer maintain them. IOGLB Education and Enforcement Agents would conduct spot checks with individual outfitters to ensure records are being maintained. Training records would be required when investigating any incident where a guide’s training came into question.

Mr. Long said that that the IOGA had invited comments from its members in a recent survey about this potential change and that there appeared to be considerable support.

The Director explained that it may be possible to promulgate these rules as temporary/proposed rule, and if so they would go into effect once approved by the governor's office, comments would be taken during the fall as the result of the State Administrative Rules office publishing the draft changes. The Board would conduct a hearing at their November meeting to finalize the changes and these would be presented to the legislature in January. There was acknowledgement by the Board and direction to move forward with rule making to streamline the guide training process as discussed above. Mr. Long outlined several minor changes that needed to be made in the final document before it is submitted.

MSC (MOTION, KORELL; SECOND, IRBY– AYES, HUNSUCKER, LONG; NAYES -- NONE) THE BOARD APPROVE THE GUIDE TRAINING FORMS AS A TEMPORARY/PROPOSED RULE CHANGE. FURTHER THE BOARD GIVES THE DISCRETION TO THE DIRECTOR AND BOARD MEMBER LONG TO MAKE THE MINOR CHANGES AS NECESSARY

License Review - Rulon Jones Broad Mouth Canyon Ranch (Cont) MSC (MOTION, KORELL; SECOND, LONG– AYES, HUNSUCKER, IRBY; NAYES – NONE) THAT THE BOARD AFFIRMS THEIR EARLIER DECISION TO LICENSE BROADMOUTH CANYON RANCH (RULON JONES) AS AN OUTFITTER AND DESIGNATED AGENT. THAT THEY APPRECIATE IDAHO DEPARTMENT OF FISH AND GAME'S COMMENTS ON THIS APPLICATION AND RECOGNIZES THEIR CONCERN WITH BROADMOUTH CANYON RANCH OUTFITTER OPERATING AREA BEING ADJACENT TO THEIR HIGH FENCE DOMESTIC ELK OPERATION. IN THIS RESPECT, THE BOARD DOES NOT FEEL THERE IS ADEQUATE JUSTIFICATION TO LIMIT OR RESTRICT BROADMOUTH CANYON RANCH'S OPERATING AREA WHEN THERE IS NO SIMILAR RESTRICTION TO THE PUBLIC AT LARGE. THE BOARD FURTHER REQUESTS THAT THE DIRECTOR FOLLOW UP WITH A LETTER TO FISH AND GAME.

Directors Report – Buy/Sell Manual - Office Manager, Lori Thomason provided an updated outfitter buy/sell manual that she and the licensing staff had completed in response to comments made by the IOGA that the process to buy or sell an outfitter business was too complicated. She said that she planned to provide an opportunity to the industry to provide input on any further changes needed to clarify the process. She also provided a **Buy/Sell Check List** that summarizes the documents and the order that needed to be provided. Ms. Thomason also explained a **Buy/Sell Evaluation Form** that was being provided to all individuals involved with a sale once their sales transaction was completed. Its purpose was to identify weaknesses in the process and suggested changes. She said that it appears the confusion is with the overall complexity of the process, especially when it involves one or more agencies, each requiring separate documents. She said this may not be easy to overcome due the separate and distinct agency

requirements. She said delays are most typically caused by participants not submitting documentation in a timely manner, or not following instructions. Director Howard stated that in IOGLB's survey buy/sell processes were somewhere in the middle of industry concerns and that they did not seem to stand out as a significant priority. He felt that the processes could be clarified and was hopeful that doing so would help address this matter. Director Howard provided a comprehensive **Education and Enforcement operations plan/procedure manual** that he organized in anticipation of a new Education and Enforcement Supervisor (Chief). The Director explained that the operations plan/procedure manual included a number of processes or policies developed by former Chief, BJ Snooks, Enforcement Attorney, Steve Tobiason and him. He said the policies had been adopted by the Board over the past few years and that an activities/opportunities calendar begun by former Chief Bob Lund had also been incorporated. He said that this information being consolidated into one manual and indexed for easy reference will be helpful. He explained that once the Education/Enforcement Supervisor is on board then he will spend some time with him fine tuning the document and the processes within. The Board suggested that the Director provide the Board's enforcement priorities policy be sent to the IOGA and other industry organizations with a request that they get **industry input** and report back to the Board.

Consent Agenda - MSC (MOTION, IRBY; SECOND, LONG – AYES, HUNSUCKER KORELL, NAYES -- NONE) TO APPROVE CONSENT AGENDA

Zip Line Operations (Cont) – MSC (MOTION, IRBY; SECOND, LONG – AYES, HUNSUCKER KORELL, NAYES – NONE) THAT ZIP LINE ACTIVITIES MEET THE HAZARDOUS EXCURSION REQUIREMENTS OUTLINED IN STATUTE AND ARE SUBJECT TO IDAHO'S OUTFITTER AND GUIDE LICENSING.

It was noted that the Director should work with Steve Gustafson, Experience Base Line to obtain the standards discussed earlier in the meeting and in the future, to present these standards to the Board with a recommendation whether they should be adopted as industry standards in Idaho.

Budget Report – The Director presented projected expenditures, revenues and their affect on the agency's free fund balance. He said that unless the fee increase or major cut backs are implemented on or before 2010, IOGLB's free fund account will be depleted sometime in 2011. He presented a stepped fee increase and proposed to the Board they begin the process of implementation with the Governor's Office and State Legislature. Director Howard plans on a news letter to the industry to inform them that a fee increase is in the process.

MSC (MOTION, IRBY; SECOND, LONG – AYES, HUNSUCKER KORELL, NAYES -- NONE) TO ACCEPT THE PROPOSAL FOR THE SPENDING PLAN BASED AND FEE INCREASE THAT HAS BEEN PRESENTED ALONG WITH DIRECTION FROM THE BOARD TO KEEP THE BOARD INFORMED AND

WORK WITH THE INDUSTRY ON THE IMPLEMENTATION OF THE FEE INCREASE.

Financial Report – Lori Thomason explained FY 2008 year end financial summary and the spending plan based for the 2009 appropriation. She explained a new more detailed format that she had developed to better track the expenditures by object code. This will provide budget information with a total of what was spent along with the remaining unspent budget in each object code. Chris Korell also stated that he had reviewed the July expenditure reports and all appeared in order.

MSC (MOTION, KORELL; SECOND, LONG – AYES, IRBY, HUNSUCKER; NAYES -- NONE) TO APPROVE FINANCIAL REPORT

Grant Simonds, IOGA – Mr. Simonds asked to make a statement on behalf of the Idaho Outfitters and Guides Association for the record regarding allocation of the number of licensed and permitted outfitters for both float and power boating on classified rivers including the South Fork and Snake. The statement is as follows: *“The IOGA supports the existing processes that have been utilized by both the state and federal governments to determine limits of the number of outfitters and or number of boats on each stretch of the river. Further the IOGA is supportive of the non-use rule of the IOGLB as well as current use requirements of the Forest Service and BLM.”*

MSC (MOTION, LONG; SECOND, KORELL – AYES HUNCKER, IRBY NAYES -- NONE) AT 3:45 A.M. THAT THE BOARD ADJOURN TO EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF SEC. 67-2345, IDAHO CODE TO DISCUSS PENDING LITIGATION AND PERSONNEL MATTERS. MSC (MOTION, KORELL; SECOND, LONG, AYES, HUNSUCKER, IRBY; NAYES - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED AT 4:05 P.M. WITH NO DECISION MADE.

Education and Enforcement Supervisor (Chief) - Director Howard indicated that he had extended an offer of employment to Mr. Pat Beale, as the agency’s Education and Enforcement Supervisor (Chief) and that Mr. Beal would begin his employment on or before September 11, 2008.

John Curney/Darren Puetz (cont) – MSC (MOTION, KORELL; SECOND, LONG – AYES: KORELL, LONG, IRBY, HUNSUCKER; NAYES: NONE) THAT THE BOARD SEND A LETTER TO MR. JOHN CURNEY REPRESENTING BLACK DOG OUTFITTERS PROVIDING THAT THE BOARD’S POSITION IN RESPONSE TO THEIR REQUEST MADE DURING THE JUNE 2008 MEETING IS THAT THERE ARE CURRENTLY NO OPENINGS FOR NEW OUTFITTER OPPORTUNITIES ON THE SOUTH FORK OF THE SNAKE RIVER OR OTHER RIVERS DISCUSSED DURING THAT MEETING. THE BOARD’S CURRENT RULES SET FORTH THE NATURE AND APPROACH TO OUTFITTER USE AND LICENSURE REQUIREMENTS ON IDAHO LAKES

AND RIVERS AND THE REQUESTED USE OF AN ALLOCATION SYSTEM WOULD NECESSITATE A MAJOR OVERHAUL OF IDAHO'S OUTFITTER AND GUIDES LICENSING STATUTES AND RULES. FURTHER, THE BOARD FEELS IT PRUDENT TO WAIT FOR THE FEDERAL PERMITTING AGENCIES' RESOURCE ANALYSIS AND RECOMMENDATION PRIOR TO INCREASING OR DECREASING OUTFITTER OPPORTUNITIES ON THESE RIVERS. THE BOARD IS NOT AWARE OF ANY OTHER SUPPORT FOR THE PROPOSAL OR REQUEST.

With no further business to come before the Board, Chairman Hunsucker adjourned the meeting at 4:20 p.m., Wednesday August 20, 2008.

WAYNE HUNSUCKER, CHAIRMAN

ATTEST:

JAKE HOWARD, DIRECTOR