

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

FINAL MINUTES

March 18, 2009

**(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 7:00 A.M. MARCH 18, 2009, AT THE RESIDENCE INN, 1401 S. LUSK STREET, BOISE ID. MEMBERS WAYNE HUNSUCKER, (CHAIRMAN), WILL JUDGE, CHRIS KORELL, TOM LONG, AND ALEX IRBY WERE IN ATTENDANCE. ALSO PRESENT WERE EXECUTIVE DIRECTOR JAKE HOWARD; OFFICE SUPERVISOR LORI THOMASON; EDUCATION AND ENFORCEMENT SUPERVISOR PAT BEALE; BOARD ATTORNEY ROGER HALES; BOARD PROSECUTORS MIKE KANE AND BARBARA BEEHNER-KANE

MSC (MOTION, JUDGE; SECOND, LONG – AYES - IRBY, KORELL, HUNSUCKER NAYES -- NONE) AT 7:40 A.M. THAT THE BOARD ADJOURN TO EXECUTIVE SESSION TO DISCUSS LEGAL MATTERS AND PERSONNEL ISSUES WITH THE BOARD ATTORNEY IN ACCORDANCE WITH THE PROVISIONS OF SEC. 67-2345, IDAHO CODE. BOARD ATTORNEY ROGER HALES AND EXECUTIVE DIRECTOR JAKE HOWARD WERE PRESENT. MSC (MOTION, JUDGE; SECOND, KORELL - AYES – IRBY, HUNSUCKER; NAYES - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED AT 8:15 A.M. WITH NO DECISION MADE.

Meeting reconvened at the IOGBLB Office 1365 N. Orchard St. Boise at 9:00 a.m. - Meeting was called to order by Board Chairman Wayne Hunsucker with all Board members present listed above. Louise Stark and IOGA Executive Director, Grant Simonds, were also present. Director Howard gave a brief overview of the agenda for the day's meeting. Director Howard introduced Louise Stark as the incoming Board Member who is replacing Will Judge on April 20th. Director Howard explained that Ms. Stark is scheduled to be confirmed by the Senate Resources and Environment Committee during the afternoon session.

Consent Agenda – A citation to Tim Thomas for two separate IDFG violations unlawful bear bait and violate forest service road area closure and that a fine of \$250.00 for each violation had been paid was pointed out to the Board.

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

Financial Report – Director Howard explained that he has been directed to cut 5% from the fiscal year 2010 budget and that largely affect agency personnel.

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

Directors Report – The Board allowed Director Howard to be refunded for an upgrade he had recently made to his home computer. Director Howard explained that he often works from home and is unable to open documents from his home computer developed on the IOGLB system.

MSC (MOTION, JUDGE; SECOND, KORELL – AYES - IRBY, HUNSUCKER; NAYES - - NONE) TO ACCEPT THE INVOICE SUBMITTED BY DIRECTOR HOWARD TO UPGRADE HIS HOME COMPUTER

Work Session - Outfitting on Private Lands - Virgil Moore IDFG – Board Chairman Hunsucker explained that following the December Board meeting, he had asked for a meeting with the Governor’s staff and IDFG Officials to discuss processes related to licensing outfitters on private lands. He said he felt this was necessary as the result of what appeared to be growing frustrations that have surfaced on the part of both agencies. The Chairman said the Board is responsible to license private land owners or other business owners as outfitters to provide equipment, facilities and services on those lands they own outright or under arrangements with private land owners. He said regulation and licensure go hand in hand which by their very nature set limitations based on preordained statutes and rules to individual members of the public who have the privilege of holding one of these licenses. Without good analysis, further limitations and restrictions imposed by the Board within the confines of these statutes and rules are difficult. These limitations or restrictions have to be justified, based on good rationale and that rationale has to be documented and available for public (judicial) review. He explained the IOGLB depends largely on IDFG for much of this analysis related to fish and game and often public interest and need. He said there have been two subsequent meetings to discuss this overall matter.

Virgil Moore Deputy Director, IDFG joined the meeting via telephone.

Director Howard explained that two draft policies have been developed to provide a framework to clarify procedures and protocol and to provide guidance for the Board’s staff and other agencies in providing information or recommendations to the Board relative to denials or setting limits or restrictions on outfitter licenses regarding outfitting on public lands or waters where outfitter operations are not federally administered and on lands where little external resource analysis exists relative to denials or setting limits or restrictions on outfitter licenses such as on private lands or waters.

Mr. Moore stated that he recognizes that IDFG’s input and recommendations are extremely important to the Board in as much as recent Board decisions have been supportive of concerns by both the IDFG and FG Commission reflecting hunter input received. He understands that objective information which IDFG can properly provide will help the Board make constructive decisions. Finally, and most importantly, he understands that the information IDFG provides must be able to sustain a Board decision on the record, and withstand a judicial review when that information is used.

Director Howard said that as the result of a meeting, it was determined that an often referred to “moratorium” limiting applications for outfitted waterfowl and upland game hunting and to a

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lesser extent outfitted turkey hunting was nothing more than an understanding that had originated in 1989. There was no formal moratorium, but rather a series of meeting minutes and an extensive number of letters between the agencies which both have used in planning and decision making.

The Board discussed creating a formal moratorium, but that the “moratorium” be temporary and in place until a complete analysis and evaluation be conducted by the Board in cooperation with the Idaho Fish and Game Commission, and the Idaho Department of Fish and Game, and with other agencies, industry representatives, the outfitted public and the public at large so that objective information is identified cooperatively and collaboratively in order for the Board to make informed and appropriate decisions regarding outfitted waterfowl, upland game and turkey hunting.

Mr. Moore said IDFG staff is reviewing these draft policies and comments will be provided back to IOGLB. A timeframe has been discussed where Mr. Moore, the Board Chairman, Board Member Irby and Director Howard would address this concept with the Commission at their March 24th meeting. After this, the policies will be finalized for Board approval at their June meeting, and then plans are to schedule a joint IOGLB and FG Commission meeting in July to discuss and take appropriate joint direction or action. A Commission meeting will be held in McCall on July 22 and 23, 2009 in McCall. Following this, a joint working group will be organized to work cooperatively and collaboratively with both agencies using the framework established in these policies to collect objective information and provide a recommendation regarding outfitted waterfowl, upland game and turkey hunting opportunities and processes.

MSC (MOTION, KORELL; SECOND, JUDGE – AYES - IRBY, HUNSUCKER; NAYES - NONE) TO FORMALIZE AN EXISTING MORATORIUM TO CREATE A FRAME WORK CONCERNING WATERFOWL, UPLAND GAME AND TURKEY HUNTING, UNTIL THE BOARD CAN UNDERTAKE A NEEDS ASSESMENT IN IT’S POLICY IN COOPERATION WITH THE IDAHO FISH AND GAME COMMISSION.

Enforcement Report – Enforcement Chief Pat Beale talked about the 2008 guidance letter sent to all the Outfitters and issues of concern with guides advertising for the outfitters. He explained he is investigating businesses and guides on the South Fork of the Snake River that are not in compliance with the IDAPA Statues and Rules and that the South Fork would be a priority this year.

George Peter, High County Adventures - Board Member Chris Korell has excused himself from the meeting on this matter. Director Howard reported that George Peter, High County Adventures had relinquished his outfitter license following the Board action in February. Director Howard explained the operating areas that Mr. Peter has relinquished. He also recommended that the area that was defaulted from the sale with Steve Zettel be returned to Mr. Zettel. Board Attorney Hales stated the Board needs documentation from Mr. Zettel that shows either a foreclosure was processed or a specific relinquishment form signing over the defaulted part of the business. The Board asked Director Howard at clarifies with Mr. Zettel the allocated tags remain with the area and will be transferred with the business if he intends on selling the business again. The allocated tags in the other areas Mr. Peter has relinquished remain with area and will be addressed with a new outfitter who is selected to fill the prospectus for each.

MSC (MOTION, IRBY; SECOND, JUDGE – AYES - HUNSUCKER; NAYES -- NONE) TO HAVE DIRECTOR HOWARD WORK WITH STEVE ZETTEL TO BE RELICENSED IN THE OPERATING AREA INCLUDED IN THE BUSINESS SALE DEFAULTED; WORK WITH THE FAIRFIELD RD USFS TO ISSUE A PROSPECTUS FOR THE HIGH COUNTRY ADVENTURES BUSINESS THAT WAS RELINQUISHED IN UNIT 43, AND TO REVISIT THE PROSPECTUS FROM 2007 TO FILL AREA IN UNIT ## REFERRED TO AS THE POTTS AREA THAT ALSO WAS RELINGUISHED.

Board recessed for Lunch at 12 Noon

Meeting reconvened at the Senate Resources and Environment Committee Room at the Capital Annex Building at 1:15 PM

Confirmation Hearing, Louise Stark — Louise Stark was sworn in as the newest Board member to replace outgoing Board Member Will Judge whose tenure ends April 19, 2009.

Meeting reconvened at the IOGLB Office, 1365 N. Orchard St. Boise at 2:20 PM

Use Review Update - Director Howard explained that he had hired a temporary staff person to help with the non-use review of the lakes and rivers use that was discussed at the December 2008 Board meeting and that they have begun that process. He said that he felt it would be desirable to have two board members work with him to address priorities and to provide recommendation to the Board which he felt could be done by the June meeting. Board Member Chris Korell agreed to be one of the board members to work with Director Howard on the non use review. Director Howard suggested that Tom Long be the other.

MSC (MOTION, KORELL; SECOND, IRBY – AYES - HUNSUCKER, JUDGE, NAYES – NONE) TO SET UP A TWO PERSON COMMITTEE TO RESEARCH THE NON USE WITH DIRECTOR HOWARD

MSC (MOTION, JUDGE; SECOND, KORELL – AYES - HUNSUCKER, IRBY, NAYES – NONE) TO NOT ISSUE A PROSPECTUS ON THE SA4 UNTIL THE BOARD IS ABLE TO PROVIDE A PROSPECTUS AND TO MAINTAIN THE WAITING LIST TO HELP FILL THE OPENING.

Allocation Review – Susan Knapek, IOGLB Licensing Clerk explained the new calculation and that there needed to be a correction to one of them. Chairman Hunsucker appointed Chris Korell and Louise Stark to represent the Board on allocation issues and questions.

Outfitter License Denial Hearing - Robert Winstrom, Kootenai River - Lori Thomason OGLB Office Manager reported that Mr. Winstrom had contacted IOGLB in September inquiring about a license opportunity on the Kootenai River. At that time, she had explained to Mr. Winstrom that because all licensed opportunities in rule 59 are not filled, does not mean there is an opening. She said with most rivers and lakes other vacancies, analysis must be completed and generally a prospectus issued inviting applications. She said that Mr. Winstrom had submitted his application uninvited. She said that after discussing the Kootenai River with the IDFG and the USFS, the Director determined there are several resources matters that needed to be addressed before moving forward, and that after learning that Mr. Winstrom appeared to

have provided false information on his application regarding a felony conviction in the state of Texas, he denied it. The Director explained that he explained to Mr. Winstrom that analysis was needed before moving forward. Mr. Winstrom appealed his decision. The Board reviewed a follow-up letter dated January 15, 2009 from Mr. Winstrom explaining his action and concluded that letter provided misleading information as well.

The Director had explained that with there being no clear resource agency responsible to permit and manage outfitters on the Kootenai River, IOGLB is solely responsible for appropriate commercial allocation. There are 10 license opportunities available; however, there are no boat limits or other limits typical of other rivers in Idaho under federal oversight. He said that he had learned that with improvements IDFG in making to the fishery on this river, and in particular to the stretch between the Idaho/Montana state line and Bonners Ferry, this may become an issue in the future.

MSC (MOTION, JUDGE; SECOND, LONG – AYES - IRBY, KORELL, HUNSUCKER NAYES -- NONE) AT 4:30 P.M. THAT THE BOARD ADJOURN TO EXECUTIVE SESSION TO DISCUSS LEGAL MATTERS WITH THE BOARD ATTORNEY IN ACCORDANCE WITH THE PROVISIONS OF SEC. 67-2345, IDAHO CODE. BOARD ATTORNEY, ROGER HALES MSC (MOTION, KORELL; SECOND, IRBY -- AYES – HUNSUCKER; NAYES - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED AT 4:40 P.M. WITH NO DECISION MADE.

Note: Board members Judge and Long left the meeting due to make travel connections.

MSC (MOTION, IRBY; SECOND, KORELL – AYES - HUNSUCKER, NAYES – NONE) ROBERT WINSTROM VIOLATED IDAHO LAW THROUGH HIS FAILURE TO DISCLOSE HIS FELONY CONVICTION ON HIS LICENSE APPLICATION AND BY PROVIDING MISLEADING INFORMATION TO THE BOARD IN THE SUBSEQUENT MATERIALS. MR. WINSTROM'S ANNUAL LICENSE FEES BE REFUNDED, AND HIS APPLICATION FEES RETAINED TO COVER THE COST OF PROCESSING HIS APPLICATION. BOARD DIRECTS STAFF TO COMPLETE A NON USE AND RESOURCE ANALYSIS OF THE KOOTENAI RIVER BEFORE ACCEPTING ADDITIONAL LICENSE APPLICATIONS AND THAT A PROSPECTUS BE ISSUED IF THE ANALYSIS DETERMINES AVAILABLE OPENINGS EXIST ON THE RIVER. MR. WINSTROM SHALL BE PLACED ON THE WAITING LIST FOR THE KOOTENAI RIVER SUBJECT TO STANDARD REQUIREMENTS PROVIDED IN IDAPA 25.01.01.030; HOWEVER THE BOARD WILL WAIVE THE \$50.00 WAITING LIST FEE. MR. WINSTROM MAY REAPPLY PURSUANT TO THE PROSPECTUS AND MUST PAY ALL APPLICABLE FEES AT THAT TIME. THE BOARD RESERVES THE RIGHT IF MR. WINSTROM IS SELECTED AS THE OUTFITTER TO IMPOSE SUCH RESTRICTIONS AND LIMITS AS THE BOARD DEEMS APPROPRIATE.

With no further business to come before the Board, Chairman Hunsucker adjourned the meeting at 5:30 p.m., Wednesday March 18, 2009.

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WAYNE HUNSUCKER, CHAIRMAN

ATTEST:

JAKE HOWARD, DIRECTOR