

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

FINAL MINUTES

September 16 – 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 1:30 P.M. SEPTEMBER 16, 2009, 1365 N. ORCHARD STREET, RM 172 BOISE ID. MEMBERS WAYNE HUNSUCKER, (CHAIRMAN), LOUISE STARK, 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; AND GRANT SIMONDS FROM THE IOGA.

Directors Report – Director Howard gave an overview of the Agenda. He explained that John Beckley from the Forest Service called and indicated that due to a medical emergency he would not be able to attend the meeting on Friday morning. TJ Clifford will attend in his place. He also indicated that Mr. Podsaid had requested a continuance of the hearing scheduled for Friday. **Jim Walker** – Lori Thomason explained that Mr. Walker after some time and several contacts by the staff had not completed an application for SN 12 and SN14 as the result of a business that he had purchased. She said all paper work was in, except a completed outfitter exam. The Director indicated that it appeared Mr. Walker hoped to be federally permitted and operate without an Idaho license on that section due to it being on the Idaho/Oregon border. Ms. Thomason mentioned that the USFS had notified Mr. Walker that they would not issue a permit without an Idaho license. The Director stated that historically the number of licenses and federal permits on that river section were uniform. The Board asked the Director to confirm this with the USFS and to contact Mr. Walker providing a last opportunity to complete his application and his outfitter exam. **Kootenai River Review** – The Director explained that Board Chairman, Hunsucker and he had met with Kent Wellner, Panhandle National Forest, USFS and Chip Corsi, Panhandle Region Supervisor, IDFG, to discuss matters concerning the Kootenai River and possible reallocation of outfitter boating opportunities on the river. He said that they toured the river to get a better understanding of the overall resource. He mentioned that one of the thoughts discussed was to consolidate both float and power due to ingress and egress issues and due the nature of flow of the river which was slow and more conducive to power opportunities and to limiting the number of boats. He stated there was discussion about involving contact with a local planning group concerning the prospects of changes to outfitter boating opportunities and use of the river and with input from the outfitters who are using the river. He said they would be working to complete this matter this fall and hopefully in time for rule promulgation for the 2011 legislative session.

Consent Agenda – The Board discussed the new opportunities and status of the prospectus for sections 39, 42 and 20A. The Director explained that he hoped to move forward with the Forest Service to get the two prospectuses finalized and disseminated this fall. He said that there appears to be some questions within the USFS concerning the continuation of trail rides in the Sawtooth National Recreation Area from the vacated area. The Director was asked to contact the Fairfield Ranger District regarding this matter and with Board concerns with how the prospectus might be handled.

MSC (MOTION: IRBY; SECOND, LONG – AYES: - STARK, HUNSUCKER; NAYES: -- NONE) TO APPROVE CONSENT AGENDA

Financial Report – Director Howard explained the year end budget and costs that were related to the FY 2009 budget. Director Howard also provided information on the fee increase for next year.

Enforcement Report – Education and Enforcement Supervisor, Beale explained the strategic plan for the education and enforcement program which had be recently updated. Supervisor - Beale described how the 2009 – 2010 Patrol, Training, Education and Undercover Schedule is working. The emphasis identified is to work undercover cases involving unlicensed outfitting and guiding. The amount of high profile patrol has therefore been somewhat reduced to stay within budget. He generally discussed the status of 2009 cases without going into details of the case, 2009 enforcement statistics and the fines and fees payment reports. Of the 52 cases assigned thus far in 2009, 21 (40%) were for unlicensed activities, with one resulting in a criminal citation. The Board directed Supervisor – Beale to write a separate section in the Rendezvous newsletter explaining the accomplishments of the enforcement program and letting the industry know how their money is working for them.

Supervisor Beale explained the paper and cardstock signs used to educate people about illegal outfitting are frequently removed (torn down) at the launch sites and take-outs. The Board would like to see metal signs permanently fixed at the launch sights explaining illegal outfitting and contact numbers. The three different criminal records checks we conduct on license applicants were discussed. They are: ISP background Arrest History, IDFG Citation History and Idaho court Repository. Backgrounds are done on all new Outfitters, DA's and Guides. IDFG checks are done upon each renewal. Misdemeanor convictions are not currently asked about on our applications. Critical information related to drugs, assault, theft, or chronic DUI's can be missed. The Board directed staff to add a line on the applications to address previous Misdemeanor convictions. Applicants who have been convicted of felonies and Fish and Game violations were also discussed.

MSC (MOTION: STARK; SECOND, IRBY – AYES: - LONG, HUNSUCKER; NAYES: -- NONE) THE BOARD GRANT SANDY PODSAID's REQUEST FOR A CONTINUENCE OF THE HEARING THAT WAS SCHEDULED FOR FRIDAY, SEPTEMBER 18, 2009 .

MSC (MOTION: LONG; SECOND, IRBY – AYES: STARK, HUNSUCKER; NAYES: -- NONE) TO ADD ON ALL LICENSE APPLICATION FORMS, A QUESTION AS TO WHETHER THE APPLICANT HAS BEEN CONVICTED OF A MISDEMEANOR.

MSC (MOTION: STARK; SECOND, IRBY – AYES: LONG, , HUNSUCKER NAYES: -- NONE) AT 5:00 P.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(1) (b) & (f), IDAHO CODE. BOARD ATTORNEY ROGER HALES AND EXECUTIVE DIRECTOR JAKE HOWARD WERE PRESENT. MSC (MOTION: LONG; SECOND, STARK - AYES: – IRBY, HUNSUCKER, NAYES: - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED AT 5:15 P.M. WITH NO DECISION MADE.

Chairman Hunsucker recessed the meeting at 5:30 P.M. September 16, 2009

THE RECONVENED MEETING OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD WAS CALLED TO ORDER AT 8:45 A.M. SEPTEMBER 17, 2009, AT THE IOGLB OFFICE AT 1365 N. ORCHARD BOISE, ID. MEMBERS WAYNE HUNSUCKER, (CHAIRMAN), LOUISE STARK, CHRIS KORELL, TOM LONG, AND ALEX IRBY WERE IN

ATTENDANCE. ALSO PRESENT WERE EXECUTIVE DIRECTOR JAKE HOWARD; OFFICE SUPERVISOR LORI THOMASON; BOARD ATTORNEY ROGER HALES.

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

Non Use Review Rivers, Lakes and Reservoirs – Director Howard pointed out that non use reviews are typically done every three years for boating outfitters though there have been some incidental reviews. He said that land based non use reviews have been done on a case by case basis but that improvements to the data management system are being made allow better analysis of land use reporting. Board member Long said these review provide a benefit to the outfitting industry by determining if there are any new opportunities and by insuring that existing outfitters are utilizing their licensed opportunities. The following individuals were contacted and given the opportunity to provide information to the Board which the Board considered during the meeting in providing the following direction:

MSC (MOTION: KORELL; SECOND, IRBY – AYES: – LONG, STARK, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO SCHEDULE UHS FOR A HEARING ADDRESSING ALLEGED NON USE OF THE KOOTENAI RIVER (KO1)

MSC (MOTION: STARK; SECOND, KORELL – AYES: – LONG, IRBY, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO FURTHER REVIEW SCOTT SCHNEBLY REGARDING ALLEGED USE ON THE MORMON AND MAGIC RESERVOIRS, AND TO SEND HIM A LETTER NOTING THE BOARD’S CONCERN OF OTHER RELATED MATTERS THAT HAVE SURFACED.

MSC (MOTION: IRBY; SECOND, LONG – AYES: KORELL, STARK, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO SCHEDULE TOM LODER’S PANHANDLE OUTFITTERS FOR A HEARING ADDRESSING ALLEGED NON USE OF THE KOOTENAI RIVER (KO1), MOYIE RIVER (MO1) AND CLEARWATER RIVER (CL3).

MSC (MOTION: IRBY; SECOND, LONG – AYES: – KORELL, STARK, HUNSUCKER; NAYES: -- NONE) TO ACCEPT THE STAFF RECOMMENDATION TO WRITE A LETTER OF WARNING TO HENRY’S FORK ANGLERS ADDRESSING ALLEGED NON USE OF THE PALISADES RESERVOIR

MSC (MOTION: KORELL; SECOND, IRBY – AYES: - LONG, STARK, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO SCHEDULE A HEARING FOR DGBK, INC. ADDRESSING ALLEGED NON USE OF THE SNAKE/HENRYS FORK (SH 2).

MSC (MOTION: IRBY; SECOND STARK, – AYES: – KORELL, LONG, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO SCHEDULE A HEARING FOR CLEARWATER RIVER FISHING COMPANY ADDRESSING ALLEGED NON USE OF THE CLEARWATER RIVER (CL3).

The Board directs staff to look in to the CL2 restrictions from the IDFG for power boats during the steel head fishing season.

MSC (MOTION: IRBY; SECOND, STARK – AYES: – KORELL, LONG, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO ISSUE A WARNING LETTER TO BLACK DOG OUTFITTERS ADDRESSING ALLEGED NON USE OF THE SNAKE RIVER, ((SN1) & (SN3) AND TO NOTIFY THEM OF THE ACCEPTANCE OF THEIR SNAKE RIVER, (SN11) SNAKE RIVER RELINQUISHMENT.

MSC (MOTION: KORELL; SECOND, IRBY– AYES: - LONG, STARK, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO DETERMINE IF THEIR LETTER WAS RECEIVED BY WILDERNESS RIVER OUTFITTERS AND IF SO TO SCHEDULE WILDERNESS RIVER OUTFITTERS FOR A HEARING ADDRESSING ALLEGED NON USE ON THE JB1 JARBRIDGE/BRUNEAU RIVERS,. OTHERWISE THE STAFF WAS TO SEND A FOLLOW-UP LETTER.

MSC (MOTION: IRBY; SECOND, KORELL – AYES: – LONG, STARK, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO SCHEDULE A HEARING FOR SOUTH FORK OUTFITTERS ADDRESSING ALLEGED NON USE ON THE (BLKF) (BL1) (PAL) (SN1) (SN3) (SN4) (SS1)

MSC (MOTION: IRBY; SECOND, KORELL – AYES: - LONG, STARK, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO WRITE A LETTER OF WARNING AND INSTRUCTIONS ADDRESSING ALLEGED NON USE TO ROW, INC ON THE (JB1) JARBRIDGE/BRUNEAU RIVERS

MSC (MOTION: STARK; SECOND, LONG – AYES: - STARK, IRBY, HUNSUCKER; NAYES: - - NONE) TO DIRECT STAFF TO SCHEDULE SNAKE RIVER ADVENTURES, MIKE LUTHER FOR A HEARING ADDRESSING ALLEGED NON-USE OF THE SNAKE RIVER (SN13) AND DUE TO NO RESPONSE BEING RECEIVED BY THE BOARD ON THEIR NON USE LETTER.

MSC (MOTION: KORELL; SECOND, STARK – AYES: - STARK, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO ISSUE A LETTER WITH INSTRUCTIONS AND A WRITTEN WARNING ADDRESSING ALLEGED NEGLIGIBLE USE TO FAR & AWAY, INC ON THE (OW1) OWYHEE FORKS RIVER

MSC (MOTION: LONG; SECOND, STARK – AYES: - STARK, HUNSUCKER; NAYES: – IRBY) TO DIRECT STAFF TO SEND A LETTER TO DALE ROBSON REQUESTING FURTHER INFORMATION TO CLARIFY MEDICAL CONDITION CAUSING ALLEGED NON USE OF THE SALMON RIVER (SN8)

MSC (MOTION: STARK; SECOND, KORELL – AYES: - LONG, STARK, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO WRITE A WARNING LETTER TO BS FLIES AND TACKLE ADDRESSING ALLEGED NON USE OF ISLAND PARK RESERVOIR (ISL).

MSC (MOTION: IRBY; SECOND, KORELL – AYES: - LONG, STARK, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO SCHEDULE A HEARING FOR MICHAEL CORDON ADDRESSING ALLEGED NON USE OF LAKE PEND O'REILLE (POR).

Director Howard indicated that Canyon Outfitters had responded to the Board about non-use concerns on SN 14 and had addressed the matters of concern. The Director said that no follow up action was required.

MSC (MOTION: LONG; SECOND, IRBY – AYES: – KORELL, STARK, HUNSUCKER; NAYES: -- NONE) TO DIRECT STAFF TO FOLLOW UP WITH THE USFS REGARDING STATE LICENSURE AND FEDERAL PERMITTING OF OUTFITTERS OPERATING ON THE SN 12 AND 14 SECTIONS OF THE SNAKE RIVER .

Legislation and Rules Report / Work Session - Director Howard explained the process of changing the Rules and moving fees out of our Statutes and into our Rules. The Board is asking for a fee increase. He explained the proposed process asking for the increase. Director Howard has asked the Board to determine that application fees be applied to the application in whole and not be refundable. We will continue to refund licensing fees, if the applicant does not qualify for a license. When asking for the fee increase, it will be necessary to create a plan/presentation that includes the progress the staff has made; the staff's change of direction from survey taken on customer service; the allocation manual; buy sell manual; GIS mapping, staff can do attitude are just a few of the examples. Informing the outfitters how their fees are working for them. Prepare a newsletter including enforcement plan and approach.

Board recessed for Lunch at 12:20

Meeting reconvened at the IOGLB Office, 1365 N. Orchard St. Boise at 1:30 PM, Chris Korell was not in attendance at the afternoon session.

Rocky Pines LLC Bart Jarrett Consent Agreement – Laura Chess from Kane and Associates presented matters involving Mr. Jarrett.

MSC (MOTION: LONG; SECOND, IRBY – AYES: – LONG, STARK, HUNSUCKER; NAYES: -- NONE) TO ACCEPT THE BART JARRETT STIPULATION WITH A LETTER OF REPRIMAND BE PLACED IN MR. JARETT'S OUTFITTER FILE SIGNED BY THE CHAIRMAN.

Elk Mountain Outfitters Neven Zugg Consent Agreement – Issues with the quantity and quality hunts provided with less than acceptable conditions. Alcohol was a contributing factor.

MSC (MOTION: LONG; SECOND, IRBY– AYES: - STARK, HUNSUCKER; NAYES: -- NONE) TO ACCEPT THE CONSENT AGREEMENT.

MSC (MOTION: IRBY; SECOND, LONG – AYES: - STARK, HUNSUCKER; NAYES: -- NONE) FOR THE CHAIR TO SIGN ON BEHALF OF THE BOARD THE ELK MOUNTAIN /NEVEN ZUGG AND ROCKY PINES LLC BART JARRETT CONSENT AGREEMENTS, ORDERS AND LETTERS OF REPRIMAND.

Guide License Hearing, Patrick Prescott – Education and Enforcement Supervisor Beale presented the guide license application for Patrick Prescott who had been convicted of a felony. **MSC (MOTION: LONG; SECOND, STARK – AYES: - STARK, HUNSUCKER; NAYES: -- NONE) TO ACCEPT THE STAFF RECOMMENDATION THAT PARTICK PRESCOTT BE ISSUED A GUIDE LICENSE WITH BRUNDAGE MOUNTAIN OUTFITTERS.**

Board Meeting Schedule - The Board has scheduled a meeting on November 19, 2009 to meet with the IDFG Commission in Coeur D'Alene and to consider other matters including hearing many of those outfitters allegedly in non-use as identified earlier in the meeting. The Board will also schedule a Board meeting at the IOGLB office, tentatively December 1 through the 3, 2009 that will overlap and run parallel to the annual IOGA winter meeting.

Don Vogel, Vogel Outdoor Adventures Application Amendment Hearing – This Hearing commenced at 3:30 pm pursuant to the Notice of Hearing which was provided to Mr. Vogel. Mr. Vogel appeared without counsel. Mr. Vogel was administered an Oath and the Hearing commenced. Staff provided an analysis and recommendation packet to the Board on the matters which had also been provided to Mr. Vogel prior to the hearing. These documents were marked as exhibits 1-22 and admitted into evidence. Thereafter, Mr. Vogel testified as to the nature of his requested amendment to his application to add

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additional areas to his license for big game hunting. Mr. Vogel requested two documents be marked as exhibit A and B. These exhibits were admitted into evidence. Executive Director Howard discussed Mr. Vogel's history with big game hunting in this area and made particular reference to past overlaps; a review of elk tag allocation and a recent recalculation and a complaint filed by Jon Barker, Barker Trophy Hunts alleging that Mr. Vogel had illegally operated in the area and particularly in Barker Trophy Hunts licensed operating area. Mr. Vogel stated that he previously had sold allocated tags without taking the clients on a hunt. He said he was unaware the hunters needed to stay on his licensed area, rather he thought they only needed to stay in the hunting Unit. IOGLB Enforcement Supervisor had investigated the matter personally and had indicated that he could find no proof that hunting occurred outside of Mr. Vogel's licensed area description. Mr. Vogel further explained his application to add big game hunting back on his license and his desire to add additional private land to his application beyond what has been provided to date. Director Howard explained several concerns from IOGLB staff and from IDFG with the application and explained that Mr. Vogel adding additional area to a license application during a hearing was irregular. The Board suggested that Mr. Vogel resubmit his application with all additional lands that he hoped to be licensed for, and with complete proper land owner agreements, the BLM permit, appropriate maps, area descriptions and etc. Director Howard said that staff had invested a significant amount of time historically and more recently to help get Mr. Vogel on track with big game hunting. He said that they would continue to be willing to help Mr. Vogel, provided Mr. Vogel was responsive and that he would take the initiative to properly complete and submit an application with all information he wants considered by them. Mr. Vogel consented to continuing the hearing to allow him time to supplement his application.

MSC (MOTION: IRBY; SECOND, LONG – AYES: LONG, STARK, IRBY, HUNSUCKER; NAYES: -- NONE) FOR THE HEARING TO BE CONTINUED TO ALLOW MR. VOGEL until the End of October TO GATHER ADDITIONAL INFORMATION AND TO ALLOW STAFF TIME TO CONSIDER THAT INFORMATION. IF ISSUES OF CONCERN CAN BE ADDRESSED TO THE STAFF'S SATISFACTION, AND IF THE DIRECTOR APPROVES THE AMENDMENT, AN Additional HEARING May NOT BE NECESSARY.

Chairman Hunsucker recessed the meeting at 5:10 P.M. September 17, 2009

THE RECONVENED MEETING OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD WAS CALLED TO ORDER AT 8:45 A.M. SEPTEMBER 18, 2009, AT THE IOGLB OFFICE AT 1365 N. ORCHARD, BOISE, ID. MEMBERS WAYNE HUNSUCKER, (CHAIRMAN), LOUISE STARK, TOM LONG, AND ALEX IRBY WERE IN ATTENDANCE. ALSO PRESENT WERE EXECUTIVE DIRECTOR JAKE HOWARD; OFFICE SUPERVISOR LORI THOMASON; BOARD ATTORNEY ROGER HALES.

Outfitting on Private Lands – TJ Clifford from the Boise National Forest, Virgil Moore IDFG, were present to participate in the discussion of the further development of a policy to clarify licensing procedures related to outfitting on private lands. Mr. Clifford gave a presentation on the USFS Needs Assessment and Capacity Analysis processes. Director Howard explained that this would be helpful in finalizing policies being developed to address this matter. He said that an additional meeting was needed for the working group involved with this matter and that he hoped to have the process finalized prior to the November 19, 2009 meeting between the Board and the Commission. He hoped at that meeting a time frame and process could be recommended to both bodies on how to move forward with addressing long standing concerns with outfitted turkey, waterfowl and upland game hunting.

IOGLB / Federal Agency MOU Reauthorization - Director Howard reminded the Board that John Beckley from the USFS was not able to participate in the meeting. He said that although the primary purpose with his presentation was to facilitate the aforementioned discussion on USFS Needs Assessment and Capacity Analysis processes related to private lands, there was also some interest in discussing the

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MOU. The Director said that some preliminary work had been completed and he provided several related documents to the Board. The Director said that Mr. Beckley was the lead USFS person with MOU Reauthorization and that he would follow up to determine what was needed to move forward. The Board discussed incorporating changes from the new USFS policy on outfitting such as outfitter contracting; addressing non-profit status changes; clarifying the federal agencies recognition of IOGLB's outfitters area allocation system and recognizing changes to federal use days related to license opportunities. There was also recognition that it would be desirable for state and federal use reporting to be consolidated and possible with the state on-line system.

Black Dog Outfitters - Board Attorney Roger Hales indicated that he had received a notice during the meeting from the District Court on its decision related to the Boards request to be awarded costs and attorney fees on the law suit regarding Black Dog outfitters. For the record the district court has denied the Board's request to recover court costs and attorney's fees.

MSC (MOTION: IRBY; SECOND, STARK – AYES: - LONG, , HUNSUCKER NAYES: -- NONE) AT 11:10 A.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(1) (f), IDAHO CODE. BOARD ATTORNEY ROGER HALES MSC (MOTION: LONG; SECOND, IRBY -- AYES: – STARK, HUNSUCKER; NAYES: - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED AT 11:15 A.M. WITH NO DECISION MADE.

MSC (MOTION: LONG; SECOND, IRBY – AYES: - STARK, HUNSUCKER; NAYES: -- NONE) TO DIRECT THE BOARD ATTORNEY TO APPEAL THE DISTRICT COURT'S DECISION NOT TO AWARD THE BOARD ITS COSTS AND FEES BASED UPON THE FACTS THAT IT IS AN UNFAIR BURDEN PLACED UPON ITS LICENSEES TO PAY FOR THE COSTS AND EXPENSES OF THIS LITIGATION AND BECAUSE THE COURT'S DECISION HAS BEEN APPEALED BY BLACK DOG OUTFITTERS ANYWAY.

With no further business to come before the Board, Chairman Hunsucker adjourned the meeting at 11:20 A.m., Friday September 18, 2009.

WAYNE HUNSUCKER, CHAIRMAN

ATTEST:

JAKE HOWARD, DIRECTOR