

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

FINAL MINUTES

April 22, 2010

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

THE SPECIAL MEETING OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD WAS CALLED TO ORDER AT 7:35 A.M. APRIL 22, 2010, IN THE MEETING ROOM, AT THE IOGLB OFFICE 1365 N. ORCHARD, ROOM 172, BOISE, IDAHO. MEMBERS WAYNE HUNSUCKER (CHAIRMAN), LOUISE STARK BY TELEPHONE, CHRIS KORELL, AND TOM LONG WERE IN ATTENDANCE. ALEX IRBY WAS NOT PRESENT. ALSO PRESENT WERE EXECUTIVE DIRECTOR JAKE HOWARD, BOARD SECRETARY LORI THOMASON, AND ROGER HALES, BOARD ATTORNEY.

Board Attorney, Roger Hales said that he had learned that the office staff had received a call from someone asking about videotaping the Board meeting and suggested that the Board consider this matter should it surface. It was discussed that the request probably relates to the presentation by the Forest Service and Bureau of Land Management related to their studies on the South Fork of the Snake River scheduled for later in the meeting. It was further discussed that the Board, FS and BLM were currently involved in a federal lawsuit related to these issues. Mr. Hales explained had he researched the matter and was not aware of a specific Idaho law or an Idaho Court decision addressing this situation.

**MSC (MOTION, KORELL; SECOND, LONG – AYES HUNSUCKER; NAYES -- NONE)
MOTION THAT VIDEO OR TAPE RECORDING THAT MIGHT INTERFERE WITH
THE BOARD MEETING OR THE PRESENTATION OF INFORMATION TO THE
BOARD WILL NOT BE PERMITTED.**

Sawtooth National Recreation Area – Sara Baldwin, SNRA District Ranger; Steve Frost, SNRA Recreation Program Manager; Ed Cannaday, SNRA Permit Administrator, and Grant Simonds, Executive Director IOGA were present.

Director Howard gave a brief overview of matters involving the SNRA and an earlier Board decision regarding SA-1 and introduced the SNRA representatives who were in attendance to discuss the situation with the Board.

District Ranger Baldwin provided a written summary of matters including the USFS position. She explained the Upper Salmon River (SA 1) flows through the Sawtooth National Recreation Area – a congressionally designated area established for the purposes of assuring the

preservation and protection of the natural, scenic historic, pastoral fish and wildlife values, and to provide for the enhancement of the recreational values associated therewith...” She said the federal legislation (Public Law 92-400) states specifically that the Sawtooth NRA be administered for “the protection and conservation of the salmon and other fisheries” and that the consolidation of four outfitter permits on the SA-1 section of Salmon River was based on administrative considerations, resource protection and were to the benefit of the outfitters from a business viability standpoint. She said historically there had been only four outfitters licensed on the SA -1 for some time and that permits were not technically vacated; they were consolidated by removing the language describing them as “representing two permits”. She said the likelihood of the Forest Service authorizing additional permitted activity on the SA-1 was slim.

She also explained that a few years ago, new regulations were promulgated that require the Forest Service to recover the costs of processing applications for special uses on National Forest. Within the Sawtooth NRA, because of requirements to consult with other federal regulatory agencies processing permits often takes more time, and therefore is more costly. The estimated cost to complete an environmental assessment and issue the float-boating and walk and wade fishing permits for the activities on the upper Salmon is \$20,300. The Forest Service estimates about 35 percent of the activities being analyzed with the environmental assessment is from non-guided use and the Forest Service is covering those costs. Using a formula based on the number of permits, each of the four float-boating outfitter on the Upper Salmon (SA 1) is required to pay \$2,507 to conduct the environmental analysis and process their applications for reissuance of their float-boating permit under Forest Service cost recovery regulation. If the two permittees had chosen to not consolidate the permits, the estimated cost of their share would have been about \$3,342, and the other two O&G’s would have been billed about \$1,671. All four O&G’s supported consolidation of the permits, even if it meant they had to pay several hundred dollars more for processing their permit reissuance application.

Mr. Cannaday explained the management of the permit and outfitted and general public use of the river to the Board.

Chairman Hunsucker said that his understanding was that historically two SA-1 outfitters had purchased second float businesses in order to acquire additional use days and consequently they held two float licenses and that subsequently they then sold their overall business to the existing outfitters. He said that he felt that USFS assignment of use days and the consolidation appeared to be arbitrary and for these reasons, he was uncomfortable with the points being made by District Ranger Baldwin. He felt that it was eliminating business opportunities. He said that it did not appear there were overuse or crowding issues and that there appeared to be little to no public involvement in her decision. He felt that a capacity analysis similar to what is being done by other Districts was a much more appropriate and suitable way for these decisions to be made. He also expressed concern with analysis costs being directed to only the outfitters who were providing public services when the general not-outfitted public also was self permitted and who had significant use but were not charged a fee.

Board member Long stated that he felt the USFS new policies regarding use day allocation and changes to the permit structure to allow other types of use and cost recovery fees were unprecedented and had to be of significant concern to the outfitting industry and ultimately to the

Board. He said that he felt issues surfacing with these new USFS policies were a threat to small businesses which have operated using USFS resources for years. He said that he was also concerned with what appeared to be arbitrary decisions being made by District Rangers that might result in the loss of license opportunities.

District Ranger Baldwin said the Sawtooth National Forest is interested in working with the IOGLB to identify ways to address licensing and permitting issues in a mutually acceptable way. She agreed that obviously the communication between the agencies was not adequate given matters involving SA-1 and trail rides into the SNRA from another district. The Board and Director discussed initiating additional discussions with the Federal Agency representatives (John Beckley, Chris Ryan with USFS and Robin Fehlau with the BLM who have been working on the reauthorization of the IOGLB/USFS/BLM - MOU to further clarify permit/state license synchronization processes and procedures on dealing with vacated permits and licenses. District Ranger Baldwin agreed to participate in that discussion.

The Board also discussed matters related to two vacated land based areas that are administered by the Fairfield Ranger District involving hunting and trail rides into the Sawtooth Wilderness Area. The Board discussed a continuation of existing opportunities in these areas and the need for the public to have access to trail rides from the South into the Sawtooth Wilderness Area and wanted a prospectus to be issued so applicants could demonstrate how all historical services might be provided. District Ranger Baldwin said there was more flexibility with this matter. She agreed to meet with Director Howard and the Fairfield District Ranger to discuss this situation and how to move forward.

MSC (MOTION, LONG; SECOND, KORELL – AYES HUNSUCKER; NAYES – NONE) MOVE TO KEEP THE NUMBER OF LICENSE OPPORTUNITIES ON SA1 AT SIX (6) DESPITE THE FACT THAT THE FOREST SERVICE HAS REDUCED THE NUMBER OF PERMITS ON THE SA1 TO FOUR (4). THIS APPROACH WOULD ALLOW THE BOARD TO ACT QUICKLY TO ISSUE A NEW LICENSE IN THE EVENT THE FOREST SERVICE AUTHORIZES AN ADDITIONAL PERMIT IN THE FUTURE.

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

Cascade Whitewater Park – The Director mentioned that he had been contacted by an outfitter interested in being licensed on the new Whitewater Park being built by the city of Cascade on the Payette River which is soon to open. He said that he spoke with Cascade Mayor, Dick Carter about the city's new whitewater park and that it was his understanding that the City was not planning to use an outfitter. Mayor Carter said that a number of outfitters have contacted them. The Director explained that they had discussed that the location of the Whitewater Park is on a river section is not in the city limits, and which is currently a non-outfitted river section in IOGLB rules. In any respect, the Mayor understands that if the City puts a commercial operator on that section providing guide services, without this section being in the city limits, depending on what the commercial operator does that must be licensed as an outfitter. He said that Mayor said the City hopes to incorporate that section of river at some point in the future. The Director

said he told Mayor Carter that Board will work with the City to move in whatever direction they choose. He said that he discussed meeting at some point in the future involving one or more of the Licensing Board members to discuss this further.

The Board discussed the questions of whether or not if an outfitter provides a service in the municipal city limits they would be exempt from licensure. Board member Long said that several other cities were considering water parks. The Director said that several cities allow outfitted services within their city limits, for an example an outfitter provides services on the Boise River from Barber Park to the Ann Morrison Park which is in Boise city limits. He has always been under the impression that they were exempt, but had never researched the matter. The Board asked Board Attorney Hales to review previous opinions regarding municipal city limits and render his opinion. The Board suggested that the Director and Board member Long meet with the Mayor Carter to discuss this matter.

MSC (MOTION, LONG; SECOND, KORELL – AYES, HUNSUCKER; NAYES -- NONE) MOVE THAT BOARD ATTORNEY ROGER HALES LOOK IN TO THE LEGAL ISSUES REGARDING WHETHER AN OUTFITTER LICENSE IS REQUIRED FOR REGULATED ACTIVITIES IN SIDE A CITY'S LIMITS.PERCIEVES AS OUTFITTER ACTIVITIES

Directors Report - IOGLB – The Director said the first meeting on April 8 at the Department of Agriculture with the Outfitted Turkey Waterfowl Hunting Advisory Group went well. More information is being compiled and will be passed out at the next planned meeting in May. He said that Board member Irby is in the process of finding another private land representative to participate in the advisory group to replace the Potlatch Corporation who decided to not participate not long before the first meeting. **Private Lands Policy-** Director Howard explained that some input will likely come from the Outfitted Turkey Waterfowl Hunting Advisory Group relative to the private land policies 2025 and 2026 which have yet to be formalized by the Board. He suggested that if the Board has any additional changes to the private land policies he would be happy to take them and prepare a final document for the Board to consider at a future meeting. He explained that several private land applications are in the works and would likely be deferred to the Board for a decision at meeting in July. **Bear and Cougar Overlaps** – Director Howard plans to meet with Douglas Gober, Clearwater National Forest dealing with the Bear and Cougar Management Plan that the Board approved in 2003 on a temporary basis and to review a prospectus that had been issued. He encouraged Board members to participate. Chairman Hunsucker, Board members Irby and Korell said they would sort out who would attend and would let the Director know. **Area Descriptions Regarding Fishing** – The Director said that in converting the area descriptions to the new data base two years ago it was recently discovered that consistent language in the area descriptions involving fishing had been disrupted. For an example, floatboat fishing was separated into two unique opportunities floatboating and fishing. Also, Salmon and steelhead fishing need to be clarified on the lower Snake, the Salmon and Clearwater River. For an example if an outfitter is licensed on a specific stretch for powerboat fishing including steelhead, it will be stated as such on the license instead of power boating and fishing and anadromous fishing. He said that this would be fixed on license area descriptions prior to license renewal next year. **SA7A-** He reported that the onetime Special Authorization letters to conduct spring Chinook

Salmon fishing trips on the SA -7A section of the Salmon river for the 2010 Spring Chinook season had been mailed for the 2010 fishing salmon season. **SA- 8** The Director reminded the Board of their decision at the March meeting to accept the IDFG recommendations that 5 outfitters with 6 clients per boat be authorized for a special salmon season on SA -8. He said that the Board had decided to pull names from a hat of those outfitters eligible as the result of their having shown steelhead fishing use during the last four years. He said that the Board had decided that this list would exclude the SA -7A outfitters already authorized for salmon. Staff member Teresa Saucedo was asked to pull the names out of a hat held by Board Attorney Roger Hales. The four eligible outfitters selected were: 1) Kingfisher River Trips, Bruce King; 2) Vogel Outdoor Adventures, Don Vogel; 3) Bentz Fence Company, Rusty Bentz and 4) Snake River Adventures, Mike Luther. The Board recognized that this left one vacancy.

Fiscal Year Projections - The Director provided a status report on the end of the fiscal year projections and the need for a fee increase. He discussed the Board's effort last year where the fee increase proposal was eventually withdrawn at the last minute based on matters that surfaced with legislators concerning fees being moved from statute to rule. He said that he believed that generally there had been industry and legislative support although there was also some reluctance due to the state and national economy. He further explained that the agency's revenues continued to not reach spending authority limits approved by the Governor and Legislature. He presented projected expenditures, stepped fee increase with correlating revenues and their affect on the agency's free fund balance. He proposed to the Board that they begin the process of implementation updated fee increase with the Governor's Office and State Legislature at this meeting. He explained the updated fee schedule was in consideration of the increase going into effect in July 2011 and that would allow for increased revenue to be available for the FY2012 fiscal year. He said in order to move forward, the matter needs to be formally presented to the Governor's Division of Financial Management by mid-summer. This would require the Board to begin working with the industry, the DFM and the Legislative Budget Office and individual legislators to prepare for the 2011 legislative session. IOGA Executive Director Grant Simonds suggested that a similar need and customer service summary be provided that was presented at the Winter December IOGA meeting and in the Rendezvous newsletter. He also suggested that there be an explanation what is different from the last fee increase proposal to the new fee increase proposal. He agreed to work with the Director and with Board Members Chris Korell and Louise Stark who agreed present this information to the IOGA Executive Committee at their June 5, 2010 meeting in Stanley Idaho.

MSC (MOTION, LONG; SECOND, KORELL – AYES, HUNSUCKER; NAYES -- NONE) THAT DIRECTOR HOWARD MOVE FORWARD WITH THE FEE INCREASE AND IN DOING SO WORK WITH IOGA EXECUTIVE DIRECTOR GRANT SIMONDS SO THE MATTER MAY BE PRESENTED BY THE BOARD TO THE IOGA EXECUTIVE COMMITTEE AT THEIR JUNE 5, 2010 MEETING IN STANLEY WITH THE UNDERSTANDING THAT THE BOARD HOPES TO CONSIDER THEIR INPUT AS THEY FINALIZE THE FEE INCREASE PROPOSAL AT THEIR JULY MEETING.

Board recessed for Lunch at 11:30 to reconvene at 1:30 with all listed above present

Letter from John Curney – Board Attorney Roger Hales read a letter from Mr. Curney about the video taping of the afternoon portion of the meeting. Mr. Hales asked the Board if they

would like to reconsider their earlier motion. No motion was made by the Board to alter its original motion to not allow a video recording of the meeting.

South Fork Snake River Capacity Study & Teton River Concept Paper – Wendy Reynolds, BLM, Monica Zimmerman, BLM, Ron Dickemore, USFS, Darren Puetz of Black Dog Outfitters, Grant Simonds IOGA, Jim Hickey and Mike Dawes of World Cast Anglers were also present.

Director Howard provided the Board and all others present his analysis and recommendations of matters related to licensing outfitters on the South Fork of the Snake River and on the Teton River. He explained that he had participated in a meeting on February 18 where representatives of the BLM, USFS, IDFG and he had discussed the preliminary results of a capacity study administered by the federal agencies and administrative differences between state licenses and federal permits. He said that at that time there was a commitment made by both federal agencies at the meeting to update the Board on the capacity study and the alternatives considered by the Board during this meeting. He also explained that to begin preparing for this meeting, Board Chairman Hunsucker and he had met with BLM, and USFS representatives and several SS1 Boating/fishing outfitters on April 5, 2010 in Idaho Falls where the capacity study, the existing situation and several alternatives were discussed. They also discussed with these individuals matters related to the Teton River where one of the outfitters (Randy Berry) agreed to prepare a concept paper which was presented during the meeting.

Monica Zimmerman presented a slide presentation in order to update the Board on capacity study being done the South Fork of the Snake River and lower Henry's Fork of the Snake River.

MSC (MOTION, LONG; SECOND, KORELL – AYES, STARK, HUNSUCKER; NAYES – NONE) THAT DIRECTOR HOWARD MOVE FORWARD WITH THE PREPARATION OF A TEMPORARY/PROPOSED RULE RELATED TO FLOAT BOAT VERSUS POWER BOATING ON THE SOUTH FORK OF THE SNAKE AND OBTAINING INFORMATION FROM THE IDAHO DEPARTMENT OF FISH AND GAME AND OTHER ENTITIES REGARDING THE TETON RIVER FOR THE BOARD TO CONSIDER AT THEIR JULY MEETING, IF POSSIBLE

MSC (MOTION: LONG; SECOND, KORELL – AYES: STARK , HUNSUCKER NAYES: -- NONE) AT 3:25 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, KORELL - AYES: – STARK, HUNSUCKER, NAYES: - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED AT 3:45 P.M. WITH NO DECISION MADE.

With no further business to come before the Board, Chairman Hunsucker adjourned the meeting at 4:20 p.m., Thursday April 22, 2010.

WAYNE HUNSUCKER, CHAIRMAN

ATTEST:

JAKE HOWARD, DIRECTOR