

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

FINAL MINUTES

July 21, 2010

**(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 8:35 A.M. JULY 21, 2010, IN THE MEETING ROOM, AT THE UPPER SNAKE RIVER OFFICE IDAHO DEPARTMENT OF FISH AND GAME, COMMERCE CIRCLE, IDAHO FALLS IDAHO. MEMBERS WAYNE HUNSUCKER (CHAIRMAN), LOUISE STARK, ALEX IRBY BY VIDEO CONFERENCE WERE IN ATTENDANCE, ALSO PRESENT WERE EXECUTIVE DIRECTOR JAKE HOWARD AND BOARD SECRETARY LORI THOMASON, PAT BEALE EDUCATION AND ENFORCEMENT CHIEF, and ROGER HALES BOARD ATTORNEY. CHRIS KORELL AND TOM LONG WERE NOT PRESENT.

Director Howard opened the meeting and gave a brief overview of the agenda, and how the meeting might proceed.

MSC (MOTION, STARK; SECOND, IRBY – AYES HUNSUCKER; NAYES -- NONE) TO ACCEPT THE CONCENT AGENDA

Financial Report - FY 2010 Budget - Director Howard explained that the agency closed out the fiscal year spending \$499,200 of its \$544,700 appropriation at a savings to the industry of approximately \$45,000. He said that this was due to improvements to the licensing process and due to a seasoned staff who is increasingly capable of performing at higher levels. He said their experience is paying dividends in terms of customer service and efficiency. He said 2010 was the first time in the last 10 or 12 years that existing staff were able to handle all licensing, tag allocation and etc., without part time staff being hired.

He said that the total revenue figure was misleading because licensing had only generated \$483,400 with the remaining revenue coming from enforcement cost recovery \$30,100 and enforcement fines \$12,900. He said that Education and Enforcement Chief, Beale together with the Board's Prosecuting Attorney and the Board itself had been able to resolve several cases which had been around for several years. He explained that the back log had come about largely as a result of the instability of the Education and Enforcement Chief position predating Mr. Beale. He said that this was addressed when Mr. Beale was hired. He said that resolving these cases had resulted in a little more

revenue than ever before recorded by enforcement, but that it was an anomaly, because, the back log was now addressed and there were not any cases on the immediate horizon that could generate this level of cost recovery or fines should they be successfully prosecuted. Also, he explained that the purpose of the Education and Enforcement program was not and should be, to generate revenue. He said the long term financial situation had not changed significantly and that it continued to be dismal. Chairman Hunsucker complimented and thanked the staff on a job well done this past year.

MSC (MOTION, STARK; SECOND, IRBY – AYES; NAYES -- NONE) TO ACCEPT THE FINANCIAL REPORT

Enforcement Report – Education and Enforcement Chief Beale explained that the enforcement program has had several staffing changes and is down to essentially 6 part-time staff in addition to himself. He said while they are for the most part keeping up with complaints he is looking for commissioned law enforcement officers on a part time basis in critical parts of the state. He said low wages and minimal hours are not attractive to many individuals who might normally be interested. Chief Beale said they continue to be working closely with other agencies including IDFG Enforcement on various cases. The Director said Enforcement staffing and programs are among the primary focal points of the fee increase.

Chief Beale said enforcement has opened 29 cases so far this year. There are several unlicensed outfitting cases still open. One case resolved in Fremont County was for illegal guiding a snowmobile trip where the individual was fined \$2,600.00 dollars. He said that thirty five probationary licenses had been issued this year and that a total of forty individuals are still on probation for the 2010 license year. Chief Beale explained that IDFG gave an in-service training this year, which was extremely beneficial to the ongoing training of the enforcement field officers. Chief Beale explained that he has been posting the illegal outfitting signs around the state.

He also explained his workload required him to investigate new applicants who have misdemeanors or felonies on their record and the time it takes to complete the background paperwork. He said that the Director has asked him to come up with a standardized process of scoring each application so the process can move a little quicker to determine what type of probationary license should be issued.

MSC (MOTION, STARK; SECOND, IRBY – AYES, HUNSUCKER; NAYES -- NONE) TO DIRECT CHIEF BEALE TO PROCEED WITH DEVELOPING A DRAFT MODEL FOR THE BOARD TO REVIEW REGARDING THE BACKGROUND CHECKS ON APPLICANTS

Directors Report - Fee Increase Update - The proposed fee increase is moving forward and will be submitted to the DFM in the next few weeks. **Turkey and Waterfowl Advisory Group Update** - The turkey and water fowl advisory group has held three meetings so far. There are several options that are being presented ranging from a no outfitting option to the board setting some parameters to establish some turkey and

waterfowl opportunities to allow some outfitting. The next meeting is August 21, 2010. At this point there are no recommendations and he was not sure whether any would come as the result of that meeting. **Private Land Advisory Committee** – The Director reminded the Board that the outfitting on private land policies had not been finalized and that additional information would be forthcoming. He mentioned that he and IOGA Executive Director Grant Simonds had discussed setting up a private land advisory group committee, to move forward with these policies and beyond what might come from the turkey and water fowl advisory group, and possibly to help with applications on private lands. **OGLB – USFS/BLM MOU** - The Board has the final MOU from the USFS/BLM. Chairman Hunsucker has signed it. There was a list of previous concerns provided, to which the Board responded that they would also like to have some additional clarification done and which could be amended to the MOU. Board member Stark stated that she would like to address the use day pool situation with the USFS, along with big game tag allocation and its relation to operating areas. **Back Country Skiing and Rock Climbing Rules** - The Board was supplied with a draft set of rules proposed by the Technical Advisory Committee (TAC) and the licensing staff regarding consistency between Back Country Skiing and Rock Climbing applications involving the TAC. These rules were provided to the Board in order that they might begin considering them. The Director said that he is recommending that the Board not take any action on these or any other rules at this point. He said that they were near the cutoff date for when rules must be submitted to State Rules Coordinator in order to go through official rule promulgation processes. He did not feel that rules currently under consideration could be ready by then. **Updated Bear and Cougar Management Plan** - The updated bear and cougar management plan has been submitted to the Board for their review. **IDAPA 25.01.01.055** - Director Howard ask that the Board review IDAPA RULE 25.01.01.55 on the Boating/Client Ratio. **Board Elections** – The Board’s recommendations is that the elections be deferred until the September 13 and 14, 2010 meeting.

MSC (MOTION, IRBY; SECOND, STARK – AYES HUNSUCKER; NAYES -- NONE) TO ACCEPT THE IDFS/BLM MOU, BUT TO DIRECT THE EXECUTIVE DIRECTOR TO FOLLOW UP WITH THE FS AND BLM CONCERNING THOSE ISSUES RAISED IN DIRECTOR HOWARD’S E-MAIL AND CONCERNS DISCUSSED IN THIS MEETING

MSC (MOTION, IRBY; SECOND, STARK – AYES HUNSUCKER NAYES -- NONE) AT 11:25 A.M. THAT THE BOARD ADJOURN TO EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF SEC. 67-2345, (b) & (f) IDAHO CODE. TO DISCUSS LITIGATION WITH BOARD ATTORNEY MSC (MOTION, STARK; SECOND, IRBY- AYES HUNSUCKER NAYES - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED AT 11:50 A.M. WITH NO DECISION MADE.

Chairman Hunsucker recessed the meeting for lunch break at 12:00 p.m. and reconvened at 1:30 p.m. with all listed above present. Board Member Tom Long is participating by Teleconference.

July 21, 2010 Minutes

Public Input/Board Action on draft rules involving Teton River (TE 1, 2 & 3) and South Fork of the Snake River (SS 1) – Monica Zimmerman from the BLM provided an explanation of how the process they use works. Public comments were taken. The chairman stated that written comments would be taken but that they need to be submitted to the Board by the end of August. The Board took no action.

Chairman Hunsucker recessed the meeting at 3:00 p.m. meeting to reconvene at 8:30 July 22, 2010.

Chairman Hunsucker reconvened the meeting at 8:40 will all listed present listed above with the exception of Board Member Alex Irby. Board Member Tom Long participated by teleconference. Chris Korell was unable to attend.

Robert Denning License Hearing - Robert Denning appeared before the Board to explain his application for an outfitter license on private land. Land owners Mr. Hanson, Mr. Garro and Mr. Meyer were also present in support of Mr. Denning. Mr. Denning explained he originally applied in 2001 to be an outfitter providing services on about 2000 acres of private land owned by one individual. Mr. Denning explained that he was denied. He then started to offer the trespass fee to hunt on this property. He stated that the hunters were self guided. Mr. Denning stated that he has in this application 14,000 deeded with the Idaho Department of Lands state ground, it equals roughly 20,000 acres. Mr. Hanson, Mr. Garro and Mr. Meyer all stated that they have closed off their lands for the public due to the damage they incurred. Mr. Alan Larson was the only land owner who was not able to attend. The Board will take this matter under advisement and will make a decision at a later meeting. Director Howard was asked to facilitate a capacity analysis of possible outfitting opportunities in unit 69 for the Board to consider in their decision.

BYU Idaho Presentation - Director Howard explained that Senator Hill had proposed legislation during the 2010 legislative session that would exempt Idaho colleges and universities from licensure. He said that the Senator had contacted him during the session for input and as the result, he contacted Board Attorney Hales, Mr. Beale and IOGA Executive Director Grant Simonds and together they responded. Senator Hill eventually withdrew the legislation but has encouraged the Board address this issue with BYU-Idaho. The Director explained this legislation had been initiated by BYU Idaho, who is currently a licensed outfitter. He said that at his invitation Derek Fay, Scott Wood, Morris Christenson representing BYU Idaho were present to explain to the Board the situation and to get their input.

Mr. Fay explained the University's interest was being able to operate in a way that allows BYU - Idaho to serve their students in a way that gives them the broadest possible range of developmental experiences. He said that the general concern is that without clarification within the act regarding how the 'outfitter analysis' and 'guide analysis' relate to each other there could be some confusion for those outside BYU-Idaho regarding how we should relate to the act.

Director Howard stated that any employee of the State of Idaho or the United States, when acting in his official capacity, was exempt from the licensing requirement and that would include state college and university personnel. He said that there was not a specific exemption for colleges and universities themselves. He said that perhaps it might be beneficial to review that overall matter. He said that in particular extracurricular activities being provided are increasing, and that nontraditional students and part time personnel seem to be more prevalent than ever. He said that several times IOGLB enforcement has warned a college or university that contractors providing services must be licensed. He said that to his knowledge BYU-Idaho and a college from Montana were the only non-state of Idaho schools licensed. He said that he had contacted the State Board of Higher Education and learned that there were a number of small private colleges and universities in Idaho using part time instructors and focusing on part time students. He said that he felt exempting them from licensing requirements could create a significant loop hole that could be problematic to both industry and the federal agencies. He said that it was his understanding that the State Board required all colleges and university to meet state licensing requirements, but suggested that this would be verified as this matter moves forward.

Chairman Hunsucker stated creating a large exemption creates a concern of the Board for the safety and welfare of the public. He also stated that with the way the legislation is written, a school would be allowed to utilize the Idaho resources when and where they want to operate, which could interfere with other outfitting activities. Board member Tom Long is concerned that the school or university would be allowed to operate without the proper training putting everyone at risk. Monica Zimmerman from the BLM stated that a broad exemption would be a problem. The activities that BYU Idaho provides are still considered a commercial activity and would still require a BLM permit.

The Director said that it was his understanding that the USFS is working to clarify its permitting requirements in Idaho relative to colleges and universities and to non-profit organizations. Both the USFS and BLM considered college and university programs to be "commercial", and require that they be permitted. He said that he felt it would be beneficial for the State of Idaho to be consistent with the state license and federal permitting requirements for those providing outfitter related services.

Board member Stark stated that perhaps that there may need to be a different category for these type schools to be licensed under. She recommends that the Board continues to investigate this matter. She thinks this would allow the Board to better track the level of activities. This would require new legislation to add a new license definition. The Board took no action.

The Chairman said that it was clearly beneficial for the Board to understand the University's concerns and as well as to have the opportunity share their perspective. He also said the Board feels it is important to support universities as they use outdoor experiences as part of their operations, but also felt creating such a broad exemption for all colleges and universities (as the proposed language indicates) could be problematic. The federal agencies, the outfitter industry, Idaho's colleges and universities all seem to have interest in the outcome. He said that the Board hoped that there can be a

July 21, 2010 Minutes

collaborative to find a win-win solution. He said there was agreement to move forward but the Board suggested that it be done carefully. He said the Board would be happy to consider a more specific proposal.

With no further business to come before the Board, Chairman Hunsucker adjourned the meeting at 12:15 p.m., Thursday July 22, 2010.

WAYNE HUNSUCKER, CHAIRMAN

ATTEST:

JAKE HOWARD, DIRECTOR