

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

FINAL MINUTES

February 9, 10, 11, 2011

**(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 10:30 A.M. FEBRUARY 9, 2011 IN THE MEETING ROOM, AT THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD OFFICE, 1365 N. ORCHARD STREET, ROOM 172, BOISE, IDAHO. MEMBERS WAYNE HUNSUCICER (CHAIRMAN), LOUISE STARK AND CHRIS KORELL WERE IN ATTENDANCE. ALSO PRESENT WERE EXECUTIVE DIRECTOR JAKE HOWARD, BOARD SECRETARY LORI THOMASON. MEMBERS TOM LONG AND ALEX IRBY WERE NOT PRESENT.

Director Howard gave a brief overview of the agenda.

Work Session — The Board discussed the confirmation hearings later in the afternoon. The fee increase is being proposed in house bill number 84. Director Howard gave a presentation of the last five year revenue summary.

Chairman Hunsucker recessed the meeting for lunch break at 12:15 p.m. and reconvened at 1:30p.m., for Board Confirmation Hearings at the State Capitol Building with all listed above present. Mr. Long participated telephonically. Alex Irby joined the meeting.

Confirmation Hearing — Board Members Tom Long and Wayne Hunsucker were interviewed by the Senate Resources & Environment Committee at the State Capitol Building for reappointment.

Chairman Hunsucker recessed the meeting at 2:15 p.m. and reconvened at 3:00p.m., AT THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD OFFICE with all members listed above present except Mr. Long. Board Attorney Roger Hales joined the meeting.

MSC (MOTION: IRBY, SECOND, KORELL — AYES: STARK, HUNSUCKER, NAYES: - NONE) AT 3:15 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: KORELL, SECOND, STARK - AYES: IRBY, HUNSUCKER, NAYES: - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED AT 4:05 P.M. WITH NO DECISION MADE.

MSC (MOTION: IRBY, SECOND, STARK — AYES: HUNSUCKER, KORELL, NAYES: - NONE) TO STIPULATE TO THE JOINT DISMISSAL OF THE APPEAL BROUGHT BY BLACK DOG OUTFITTERS AND THE BOARD BEFORE THE IDAHO SUPREME COURT BASED UPON THE RECOMMENDATION OF COUNSEL.

Director Howard noted that Education and Enforcement Supervisor Pat Beale was on medical leave and was not likely to return. He explained Randy Wadley will be the acting Education and Enforcement Supervisor until further notice. He discussed with the Board reorganizing the Education and Enforcement Division using part-time and full-time temporary staff to help address funding issues and would take steps to do so at least for the interim. The Director also discussed several ideas focusing use of the Board Attorney Roger Hales which he said would also help address funding issues. Mr. Hales indicated he was agreeable to the ideas the Director discussed. He said he found matters he has been involved with to be interesting and that he enjoys working with the Director and Board. The Director also discussed the Idaho Administrative Procedures Act that outlines due process requirements which Mr. Hales has worked to help the Board address. He says it is a fundamental consideration as the Board addresses funding issues and other licensing matters at hand such as moving forward with a decision on outfitting Turkey and Waterfowl hunting matter to be discussed later in the meeting.

Mr. Hales briefly discussed the Fourteenth Amendment which prohibits the deprivation of property without due process of law. When an application is submitted, the Licensing Board must provide an applicant due process and the decision must have a factual basis. With respect to moratoriums, a decision to impose one must be based on law, substantiated by some factual basis including documented biological or resource management issues. For the Board to simply impose a long term moratorium based on concern from a certain user group without fully examining the issues may be hard to defend legally.

Consent Agenda — The Board reviewed the consent agenda documents provided to them. **MSC (MOTION: KORELL, SECOND, STARK AYES: IRBY, HUNSUCKER, NAYES: - NONE) TO ACCEPT THE CONSENT AGENDA.**

Financial Report - The Board examined the financials from November, December, and January. **MSC (MOTION: STARK, SECOND, KORELL — AYES: IRBY, HUNSUCKER, NAYES: -- NONE) TO ACCEPT THE FINANCIAL REPORT**

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Chairman Hunsucker recessed the meeting at 4:50 p.m. meeting to reconvene at 8:30 a.m. February 10, 2011 at the Idaho State Capitol Building.

Legislative Day Activities - The Board spent the morning participating with TOGA Board members along with IOGLB Board members in a meeting with Governor Otter. TOGA Executive Director Grant Simonds spoke to Governor Otter about the relationships between the IOGLB Board, IOGA, outfitters and the general public. Thursday evening IOGA hosted its Taste of Idaho Outfitting dutch oven dinner for elected leaders at the Boise downtown Basque Center.

Chairman Hunsucker recessed the meeting at 4:50 p.m. to reconvene at 8:55a.m. Friday February 11, 2011 with all Board members listed above present.

Presentation Turkey and Waterfowl Advisory Committee Report — Dick Gardner *Ouyitter/DA Mike Lawson; Ouffitter/DA Joseph Peterson; Grant Simonds, TOGA Executive Director; and Virgil Moore,- IDFG Deputy Director were present. Mr. Gardner was approximately 45 minutes late to make this presentation.*

Board Attorney Roger Hales provided some insight about the Idaho Supreme Court case State vs. Koller which Director Howard had pointed out earlier had been discussed by Deputy AG Burkhalter at a FG Commission meeting which he had attended. Mr. Hales said that he understood that Mr. Burkhalter was asked by the Commission whether this case established a property right for outfitting to which Mr. Burkhalter responded that it did not. Mr. Hales stated that the case was about a criminal prosecution for unlicensed outfitting in 1992. It was Mr. Koller's appeal of his conviction to the Idaho Supreme Court i.e. "State vs. Koller". Mr. Koller's argument was that the outfitting law and regulation did not apply to private property or private landowners. What the Idaho Supreme Court held was that the outfitters and guides act applies to regulate commercial outfitting whether it's occurring on public or private lands and that the State of Idaho had jurisdiction. He said it had nothing to do with private property rights.

Presentation Turkey and Waterfowl Advisory Committee Report — Dick Gardner gave a presentation to the Board. Mr. Gardner was asked to be the facilitator for the Outfitter Waterfowl and Turkey Advisory Work Group and spoke about the progress the group has made working on the issues.

Mr. Moore provided the Board a research article entitled outfitting on *Public Lands; A Study of Federal and State Regulation written by Dr. Arthur Smith in 1989*. Director Howard pointed out that a copy of public comments the Commission had received regarding outfitting Turkey and Waterfowl hunting at their open house on January 26, 2011 had been provided to the Board. He said this hearing was held the day before Mr. Gardner's report was presented to the Commission on the January 27, 2011. He also told the Board that a condensed version of the document that Deputy Director Moore presented is included in each Board member's handbook that is provided at the time they are first appointed. He also pointed out that Dr. Smith's report had been completed several years before the Idaho Administrative Procedures Act was put in place and before

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the due process requirements that Mr. Hales had discussed earlier were clarified in Idaho law.

Chairman Hunsucker stated that the Board will take additional comments on this matter and will take it under advisement and review it further at the March Board meeting in conjunction with the IDFG commission meeting March 29, 2011. The Board suggested that Director Howard work with Deputy Director Moore and come back to the Board with a recommendation.

The Director said the Report of the Outfitter Waterfowl and Turkey Advisory Work Group dated January 21, 2011 will be posted to the IOGLB website.

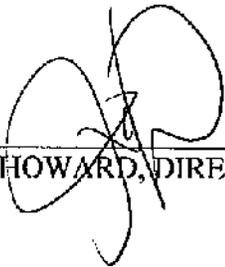
Note: Public comment will be accepted until March 25, 2011. All comments can be mailed to the IOGLB office at 1365 North Orchard Rm. 172 Boise Idaho 83706 or emailed to licensing@ioqlb.idaho.gov

With no further business to come before the Board, Chairman Hunsucker adjourned the meeting at 10:50 a.m., Friday February 11, 2011.



WAYNE HUNSUCKER, CHAIRMAN

ATTEST:



JAKE HOWARD, DIRECTOR