

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

DRAFT MINUTES

June 11-12, 2014

**(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 8:30 A.M. ON JUNE 11, 2014 IN THE MEETING ROOM AT THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD OFFICE, 1365 N. ORCHARD STREET, ROOM 172, BOISE, IDAHO. MEMBERS WAYNE HUNSUCKER (CHAIRMAN), TOM LONG, LOUISE STARK, AND ALEX IRBY WERE IN ATTENDANCE. ALSO PRESENT WERE EXECUTIVE DIRECTOR JAKE HOWARD; OFFICE SUPERVISOR LORI THOMASON; BOARD ATTORNEY ROGER HALES, BOARD PROSECUTOR MIKE KANE AND EDUCATION/ENFORCEMENT CHIEF RANDY WADLEY.

Agenda - Director Howard introduced Bob Barowsky as the new Board Member representing the FG Commission who will be filling the seat being vacated by Alex Irby. He explained that Mr. Barowsky's appointment would be effective July 1st, 2014. With this being Mr. Irby's last meeting, the Director and Board thanked Mr. Irby for his service to the state, the outfitting and guiding industry and they expressed their appreciation for his good natured and collaborative approach with the staff and other Board members. Director Howard also explained that George McQuiston was appointed as the other new Board member replacing Chris Korell. He said that he had spoken to Mr. McQuiston and learned that he was not able to attend this meeting due to scheduling issues, but that he intended to be present at the August meeting. He said that he had already met with Mr. Barowsky and provided him the Board orientation manual and that he will do this same with Mr. McQuiston. Director Howard also reviewed the agenda.

Shane Moser – Guide License Hearing - A Guide License hearing was conducted before the Board by the Board's prosecutor, Mike Kane. The applicant was identified and placed under oath. Mr. Kane explained that Director Howard had deferred Mr. Moser's guide license application due to the criminal convictions he has received. Mr. Moser is seeking a guide license to work for Selway Outfitters and River Runners (SOAR) along with several other outfitters. Mr. Moser testified and certain exhibits were introduced into evidence. Sheila Mills, Al Bukowsky, and Doug Moser gave testimony on behalf of Mr. Moser - **MSC (MOTION: LONG, SECOND, IRBY, AYES, HUNSUCKER AND STARK; NAYES – NONE) TO RENEW MR. MOSER'S GUIDE LICENSE WITH A RESTRICTIVE TWO YEAR PROBATIONARY LICENSE ENDING 6-11-2016 WITH THE CONSIDERATION AND APPROVAL OF THE EXISTING LIST OF OUTFITTERS THAT MR. MOSER IS ALLOWED TO WORK FOR.**

MSC (MOTION: STARK, SECOND, IRBY; AYES, HUNSUCKER AND LONG; NAYES – NONE) BASED UPON THE EVIDENCE PRESENTED THE BOARD FINDS A VIOLATION AND ORDERS COST RECOVERY OF \$1000.00, WITH ARRANGEMENTS TO BE MADE WITH THE EXECUTIVE DIRECTOR ON PAYMENT AND TO GRANT A ONE YEAR NON RESTRICTIVE PROBATIONARY LICENSE TO END 6-11-2015 TO MR. SHANE MOSER

Jason Waller - Guide License Hearing – A guide license hearing was conducted before the Board by the Board's prosecutor, Mike Kane. The applicant was identified and placed under oath. Mr. Kane explained

that Director Howard had deferred Mr. Waller's guide license application due to prior criminal convictions not being disclosed on the guide license application. Mr. Waller is seeking a guide license to work for Silver Spur Outfitters and Lodge. Mr. Waller testified and certain exhibits were introduced into evidence. The Board stated that they would take this issue under advisement. Board Chairman Mr. Hunsucker stated Mr. Waller would be notified that day of their decision.

Kent Fritchman – appeared to discuss his concern over the lack of standards for organizations that are not required to be licensed outfitters on the Payette River, and with Boise State University in particular. District Ranger, John Kidd, from the Lowman Ranger District of the Boise National Forest, USFS who has oversight on the Payette River also participated by phone. Director Howard explained that statutorily any employee of the state of Idaho or the United States when acting in his official capacity are exempt from the requirements of licensing, and that included employees of BSU and other state institutions. The Board Director and Board Attorney Hales discussed that if a person is a subcontractor or someone providing activities outside of their course of employment, they would need to be licensed. District Ranger Kidd said that all commercial activities provided on USFS or BLM managed lands or waters must be permitted by the appropriate federal agency and this included state institutions.

MSC (MOTION: IRBY, SECOND, LONG – AYES: STARK, AND HUNSUCKER; NAYES: - NONE) AT 11:35 A.M. THAT THE BOARD ADJOURN TO EXECUTIVE SESSION TO REVIEW AND SCORE APPLICATIONS FOR THE PROSPECTUS ON THE SNAKE RIVER SN7, SN8 AND SN9 POWER AND FLOAT IN ACCORDANCE WITH THE PROVISIONS OF SEC. 67-2345(1)(d), IDAHO CODE. MSC (MOTION: IRBY, SECOND, LONG; - AYES: HUNSUCKER AND STARK; NAYES: - NONE) THAT THE BOARD END EXECUTIVE SESSION. EXECUTIVE SESSION ENDED AT 12:05 P.M

Prospectus on the SN7, SN8, and SN9 for power and float – After reviewing the applications, the Board determined scoring to be in order of first place through second place. 1st Place - Magic Valley Flight Simulation, 2nd place - 1000 Springs Resort. There were no applications received for the SN8 and SN9 and the Director noted that those sections can be filled on a first come, first served basis. **MSC (MOTION: STARK, SECOND LONG – AYES: HUNSUCKER, AND IRBY NAYES: NONE) BASED UPON THE APPLICATIONS PROVIDED TO AWARD THE PROSPECTUS ON THE SNAKE RIVER FOR THE SN7 POWER AND FLOAT TO MAGIC VALLEY FLIGHT SIMULATION.**

Chairman Hunsucker recessed meeting at 12:10 P.M. for lunch. Meeting was reconvened at 1:30 with all listed above present.

MSC (MOTION: STARK, SECOND, IRBY; AYES, HUNSUCKER AND LONG; NAYES – NONE) TO MOVE THE DISCUSSION ON THE BLM/USFS CAPACITY STUDY AHEAD OF OTHER BOARD BUSINESS.

South Fork Resource Management Plan - Monica Zimmerman with Idaho Falls District Bureau of Land Management (BLM) appeared to update the Board on the capacity study for SS1, SN1, SH3 and the TE3. Jeremy Casterson, Upper Snake Field Manager, BLM and Tracy Hollingshead, Palisades District Ranger, Caribou/Targhee NF, USFS participated by phone. Ms. Zimmerman presented a preliminary range of alternatives. She said that an extensive public outreach effort had been made thus far, and that the Federal Agency's intent was to work with the Board in narrowing down this preliminary range of alternatives which would then be presented for additional public input and moved toward a decision. The intent was to do this jointly with the Board's rule making.

MSC (MOTION: STARK, SECOND LONG – AYES: IRBY, AND HUNSUCKER, NAYES NONE) TO DIRECT DIRECTOR HOWARD TO WORK WITH THE BLM AND USFS TO NARROW

DOWN THIS PRELIMINARY RANGE OF ALTERNATIVES AND TO REPORT BACK AT A FUTURE A BOARD MEETING.

Kelly's Whitewater Park - Board Attorney Roger Hales – Board Attorney, Roger Hales reminded the Board that at its November 2013 meeting it had directed a letter be sent to Attorney Steve Millemann on behalf of Kelly's White Water Park which operates on the Payette River near Cascade. Mr. Hales stated that he obtained the Director's consent to delay sending the letter until he obtained some clarifications from the Board on the recommendations to Kelly's White Water Park on their operations. The Board did discuss the fact that its Rules do not presently allow an Outfitter to operate boating activities on that section of the Payette River. The Board also discussed a potential new policy that may assist Kelly's White Water Park with their training related activities conducted as hazardous excursions. Board member Long said that he had seen positive changes in the operation of the park. The Board asked Mr. Hales to make a follow up contact with the Friends of Kelly's White Water Park attorney, and that Director Howard move forward with Special Authorizations for One-Time Hazardous Excursions provided Outside of a Licensed Outfitter's Operating Area.

Draft Policy 2028.1-2014 - Special Authorizations For One-Time Hazardous Excursions Provided Outside Of A Licensed Outfitters Operating Area - Director Howard provided a draft policy that could include river related training under similar terms to the current one time controlled hunt rule as discussed during the March Board meeting. The Board asked the Director to clarify the policy and so it could be adopted and placed on IOGLB's website.

Jason Waller - Guide License Hearing, Con't - The Board revisited Jason Waller guide license denial hearing. **MSC (MOTION: LONG, SECOND STARK – AYES: IRBY, NAYES:--HUNSUCKER) TO RELICENSE JASON WALLER WITH A TWO YEAR NON RESTRICTIVE PROBATIONARY LICENSE. THE PROBATIONARY PERIOD WILL END JUNE 11, 2016-**

Directors Report- Reciprocity with Oregon on the Snake River- IOGLB has been contacted by an outfitter from Idaho stating that the State of Oregon has changed its rules regarding outfitter and guide licensing. Director Howard said as he understands the State of Oregon's license requirements, they do not differentiate an outfitter as a business and a guide as an employee of the outfitter's business like Idaho does. Instead, they simply license all applicants as guides who then can operate as a business. He also said as he understands it, Oregon's new rule is that all applicants licensed on boundary waters such as the Snake River between Idaho and Oregon must pay the bordering State's license fee if higher than Oregon's. Consequently, if this were the case it appears that all licensees on the Snake River pay Idaho's fees to Idaho and an Idaho's outfitter licensee fee to Oregon. Director Howard said he had briefly talked to Randy Henry, Oregon's Boating Law Administrator – Boating Safety Manager, with the Oregon State Marine Board to possibly set up a meeting to further clarify the matter but had not heard back from him. **1% Bonuses for 2015.** Director Howard asked for the Board to approve the 1% fiscal year 2015 bonus. He said this should have been approved as part of the Board's action in March approving the 2014 bonus and merit increases, but there was an oversight over what was directed by the Governor's Office. **MSC (MOTION: STARK, SECOND LONG – AYES: IRBY, AND HUNSUCKER, NAYES: -- NONE) TO APPROVE THE 2015 ONE TIME BONUS**

Strategic Plan- Director Howard provided the Board an updated Strategic Plan and stated that it should be updated on a yearly basis. **MSC (MOTION: LONG, SECOND STARK – AYES: IRBY, AND HUNSUCKER, NAYES: -- NONE) TO APPROVE THE STRAGIC PLAN**

House Bill 597 Private Lands – Director Howard explained that the staff has met and identified benefits to being licensed as a Private Land Outfitter, and felt that information might be placed on the Board's website.

Policy 2020-2003 - A discussion took place to eliminate the private lands policy. This policy is no longer effective after the legislature passed a bill stating that private land outfitters no longer need to be licensed unless the land owner requests the outfitter be license. **MSC (MOTION: STARK, SECOND LONG – AYES: IRBY, AND HUNSUCKER, NAYES: -- NONE) 2020-2003 POLICY IS RESCINDED BASED ON THE MINIMUM STANDARD ON PRIVATE LANDS.**

Financial Projections - Director Howard explained several projections based on the potential loss of revenue due to passage of House Bill 597, and other operational issues and discussed the prospects of a fee increase. The Board took no action on the matter and decided to review it again in August once the FY 2014 financials were available.

*Chairman Hunsucker recessed meeting at 5:05 P.M. until Thursday June 12, 2014 at 8:30 A.M.
Chairman Hunsucker reconvened the meeting at 8:30 A.M.*

Financial Report - The Director reviewed the financials for the last three months with the Board along with the projected balances through June 2014. **MSC (MOTION: STARK, SECOND LONG – AYES: IRBY, AND HUNSUCKER, NAYES: -- NONE) TO ACCEPT THE FINANCIAL REPORT**

Consent Agenda – The Board reviewed the consent agenda. MSC (MOTION: LONG, SECOND G – STARK AYES: IRBY AND HUNSUCKER, NAYES: -- NONE) TO APPROVE THE CONSENT AGENDA.

Draft Policy 2028.1 – 2014 for One Time Hazardous Excursions Outside of Outfitters Operating Area, Con’t – In following up discussion earlier in the meeting, Director Howard reminded the Board that it been the policy of the Board to balance its statutory responsibility and its administration of Idaho outfitter and guide licensing with maintaining efficient and effective licensing and regulatory processes that are reasonable and fair; that make sense to the general public as a whole; and that is not overly burdensome to partnering agencies or private enterprise. He said that because strict interpretation of the definition Hazardous Excursion referenced in Idaho Code 36-2102 (b) (below) and defined in IDAPA 25.01.01.002.20 (below) can be inclusive; and because not all types of recreational activities possibly provided by commercial entities, can be listed in statute or rule, the Board must be adaptable, and use common sense to determine which activities are truly hazardous, and which put the public’s health, safety and welfare at risk as provided in Idaho Code 36-2101 through 36-2119. He said this is also stated in policy. He went on to explain that the intent of this policy is to provide direction to IOGLB staff as they respond to interested parties in their effort to meet these requirements. Director Howard said that Hazardous Excursions are defined in rule as outfitted or guided activities conducted outside municipal limits in a desert or mountainous environment that may constitute a potential danger to the health, safety, or welfare of participants involved. These activities shall include, but are not limited to: day or overnight trail rides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, llama and goat packing, snowmobiling, survival courses, guiding courses, rescue courses, fishing courses, motored and non-motored cycling, wagon rides, sleigh rides, and dog sled rides. He said Hazardous Excursions do not include any type of hunting, fishing or boating which are defined in statute as licensable activities and further clarified in rule. Also, in rule, float boats are defined as “watercraft” followed by a long list of various types of boats as examples. Such items as personal floatation devices are excluded in rule in the definition of float boats. He said that consequentially licensed boating is largely boat tours and boat fishing, and courses such as boat safety or white water rescue training where boats are clearly not the primary activity allow the Board some latitude to interpret those activities as a Hazardous Excursion. He suggested that this may be further clarified in rule as some point and that other activities not listed above must be categorized independently on a case by case basis as a Hazardous Excursion in order for this policy to be applicable to other outfitter license special authorizations. **MSC (MOTION: LONG,**

SECOND G – IRBY AYES: STARK, AND HUNSUCKER, NAYES: -- NONE) TO APPROVE THE POLICY 2028-1-2014.

Office Supervisors Report – Office Supervisor Lori Thomason provided a report to the Board that showed which outfitters have not relicensed as of 2014, what activities, and whether they provide those activities on private and or public lands. There are 7 outfitters at this time that have not renewed their licenses. Two operate on private lands, and five are on public and or private lands. **TAC meeting** - A meeting was held April 29, 2014 in Twin Falls Idaho with the Technical Advisory Committee (TAC) the purpose of the meeting was to introduce the new members to each other, and to help set the standards for Technical Mountaineering and Ropes Courses. The TAC committee reviews the applications dealing with level 1 and level II skiing, field supervisors and their requirements along with technical mountaineering and ROPES courses. They advise Executive Director and Board as to the qualifications of applicants to help determine if an applicant is qualified to provide certain activities they have applied to provide. This helps ensure that the health, safety and welfare of the public is being protected. **MOU meeting** – The annual MOU meeting between the United States Forest Service and the Bureau of Land Management was held in April in Ketchum this year. The MOU is reviewed on a yearly basis to determine if any issues have surfaced that need to be addressed. Cost recovery was brought up as an item that needs to be examined, however Board does not feel that it should try and educate outfitters on federal cost recovery due to the complexity of the cost recovery process. **Federal Agency training** – There were two Federal Agency training classes provided this year to the United States Forest Service and the Bureau of Land Manager Permit Administrators and federal agency staff. One class was in Ketchum and the other class was in Grangeville. Between the two classes there were 30 participants. These classes are beneficial and informative to the permitting agencies explaining the processes, and why we need certain information from them. This is beneficial for the permit administrators to understand so they can also educate the outfitters. It also informs the federal agencies what they can expect from the licensing board.

Education and Enforcement Supervisor’s Report - Education and Enforcement Chief, Randy Wadley gave an overview of 2014 cases and investigations.

Enforcement Investigation Administrative Citations, Fines, Cost Recovery - Mr. Wadley asked the Board to approve:

Case Number 2013-036 Chris Korell-Outfitter/DA for Korell Outfitters - **MSC (MOTION: LONG, SECOND – STARK AYES: IRBY, AND HUNSUCKER, NAYES: -- NONE) TO APPROVE TO ACCEPT \$100.00 DOLLAR FINE PAYMENT FROM CHRIS KORELL FOR AN IDAHO FISH AND GAME VIOLATION**

Case Number 2013-072 Michael A. Priester, a guide for Heaven’s Gate Outfitters - **MSC (MOTION: LONG, SECOND – STARK AYES: IRBY, AND HUNSUCKER, NAYES: -- NONE) TO ACCEPT THE FINE PAYMENT OF \$400.00 AND \$50.00 SPECIAL PROCESSING FEE FOR MICHAEL PRIESTER FOR AN IDAHO FISH AND GAME VIOLATION / UNETHICAL / UNPROFESSIONAL CONDUCT WITH A ONE YEAR GENERAL PROBATION ENDING 04/30/2015.**

Case Number 2013-075 - Michael A Estrada A Guide for Heaven’s Gate Outfitters - **MSC (MOTION: LONG, SECOND – STARK AYES: IRBY, AND HUNSUCKER, NAYES: -- NONE) TO ACCEPT THE FINE PAYMENT OF \$1000.00 AND \$50.00 SPECIAL PROCESSING FEE FOR MICHAEL ESTRADA FOR AN IDAHO FISH AND GAME VIOLATION**

2014-006 - **MSC (MOTION: LONG, SECOND – STARK AYES: IRBY, AND HUNSUCKER, NAYES: -- NONE) TO ACCEPT THE \$200.00 CITATION FOR BRETT DRUMMOND AND TO PLACE HIM ON A GENERAL PROBATION TO END 4/21/2015**

Board Meeting Minutes
June 11-12, 2014

ATTEST:

JAKE HOWARD, DIRECTOR

Date