

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

DRAFT MINUTES

August 2- 3, 2018

**(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 AUGUST 2, 2018 IN THE MEETING ROOM AT THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD OFFICE, 1365 N. ORCHARD STREET ROOM 172 BOISE, IDAHO 83706. AND 1301 N. ORHCARD SUITE 110 BOISE IDAHO 83706. MEMBERS BOB BAROWSKY (CHAIRMAN), GEORGE MCQUISTON, LOUISE STARK AND WAYNE HUNSUCKER WERE PRESENT. ALSO PRESENT WERE EXECUTIVE DIRECTOR LORI THOMASON, OFFICE SUPERVISOR AMANDA HARPER, BOARD ATTORNEY ROGER HALES, EDUCATION AND ENFORCEMENT SUPERVISOR RANDY WADLEY AND BOARD PROSECUTING ATTORNEY KRISTEN ATWOOD.

William McCarthy – Guide License Hearing – A guide license hearing was conducted by the Board’s prosecuting attorney Kristen Atwood. William McCarthy, the applicant, was identified and placed under oath. Ms. Atwood explained that Director Thomason, by Board policy, had deferred Mr. McCarthy’s guide license application due to the Enforcement Division’s review and scoring of Mr. McCarthy’s criminal convictions disclosed on his application. Mr. McCarthy is seeking a guide license to work for Silver Creek Outfitters. Mr. McCarthy testified, and certain exhibits were introduced into evidence. **MSC (MOTION: STARK, SECOND: MCQUISTON; AYES – BAROWSKY, HUNSUCKER; NAYES – NONE) TO GRANT A GUIDE LICENSE TO MR. MCCARTHY WITH ONE YEAR GENERAL PROBATION.**

Prosecuting Attorney Kristen Atwood excused herself at 9:00 a.m. with the hearing being complete.

Hearing Officer Jean Uranga joined the meeting at 9:00 for the deliberation on Allred’s Adventures, LLC.

DELIBERATION ON ALLREDS ADVENTURES, LLC HEARING – Hearing Officer Jean Uranga confirmed that all board members had received both closing arguments from the hearing that took place on June 7, 2018. This hearing was based upon a remand order from the district court directing the Board to allow additional testimony and evidence in the matter. She reviewed that part of the original Findings Of Fact And Conclusions Of Law state that Mr. Allred had not objected about the 2014 allocation until 2017. The judge said that Mr. Allred hadn’t been aware the Board was going to go back through past minutes, so he needed the opportunity to submit evidence to the Board regarding his objection. Ms. Uranga went over the original Findings Of Fact And Conclusions Of Law and explained to the Board what paragraphs they needed to review to either modify or clarify. After a brief discussion it was decided that due to not all board members being present, the discussion was delayed until 10:00 a.m. when all board members would be present.

LEGAL OPINION – IOGA Legislative Proposal - Board attorney Roger Hales discussed with the Board that at some point the Legislature will want to know how the Board feels about the proposed

legislation that the IOGA will be bringing forth. He let the Board know that they need to review the proposed legislation and advise the IOGA sooner rather than later if there are any concerns so that they may be able to make adjustments or respond to help mitigate those concerns. He said that this should take place by November to give the IOGA enough time to act before the Legislature is in session.

Outfitter Exam – Board Chairman Bob Barowsky asked for the legal opinion in reference to when an applicant fails the outfitter exam two consecutive times within a license year, do they have a right to appeal the decision or must they wait until the next license year to retake the exam. Attorney Hales explained that because that applicant failed the exam, that does not exclude that a different applicant could apply to become a Designated Agent for the same company. He stated that another applicant could assume responsibility for the outfitter license as a Designated Agent. Mr. Hales stated that he didn't believe that the Board's notice to an applicant that they failed the outfitter exam is a final order from the Board and it would not be appealable. The requirements and conditions of taking and passing the exam in order to be licensed is set by Board rule.

Board member Tom Long joined the meeting at 10:00 a.m.

MSC (MOTION: STARK, SECOND: HUNSUCKER; AYES – LONG, MCQUISTON, BAROWSKY; NAYES – NONE) AMEND THE AGENDA TO GO INTO EXECUTIVE SESSION, ALLOWING THE EXECUTIVE DIRECTOR AND OFFICE SUPERVISOR TO BE PRESENT, AT 10:00 A.M., TO DISCUSS PENDING LEGAL MATTERS PURSUANT TO IDAHO CODE 74-206(1)(f).

MSC (MOTION: HUNSUCKER, SECOND, LONG; AYES – STARK, MCQUISTON AND BAROWSKY; NAYES – NONE) TO COME OUT OF EXECUTIVE SESSION AT 10:28 A.M. WITH NO DECISIONS MADE.

Cont...DELIBERATION ON ALLREDS ADVENTURES, LLC HEARING (MOTION: STARK, SECOND: LONG; AYES – HUNSUCKER, MCQUISTON AND BAROWSKY; NAYES – NONE) THE MOTION WAS MADE THAT IN RESPECT TO FINDINGS OF FACT AND CONCLUSIONS OF LAW AND FINAL ORDER THAT PARAGRAPH 15 AND THE LAST SENTENCE OF PARAGRAPH 32 TO INCLUDE “THAT WHILE THE LICENSEE WAS ACTIVELY INVOLVED IN THE EFFORTS OF THE IOGA TO AMEND THE ALLOCATION MANUAL FOR THE FUTURE” THEN CONTINUE ON TO STATE THAT “THE LICENSEE DID NOT OBJECT OR OTHERWISE REQUEST A HEARING AT ANY TIME DURING 2014, 2015 OR 2016 REGARDING HIS 2014 RECALCULATION PROCESS” THE MOTION CONTINUES AS FOLLOWS THE BOARD RECOGNIZES DARL ALLRED’S INVOLVEMENT WITH THE IOGA TO AMEND THE ALLOCATION MANUAL IN THE FUTURE. WITH RESPECT TO THE LICSEEE’S MARCH 21ST ALLOCATION THE LICENSEE DID NOT BRING A WRITTEN REQUEST FORWARD. PARAGRAPH 28 AND 29 NEED THE STATUTORY CITATION AMENDED FROM IDAHO CODE 31 TO IDAHO CODE 36. AMEND THE LAST SENTENCE OF PARAGRAPH 32 TO READ “THE LICENSEE HAS OFFERED NO REASONABLE JUSTIFICATION FOR THE DELAY OF BRINGING HIS REQUEST TO “DO AWAY WITH THE 2014 RECALCULATION” IN 2017 AND ALLOWING THE BOARD AND ALL OTHER ELIGIBLE OUTFITTERS TO RELY ON THE 2014 RECALCULATION”.

(MOTION: HUNSUCKER, SECOND: MCQUISTON; AYES – STARK, LONG AND BAROWSKY; NAYES – NONE) TO ALLOW LEGAL COUNSEL TO MAKE CHANGES THAT WERE NOTED AND ALLOW THE BOARD CHAIRMAN TO SIGN THE ORDER.

Hearing officer Jean Uranga excused herself from the meeting at 10:35 a.m. with the deliberation being complete.

IDFG UPDATE – Brad Compton, Idaho Department of Fish and Game Regional Supervisor, gave an update to the Board. **Big Horn Sheep Tags** – Mr. Compton said that annually the IDFG Commission releases one big horn sheep tag for auction and one for lottery. He stated that it's a bidding process for non-profit conservation groups to get those tags and that there is a long history of the National Wild Sheep Foundation receiving the auction tag and the Idaho Chapter of the Wild Sheep Foundation receiving the other tag. He said there are no changes this year, due to those being the only two groups that applied. **Non-Resident Deer and Elk Tag Quotas** – The commission adopted the department recommendation of no change to the non-resident deer and elk tag quotas, along with no change to the outfitter set aside tags. **Wolf Hunting and Trapping Seasons** – The Commission adopted changes to both wolf hunting and trapping seasons to take effect this fall. This allowed for earlier trapping, foot hold only, from November 15 to October 10 in some units. This opened some new trapping seasons in parts of Idaho. **Chronic Wasting Disease** – The commission adopted all the recommendations for carcass transport from states/provinces with chronic wasting disease, or within state if the disease is detected in Idaho. **Ban on Natural Urine Lures** – Mr. Compton stated that the commission adopted a ban on natural urine lures. **Winter Feeding** – Mr. Compton said that Idaho Fish and Game has authority under Commission rule to declare emergency winter feeding which allows them to access a special fund. The Commission adopted a proposal to include language in that rule set. The language would include chronic wasting disease and the ramifications of feeding on chronic wasting disease designated areas. This will be part of the consideration in any winter feeding decisions. Mr. Compton stated that now the Commission has authority, assuming the rules go through the legislative review, to ban private feeding of big game animals in an area that that has been designated as a disease management zone. **Import of Game** – Mr. Compton said that under existing rule people could import mule deer, white tailed deer, antelope and moose with a permit from the Director, but with a concern for disease the Director has not been issuing those permits. The team that revised the plan recommended strengthening that by prohibiting the importation by rule **Transfer of Tags** – Mr. Compton stated that a few years ago the Commission created a rule that allows parents or grandparents the ability to transfer a controlled hunt tag to immediate children or grandchildren. Since then, there has been a substantial increase in the number of applicants. He said there was concern by some sportsmen that it was inflating the drawing odds for moose, goat and sheep so the Commission adopted a rule saying those tags can no longer be transferred. Deer, elk, black bear, pronghorn and turkey can still be transferred. **Mail in Applications** – Mr. Compton said the Commission adopted a rule prohibiting mail in applications for controlled hunts. He stated they must be done online or directly through a vendor. **Air Guns** – The Commission has approved a rule to allow the use of air guns in any weapon and short-range weapon hunts. **Swan Hunting Season** – Mr. Compton stated that coming out of north Idaho there has been a desire to open a Tundra Swan hunting season. He said it is a lengthy process because they are migratory birds, but the Commission has approved moving forward. **Sawtooth Elk Zone** – Mr. Compton stated that the Commission has scoped two proposals with the public for the Sawtooth Elk Zone. One option would make all the tags controlled hunts, and the second option would remove the cap on A tags. B tags for Unit 36 would be capped, and Units 33, 34, and 35 would be converted to controlled hunts. He stated that written comments indicated split input. The Commission made a commitment to resolve the issue at the November meeting. **New Licensing System** – Mr. Compton said that Fish and Game has a new licensing system, and they are still working through issues that come with a new system. He made known that he greatly appreciated the patience that the customers have had through this process.

DIRECTORS REPORT – **New Database** – Director Thomason let the Board know that the programmer for the new database has asked, in the development of the new database, if we would like for the disciplinary actions to be public facing. The Board agreed that public notifications should be made on

our website. **Facility Report** – The IOGLB office has passed the annual facility inspection. **Budget Update** – Director Thomason told the Board that she has submitted the Fiscal Year 2020 Budget to the Division of Financial Management. She stated that she was allocated \$610,900. **2018 Financial Year in Review** – Ms. Thomason told the Board that due to a clerical error the \$70,000 bill to be paid to the new database programmer was not paid. She explained that because of that error \$139,000 has been turned back to the free fund account. Ms. Thomason let the Board know that the performance measure report that was due September 1, 2018 has already been submitted. She explained that this report ensures we are following all our measures and goals as set for the agency by the legislature. **Licensing Freedom Act** – Ms. Thomason let the Board know that IOGLB has complied with submitting Executive Order 2017-06 by the deadline. **Agency Summary** – Ms. Thomason told the Board that the agency summary for the new Governor was completed and submitted by the deadline. **(MOTION: LONG, SECOND: STARK; AYES – MCQUISTON, HUNSUCKER AND BAROWSKY; NAYES – NONE) TO ACCEPT THE DIRECTOR’S REPORT AS PRESENTED.**

SUSAN KNAPEK DISCUSSION/DIRECTION – Voucher Tracking – Office Staff Susan Knappek informed the Board that after a discussion with Craig Wiedmeier with the Idaho Department of Fish and Game, it was decided that IOGLB would continue with paper vouchers for one more year while the iWild paperless system gets up and going. Ms. Knappek asked for direction from the Board on how they would like to track vouchers once the paperless system is ready. The Board reviewed a preliminary tracking form put together by Amanda Harper. The Board directed Ms. Knappek to wait and see what kind of reporting will be available with the new iWild system. **Transfer of One Tag** – Ms. Knappek let the Board know that Tammy Overacker with Flying Resort Ranches, Inc. asked the Board if she could give one of her tags to another outfitter. The Board directed Ms. Knappek to respond to Tammy Overacker and let her know that either Ms. Overacker hire the other outfitter as a guide, or there needs to be a stipulation from all outfitters in that unit for her to give that tag to the other outfitter. **Updated Form** - Ms. Knappek let the Board know that due to direction from the Board at the June 2018 board meeting, she has updated the R3 use report form to state that reporting on private land is optional.

Meeting recessed for lunch at 12:00 p.m. Meeting reconvened at 1:30 p.m. with all listed above present.

OFFICE SUPERVISOR’S REPORT – Non-Use Review – Office Supervisor Amanda Harper reviewed with the Board the letters that have been received thus far in reference to the non-use review and compliance letters that were sent to 46 river outfitters.

- **Killgore Adventures, LLC** – (MOTION: LONG, SECOND: HUNSUCKER; AYES – STARK, MCQUISTON AND BAROWSKY; NAYES – NONE) TO ACCEPT THE LETTER OF EXPLANATION SUBMITTED BY KILLGORE ADVENTURES, LLC.
- **Killgore Adventures, LLC II** – (MOTION: LONG, SECOND: HUNSUCKER; AYES – STARK, MCQUISTON AND BAROWSKY; NAYES – NONE) TO ACCEPT THE LETTER OF EXPLANATION AND UPDATED USE REPORT SUBMITTED BY KILLGORE ADVENTURES, LLC II.
- **Idaho Guide Service Inc.** – (MOTION: LONG, SECOND: MCQUISTON; AYES – STARK, HUNSUCKER AND BAROWSKY; NAYES – NONE) TO ACCEPT THE LETTER OF EXPLANATION SUBMITTED BY IDAHO GUIDE SERVICE, INC.
- **Kingfisher River Trips Inc.** – (MOTION: MCQUISTON, SECOND: LONG; AYES – STARK, HUNSUCKER AND BAROWSKY; NAYES – NONE) TO ACCEPT THE

LETTER OF EXPLANATION AND UPDATED USE REPORT SUBMITTED BY KINGFISHER RIVER TRIPS, INC.

- **Hells Canyon Adventures III - (MOTION: LONG, SECOND: MCQUISTON; AYES – STARK, HUNSUCKER AND BAROWSKY; NAYES – NONE) TO ACCEPT THE LETTER OF EXPLANATION SUBMITTED BY HELLS CANYON ADVENTURES III.**
- **Tom Loder’s Panhandle Outfitters Inc. - (MOTION: LONG, SECOND: MCQUISTON; AYES – STARK, HUNSUCKER AND BAROWSKY; NAYES – NONE) TO ACCEPT THE LETTER OF EXPLANATION SUBMITTED BY TOM LODER’S PANHANDLE OUTFITTERS, INC.**
- **Beamer’s Landing Inc. (#1) - (MOTION: STARK, SECOND: LONG; AYES – HUNSUCKER, MCQUISTON AND BAROWSKY; NAYES – NONE) DIRECT BEAMER’S LANDING INC. TO SUBMIT MORE INFORMATION AND A CLEARLY DEFINED OPERATING PLAN BY NOVEMBER 1, 2018 FOR FURTHER REVIEW.**
- **Deadwood Backcountry Adventures Inc. - (MOTION: LONG, SECOND: HUNSUCKER; AYES – STARK, MCQUISTON AND BAROWSKY; NAYES – NONE) DIRECT DEADWOOD BACKCOUNTRY ADVENTURES, INC. TO SUBMIT MORE INFORMATION AND A CLEARLY DEFINED OPERATING PLAN BY NOVEMBER 1, 2018 FOR FURTHER REVIEW.**
- **Wapiti River Guides - (MOTION: HUNSUCKER, SECOND: STARK; AYES – LONG, MCQUISTON AND BAROWSKY; NAYES – NONE) DIRECT WAPITI RIVER GUIDES TO SUBMIT MORE INFORMATION AND A CLEARLY DEFINED OPERATING PLAN BY NOVEMBER 1, 2018 FOR FURTHER REVIEW.**
- **OARS*Dories Inc. - (MOTION: LONG, SECOND: STARK; AYES – HUNSUCKER, MCQUISTON AND BAROWSKY; NAYES – NONE) DIRECT OARS*DORIES, INC. TO SUBMIT MORE INFORMATION AND A CLEARLY DEFINED OPERATING PLAN BY NOVEMBER 1, 2018 FOR FURTHER REVIEW.**
- **Barker River Trips - (MOTION: HUNSUCKER, SECOND, MCQUISTON; AYES – STARK, LONG AND BAROWSKY; NAYES – NONE) DIRECT BARKER RIVER TRIPS TO SUBMIT MORE INFORMATION AND A CLEARLY DEFINED OPERATING PLAN BY NOVEMBER 1, 2018 FOR FURTHER REVIEW.**
- **Bentz Fence Company - (MOTION: STARK, SECOND: MCQUISTON; AYES – LONG, HUNSUCKER AND BAROWSKY; NAYES – NONE) TO ACCEPT THE LETTER OF EXPLANATION AND UPDATED USE REPORT SUBMITTED BY BENTZ FENCE COMPANY.**
- **Bitterroot Outfitters LLC - (MOTION: STARK, SECOND: HUNSUCKER; AYES – LONG, MCQUISTON AND BAROWSKY; NAYES – NONE) TO ACCEPT THE LETTER OF EXPLANATION SUBMITTED BY BITTERROOT OUTFITTERS LLC.**

The Board discussed that moving forward they would like the non-use information to go before a sub-committee made up of Board member Tom Long, Board member George McQuiston, and Office

Supervisor Amanda Harper. The intent of the subcommittee is to have a position made to present at a future Board meeting.

Board member Louise Stark excused herself from the meeting at 2:45 p.m.

EDUCATION AND ENFORCEMENT CHIEF’S REPORT – Education and Enforcement Chief Randy Wadley explained the current number of complaints and case investigations so far this year. **Cases and Investigations** – 43 total investigations for 2018. Chief Wadley informed the Board that there have been several complaints of the large number of rafts and drift boat fishing on the South Fork, Warm River and Henry’s Fork of the Snake River. Chief Wadley instructed IOGLB agent Randy White to conduct inspections. He stated that there were 12 boat physical inspections. All 12 inspections were in compliance. Chief Wadley made the Board aware that he has instructed IOGLB agents Bill Lewis and Kai Ngo to conduct an annual inspection of the Payette River area. This inspection is scheduled in early August 2018. Chief Wadley also informed the Board that IOGLB agent Bill Snow will also conduct inspections on the Salmon River in the Riggins area and that IOGLB agent William Snyder will conduct inspections on the Kootenai River areas. **Updated Policy** - Chief Wadley informed the Board that he has updated IOGLB policy 3008. After a brief discussion, Board Attorney Roger Hales stated that he would like to work with Chief Wadley to help clarify the policy further. **Non-licensed Outfitting** - Chief Wadley brought to the Board’s attention that Pocatello Parks and Recreation is advertising guided activities for compensation. He stated that per the past Director this same situation was granted to Boise City Parks and Recreation. Chief Wadley asked the Board for direction on how to proceed. **MSC (MOTION: LONG, SECOND: MCQUISTON; AYES – BAROWSKY AND HUNSUCKER; NAYES – NONE) MOVE TO ASK THE BOARD’S ATTORNEY TO LOOK INTO THE LEGALITY OF NON-PROFITS, CITY AND OTHER STATE ORGANIZATIONS OPERATING AS OUTFITTERS.**

FINANCIAL REPORT – The Board reviewed the financial report for June 2018. **MSC (MOTION: LONG, SECOND: HUNSUCKER; AYES – MCQUISTON AND BAROWSKY; NAYES – NONE) TO ACCEPT THE FINANCIAL REPORT AS PRESENTED.**

CONSENT AGENDA – The Board reviewed the Consent Agenda. **MSC (MOTION: HUNSUCKER, SECOND: LONG; AYES – BAROWSKY AND MCQUISTON; NAYES – NONE) TO ACCEPT THE CONSENT AGENDA AS PRESENTED.**

Chairman Barowsky recessed the meeting at 3:15 p.m. until 8:30 a.m. August 3, 2018.

Meeting reconvened at 8:30 a.m. at 1301 N Orchard St Suite 110 Boise, ID 83706 with Board member Tom Long, Board member Wayne Hunsucker, Board member Louise Stark, Board member George McQuiston, Board Attorney Joan Callahan, Executive Director Lori Thomason, Education and Enforcement Chief Randy Wadley, and Office Supervisor Amanda Harper.

Board Chairman Bob Barowsky joined the meeting at 9:50 a.m.

Board Attorney Roger Hales joined the meeting at 11:45 a.m.

NEGOTIATED RULEMAKING HEARING – The Board held a negotiated rulemaking hearing for Docket No. 25-0101-1801 regarding the designation of allocated deer and elk tags among operating areas. Ms. Callahan explained the rulemaking process and that the current negotiated rulemaking docket does not have any proposed language at this time. The Board took written comment and heard testimony from those in attendance. The list of commenters and written comments were placed in the rulemaking record.

ACTION ON NEGOTIATED RULE – Board Attorney Roger Hales went over a few options with the Board. He stated that one option would be to go ahead with the rule as presented; one option would be to ask for an extension on the temporary rule with a date certain, and one option would be to make amendments to the temporary rule and move forward. He stated that the only thing to be careful about is that a temporary rule extension requires the Governor’s approval. He stated that we would need to ensure that the Governor is on board and that the reasoning would be to let the industry solve this issue themselves. **MSC (MOTION: LONG, SECOND: HUNSUKER; AYES – BAROWSKY, STARK, MCQUISTON; NAYES – NONE) MOVE TO SEEK AN EXTENSION OF THE TEMPORARY RULE, MAKE CHANGES AS DISCUSSED TODAY, AND IN THE EVENT THE GOVERNOR’S OFFICE DOES NOT APPROVE THE TEMPORARY RULE EXTENSION, TO AT THAT POINT MOVE FORWARD WITH THE PROPOSED RULE WITH ANY CHANGES THAT WERE DISCUSSED TODAY.**

Attorney Callahan went over the comments that have been received thus far. After a brief discussion the Board agreed to the changes that need to take place for the proposed rule. It was also decided that a subcommittee made up of Board member George McQuiston and Board member Louise Stark would review those changes. **MSC (MOTION: MCQUISTON, SECOND: STARK; AYES – BAROWSKY, LONG, HUNSUCKER; NAYES – NONE) MAKE THE CHANGES AS REVIEWED DURING THE DISCUSSION AND DIRECT ATTORNEY JOAN CALLAHAN TO MAKE THOSE CHANGES AND THEN REVIEW THOSE CHANGES WITH THE TWO SUBCOMMITTEE MEMBERS.**

The next Board Meeting date has been set for December 10 and 11, 2018.

With no further business to come before the Board, Bob Barowsky adjourned the meeting at 12:50 p.m., Friday, August 3, 2018.

BOB BAROWSKY, BOARD CHAIRMAN Date

ATTEST:

LORI THOMASON, EXECUTIVE DIRECTOR Date