



The IOGLB Enforcement Newsletter

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Board Enforcement Division

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Warnings Effective Tool for Compliance

Not all illegal outfitting and guiding cases result in citations. In fact, most are resolved with a warning. IOGLB Enforcement Agent Randy Wadley says, "We almost always warn the individual first, especially if there is any doubt they don't know the law."

Many cases, but certainly not all, of unlicensed guiding is unintentional. Examples include someone who teaches river rescue classes; dog sled excursions; mountain bike rides; and even colleges or universities who advertise and provide outdoor recreation trips. A recent fishing advertisement on the Clearwater River is a good example. IOGLB Enforcement Chief Beale said that Lewis and Clark State College was advertising fishing trips through their adult outreach program. "Their approach was simple enough, but they chose to contract with an unlicensed fishing guide. He was not an employee of L&CSC, was not licensed and was not working for an outfitter." Beale continued, "After a few phone calls and a couple letters to L&CSC, they pulled the course from their curriculum. We don't want to limit people's options to fish, but they need to be with a licensed guide, or the school needs to be exempt."

Other examples include riding lessons with the option to do trail rides. "Once they leave their corral or fenced area and head out onto trails, public lands, along canals or on other people's property, they are outfitting and guiding", agent Wadley says. "Most people comply with the law once it's been explained and we send them copies of the law." Sometimes, warnings are not enough and measures that are more forceful are warranted. "We want to give people the benefit of the doubt. Most people do the right thing if given the chance" says agent Wadley.

New Law an Effective Weapon against Illegal Guiding

On June 28, 2009, Chris Bentley was surprised to learn the two clients he had in his drift boat were an undercover (UC) Fish and Game officer and Licensing

Board agent, then more officers from IDFG appeared out of nowhere to arrest him for guiding without a license.

Tipped off by an outfitter who saw Bentley's ad on Craig's List, IOGLB learned Bentley was not licensed and was offering trout fishing on the Salmon and South Fork of the Snake Rivers. An experienced IOGLB agent was selected to run the case. He made contact with Bentley and booked a float trip on the Salmon River near Challis. A UC officer from Fish and Game joined the case, and together they planned the operation. Just days before they were to fish with Bentley he switched the trip to the South Fork of the Boise River. This required moving the sting and involved recruiting new plain clothes and uniformed officers and re-planning the take down.

Because both UC officers stayed with the case, and IDFG supported the effort, things ran smooth as silk. The day on the water came off without a hitch. Bentley bragged that a friend of his had been busted for fishing without a license, but had just had his wrist slapped. He even admitted that the South Fork of the Boise was unregulated and guiding was illegal. Then, to make his problems worse, he used barbed hooks on the rods when barbless only is required.

At the take-out, the IDFG officers were waiting. Bentley soon admitted to the violation and returned the envelope containing \$300.00 in cash. He admitted he made a big mistake, saying this was the first time he had done this. Officers issued Bentley two citations: one for Illegal Guiding and one for Fishing with Barbed Hooks and seized a \$500 rod and reel set and his new Hyde drift boat.

A few weeks later Bentley made history by being the first person convicted under the stiff new penalties of Idaho Code 36-2117, having pled "Guilty" to IC 36-2104 "Unlicensed Guiding". The Elmore County District Court Judge fined Bentley \$1,000.00; made him pay restitution to IOGLB in the amount of \$1,350.00; kept his rod and reel; and revoked his hunting and fishing privileges for 2 years. The

\$10,000 Hyde drift boat was returned to the owner, Bentley's father.

Thanks and recognition goes to all the IDFG officers whose hard work and dedication made this case a reality. A note of thanks also goes to our own IOGLB agent whose adept agility and attention to detail kept the train on the track.

Bentley has since paid his fines and has deployed for a tour of duty overseas. He chalked this up to his bad decisions, but said it was a good learning experience. Once he is back in the US and out of the service, Bentley hopes to realize his dream and work as a licensed guide.

Board Sets New Direction to Stem Unlicensed Guiding

After discussion between the Board and the Executive Director, Jake Howard, the Board has asked the Enforcement Section to reprioritize its budget and emphasize the apprehension and prosecution of unlicensed outfitting and guiding cases. To do this, Enforcement Chief Pat Beale will be scaling back high profile patrols in some areas and using these dollars to investigate and conduct covert trips with suspected illegal operations. Chief Beale says "The shift is subtle and most people won't recognize the change". Beale continued "there will still be steelhead patrols on the Salmon and Clearwater rivers and occasionally throughout the rest of the state. What will be most obvious to the outfitters are less ramp checks for licenses and safety gear."

The change has already netted three unlicensed guide arrests this summer, a record for the IOGLB enforcement agents and IDFG officers. Cases have occurred on the South Fork of the Boise River in Elmore County, the Coeur d'Alene River in Shoshone County, and the Owyhee Mountain foothills in Canyon County.

Case Load Update and Priority

IOGLB has opened 58 new investigations in 2009, on par with the total for this period in 2008. Most are started with a complaint received by phone, through the IOGLB Enforcement web address, or through the IDFG complaint hotline. Of the total, 36 are complaints against licensed outfitters. The remaining 22 (nearly 40%) are complaints against suspected unlicensed individuals.

Every case we receive is important to both the Board and IOGLB staff. However, there is not enough money in our budget to pursue each case. Unlike cop

shows on TV, our cases can take months or years to build and prosecute while TV viewers see a conclusion in less than 30 minutes.

It important to remember that knowing (or suspecting) a crime occurred and proving it can be two different things. Frustrations build when facts and evidence cannot be found and the offender seems to walk free. Our cases are prioritized based on their own set of circumstances. These factors include:

- * Is it firsthand information or is it speculation or rumor?
- * Do we have jurisdiction? Are there IOGLB laws or rules being broken?
- * Is there endangerment to public safety, health, and welfare?
- * Are there other agencies better suited to take the case (USFS, IDFG, Wildlife Service, etc.)
- * How stale is the information?
- * Will the case be lost if we do not act immediately?
- * Are the witnesses committed? Will they write a statement and support the case?
- * Are there witnesses to corroborate the complaint? Is this a "he said-she said" situation?
- * Will the Board or County Prosecuting Attorney prevail if charges are filed?
- * Where does the Board prioritize this type complaint per Board policy?

The goal of the enforcement section is to always provide licensees and the public with the best service possible. As new calls are received daily, our staff uses these questions to help prioritize which cases will be investigated.

WE WANT TO HEAR FROM YOU

Have an idea, or suggestion?

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