

OUTFITTERS AND GUIDES LICENSING BOARD
Division of Occupational and Professional Licenses
P.O. Box 83720
Boise, ID 83720-0063

Quarterly Meeting Minutes of 2/16/2021

BOARD MEMBERS PRESENT: Brad Compton - Chair
Louise Stark
Tammy Overacker

DIVISION STAFF: Anne Lawler, Bureau Chief
Kent Absec, Licensing Program Manager
John Price, Investigative Unit Manager
Nicholas Krema, General Counsel
Skip Liddle, Investigative Unit Supervisor
Cesley Metcalfe, Board Support Supervisor
Christian Runnalls, Board Support Specialist
Bonnie Dodson, Board Support Specialist
Allegra Earl, Licensing Supervisor
Susan Knapek, Licensing Specialist
Teresa Saucedo, Customer Service Representative

OTHERS PRESENT: Joan Callahan, Legal Counsel
Misty Lawrence, Division of Financial Management
Steve Zettel, Idaho Wilderness Company
Ron Ens, Middlefork Outfitter
Tom Henderson, Bitterroot Outfitters
Calvin McGowen, McGowen Outfitting
Ash Jenkins, Sportsmans Hunting Adventures
Aaron Lieberman, Idaho Outfitters and Guides
Association
Eric Riley, Swiftwater Safety Institute
Ben Layman, Borton-Lahey Law and Policy

The meeting was called to order at 9:00 PM MST by Brad Compton.

INTRODUCTIONS

Ms. Lawler introduced herself as the Executive Officer of the Board and as the Bureau Chief for the Occupational Licenses Bureau of the Division; Cesley Metcalfe, Christian Runnalls, and Bonnie Dodson as the Board Support Team; Kent Absec as the Licensing Program Manager; John Price as the Investigative Unit Manager; Joan Callahan as the Board's Outside Legal Counsel; and Nicholas Krema as General Counsel.

APPROVAL OF FIRST AMENDED AGENDA

Ms. Stark made a motion to approve the amended agenda. It was seconded by Ms. Overacker. Motion carried.

PUBLIC COMMENT

Mr. Zettel addressed the Board asking why tags with no changes haven't been implemented yet. He also asked the board to support HB520. Mr. Zettel also issued an invitation to the Allocation Symposium on March 15-16 at the Nampa Idaho Fish and Game office.

Mr. Ens encouraged the Board to support HB520. He also emphasized the importance of timely tag designations.

Mr. Henderson also emphasized the importance of timely tag designations and the impact that late designations have on the livelihood of outfitters

Mr. Lieberman further emphasized the importance of timely tag designations.

Mr. Compton read a letter of commendation from Joe Demarsh expressing his gratitude to Bitterroot Outfitters for assisting them when they were stranded.

INVESTIGATIONS AND DISCIPLINE

ENFORCEMENT UPDATE

Mr. Price informed the Board that Lori Thomason has retired from the Division and a new investigator will fill the open position at the end of the month. Mr. Price stated that the part-time enforcement employees are no longer employed by the division and that he is looking at other agencies throughout Idaho as potential models for the enforcement program in the future.

Mr. Price gave the investigative report and stated that there were 60 complaints in 2021 and 85% or greater were self-reported prior criminal history.

EXECUTIVE SESSION

Ms. Stark made a motion that the Board go into executive session under Idaho Code § 74-206(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law, Idaho Code § 74-106(9). The purpose of the executive session was to discuss documents relating to the fitness of a licensee to retain a license or registration. It was seconded by Ms. Overacker. The vote was: Ms. Stark, aye; Ms. Overacker, aye; and Mr. Compton, aye. Motion carried.

Ms. Overacker made a motion to come out of executive session. It was seconded by Ms. Stark. Motion carried. No action was taken in executive session

FOR BOARD DETERMINATION

Ms. Overacker made a motion to approve the divisions recommendation and authorize closure in case numbers 2021-047, 2021-055, and 2021-059, and to authorize closure with a warning letter in case numbers 2020-032 and 2021-008. It was seconded by Ms. Stark. Motion carried

Ms. Stark made a motion to put case number OGL-2021-1 on unrestricted probation with no fine upon renewal of license. It was seconded Ms. Overacker. Following discussion, the motion carried.

APPLICATIONS

Mr. Price presented an application for an outfitter currently on the waitlist for a section of Priest River. The applicant has been on the waitlist for some time and has also filed a complaint regarding non-use of one of the current outfitters on the section of the river. The board discussed options on how to move the application forward.

Ms. Stark made a motion to move the application forward based on the waitlist status without a competitive prospective process. Ms. Stark amended the motion to approve the application pending follow-up by Division staff with IDFG regarding the status of the non-use claim, waitlist priority, and the provision for only two licensed outfitters in that area. It was seconded by Ms. Overacker. Following discussion, the motion carried.

APPROVAL OF MINUTES

Ms. Overacker made a motion to approve the minutes of 12/8/2021 as amended. It was seconded by Ms. Stark. Motion carried.

HARDSHIP REQUESTS AND OBJECTIONS

EXECUTIVE SESSION

Ms. Overacker made a motion that the Board go into executive session under Idaho Code § 74-206(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law, Idaho Code § 74-106(9). The purpose of the executive session was to consider documents relating to the fitness of an applicant to be granted a license or registration. It was seconded by Ms. Stark. The vote was: Ms. Stark, aye; Ms. Overacker, aye; and Mr. Compton, aye. Motion carried.

Ms. Stark made a motion to come out of executive session. It was seconded by Ms. Overacker. Motion carried. No action was taken in executive session.

Ms. Stark made a motion to uphold the approval of Sulphur Creek's hardship request from the previous Board meeting. It was seconded by Ms. Overacker. Motion carried.

Ms. Stark made a motion to approve the Eagle Ridge Ranch hardship request. It was seconded by Ms. Overacker. Motion carried.

Ms. Overacker made a motion to approve Owyhee Outfitters' hardship request. It was seconded by Ms. Stark. Motion carried.

Ms. Stark made a motion to approve Middle Fork Management Co Inc. hardship request. It was seconded by Ms. Overacker. Motion carried.

Ms. Overacker made a motion to deny the Russell Pond 11582 and Russell Pond 11589 hardship requests. It was seconded by Mr. Compton to open discussion. Following discussion, the vote was: Ms. Overacker aye; Mr. Compton; nay, Ms. Stark; nay. Motion Failed.

Ms. Stark made a motion to approve the Russell Pond 11852 and Russell Pond 11589 hardship requests. It was seconded Mr. Compton. Following discussion, the vote was: Ms. Stark, aye; Mr. Compton, aye; Ms. Overacker, nay. Motion Carried.

Mr. Compton stated that the hardship requests were very difficult for Board members to decide on, and that deference was given to the outfitters. He also said that the Board will provide direction in the future to outfitters for the information that should be submitted with hardship requests.

LEGAL DISCUSSION

Ms. Overacker made a motion that the Board go into executive session under Idaho Code § 74-206(1)(f) to consider records that are exempt from disclosure under the Idaho Public Records Law, Idaho Code § 74-106(9). The purpose of the executive session was to discuss pending or imminent litigation with legal counsel. It was seconded by Ms. Stark. The vote was: Ms. Stark, aye; Ms. Overacker, aye; and Mr. Compton, aye. Motion carried.

Ms. Stark made a motion to come out of executive session. It was seconded by Ms. Overacker. Motion carried.

FEDERAL AGENCY COOPERATION

Ms. Lawler stated that the multiparty Memorandum for Understanding (MOU) with the Idaho Forest Service and the Bureau of Land Management is still in legal review. There is no update on adding an MOU with the Department of Lands, and all other

MOUs are still in place. The Board requested that MOUs for approval are accompanied by a summary of the changes.

Mr. Compton gave an update on predator overlap policies, stating that the Board has reapproved it. This allows outfitters to work together so clients can hunt outside their area for bears, lions, and wolves which helps control the predator population.

TETON COUNTY RIVER MANAGEMENT MEETING SUMMARY

Ms. Lawler explained that there are a growing number of complaints regarding overcrowding, polluting, and natural resource impacts on the Teton County River due to increased population. Some of the options being considered are education, enforcement signage, maximum group sizes, limits on rental shuttles, limits on user number, limits on all commercial activity, paid parking, and season or daily boat passes.

It was recognized that fishing outfitters do not contribute to the congestion and they are valued in the community.

BLM INFORMATION ON BOISE FOOTHILLS POSSIBLE PROSPECTUS

Ms. Lawler stated that The Bureau of Land Management is in the very infant stages of looking at allowing more permitted use in the foothills for outdoor activities that may provide opportunities for outfitters and guides.

BLM SCOPING PROJECT FOR PROPOSED SPECIAL RECREATION PERMITS

Ms. Lawler stated that the Bureau of Land Management (BLM) in Challis is looking at the possibility of issuing special recreation permits for commercial outfitter guides for various services.

Ms. Stark made a motion to remain engaged with the BLM scoping project. It was seconded Ms. Overacker. Following discussion, the motion carried.

HOUSE BILL 520

Ms. Overacker made a motion to support House Bill 520. It was seconded by Ms. Stark. Motion carried.

ZERO BASED REGULATION

Ms. Lawler restated the purpose of the ZBR rules review and informed the Board that it can do statute changes at the same time, if necessary. The Board reviewed staff recommendations for the definitions and rules outlined below. Unless otherwise stated, the Board did not approve any recommendations presented. Ms. Lawler presented the ideas outlined below for further discussion at future meetings.

Rule 002 – Definitions:

Ms. Lawler suggested deleting subsection 07 because the Division no longer employs enforcement agents. She also suggested changing subsection 08 to define sufficient first aid training. Ms. Lawler stated that all actions and regulations should be removed from definitions. She also suggested rephrasing unethical conduct to be more in line with state guidelines and removing duplications. Ms. Stark stated a desire to further refine the definition of unethical conduct to reduce subjectivity.

Rule 005 - License Production:

Ms. Lawler suggested revising the rule to allow licensees a specified amount of time to produce proof of licensure, rather than requiring it to be in their possession.

Rule 010 - Compliance with Laws:

Ms. Lawler stated that this rule should be moved to the discipline section of the rules.

Rule 018 – New Outfitter or Outfitter License Amendment Application:

Ms. Lawler suggested rewording the rule to make it more concise.

Rule 024 - Standards for Non-Use:

Ms. Lawler asked the board for information on the history and purpose of this rule. Following conversation Ms. Lawler suggested removing examples and verbiage already in statute and rewording the rule to make it more concise.

Rule 025 – Outfitter Renewal:

Ms. Lawler stated that the Division is working toward licensees renewing every two-years on the licensee's birthday. Additional conversations will be had to see if that will work for this board

Rule 034.01 – First Aid Card:

Ms. Lawler suggested revising this rule to focus on required training instead of holding a first aid card. The Board agreed that the rule should be revised to require applicants to complete a Board approved first aid training course that can be online or in person.

Rules 037- 042:

Ms. Lawler suggested consolidating these rules into a single boating section to streamline and reduce repetition.

Rule 045 - Skiing, Non-Hazardous and Hazardous Terrain Outfitter, Designated Agent, Ski Guide, and Ski Guide Trainee:

Ms. Lawler suggested consolidating rules pertaining to snow and rock-climbing into like sections to streamline and reduce repetition.

Rule 046 – Technical Mountaineering/Rock Climbing Guide:

Ms. Lawler requested more information on the TAC committee. She suggested discussing alternative options that might serve the same function. The Division is encouraging boards to shift from using subcommittees because they can create problems with the Open Meeting Law.

Rule 051 – Placement of Hunting Camps and Leaving Outfitters Operating Area, Big Game Hunting, and Incidental Trapping:

Ms. Lawler stated the Division wants to understand this rule better. Ms. Stark clarified that the camp section of the rule is to prevent outfitter clients from hunting in the wrong area due to camp placement on an outfitter border area. The Board discussed cutting most or all the wolf trapping section.

Rule 052 – Boat Transport of Hunting Clients:

Ms. Lawler asked the Board for the purpose of this rule and if it should be deleted or moved to another section. The Board clarified that this rule prevents river outfitters from dropping off hunters in hunting outfitter areas. The Board explained that hunting and boating outfitters coordinate to move hunting outfitter clients, but the rule prevents public hunters from disrupting outfitter areas. The Board suggested consolidating this into a river outfitter section.

Rules 54-55:

Ms. Lawler suggested consolidating all boating rules into one section.

Rule 57 – Designation of Allocated Deer and Elk Tags:

Ms. Lawler stated that Ms. Callahan will work on this rule. Any change to this rule may also require a statute change.

Rule 059 – River, Lake and Reservoir Power and Float Outfitter Limit:

Ms. Lawler suggested deleting this rule and requested input from the Board. Mr. Compton stated that this rule was created to address conflicts of launch ownership

between outfitted and non-outfitted use. He also stated that much of this section is also regulated by federal agencies but expressed his concern over the Board relying on federal agencies to dictate use levels.

Rules 061-063:

Ms. Lawler stated that these rules should be consolidated into snow and rock-climbing rule sections.

Rule 064 – Authorization for Granting, Denial, and Revocation of Licenses:

Ms. Lawler suggested that this and all disciplinary rules should be revised to bring them into compliance with the Board and Division Authority granted in statute.

Rule 068 - Administrative Fines/Probation/Restrictions:

Ms. Lawler suggested revising this rule to clarify the language on probation and reduce the types of fines.

FINANCIAL REPORT

Ms. Lawler gave a financial report which indicated that the Board has a cash balance of \$421,000.00. She informed the Board that the Division Administrator is working on an FAQ regarding Board finances under the Division.

FUTURE MEETING DATES

March 18, 2022, at 9:00 AM MT
March 28, 2022, at 9:00 AM MT
June 22, 2022, at 9:00 AM MT
September 21, 2022, at 9:00 AM MT

ADJOURNMENT

Mr. Compton adjourned the meeting at 5:00 PM MST.