

WYOMING STATE BOARD OF OUTFITTERS & PROFESSIONAL GUIDES

December 16, 2011

CASPER, WYOMING

Members present: Ron Platt, Chairman; Cole Benton, Vice-Chairman; Scott Edberg, Wendell Fraughton, Jim Schell, Don Schmalz and Mike Yardas.

Staff present: Leonard Hysell and Dan Hodge – Investigators; Jane Flagg – Administrator; Matt Fermelia – Attorney General's Office.

Public Present: Nathan Mattison, Dan O'Keefe, and Dave Mabie.

Cole motioned to approve the minutes of the August 5, 2011 meeting. Scott seconded and motion passed unanimously.

New Outfitter Applicants:

Mabie, Dave – Mr. Mabie was applying for a license to operate as DC Bar LLC. The current outfitter of record for this permit is Sandra Wright who will be relinquishing these areas. The Board members were concerned with Mr. Mabie's lack of guiding experience as Mr. Mabie does not hunt and has no knowledge of the harvesting or habits of game. Mr. Mabie indicated he will supervise the employees and thinks a family member should be the one to run the business.

Wendell suggested that Mr. Mabie talk with a different outfitter to handle this business because he does not think Mr. Mabie qualifies due to the fact that he does not hunt, lacks experience, and only spends maybe a month in these areas. Ron also indicated he did not think Mr. Mabie met the requirements of W.S. 23-2-411 (a) (ii) as Mr. Mabie has not been a licensed guide, nor does he have any similar experience the Board can consider. Scott thought the clients not only want to meet their outfitter but also want the outfitter there should problems arise which will not work with Mr. Mabie not in attendance.

Jim thought Mr. Mabie should hire an employee who has the experience to be the outfitter for this business and does not think Dave is the person to be the outfitter and said he would not vote in favor of this application. Don said the Board is in charge of keeping quality in the business and was also worried about this application. Ron said he has the feeling the Board is sympathetic to Mr. Mabie's situation and that although his business skills are good, he does not meet the qualifications under Wyoming Law. Problems originate in the field and that concerns him. Jane explained that under the Wyoming Administrative Procedures Act, should this application be denied, Mr. Mabie could request a hearing. If the application were still denied he could appeal that decision to the District Court and then to the Wyoming Supreme Court if he so desired.

Matt stated he represents the committee members and as with every Board it is their duty to protect the public. The legislature put minimums on qualifications and this Board is not allowed to deviate from that law. The issue is no professional guide experience or equivalent so table this application until Mr. Mabie can meet that statutory requirement. Cole motioned to table the application until Mr. Mabie can meeting the qualifications and Jim seconded. Ron

suggested Mr. Mabie possibly gain some experience and attend the February meeting. Motion passed unanimously.

Mattison, Nathan – Mr. Mattison's application was tabled at the Board's August meeting as Mr. Mattison did not have guiding experience. He did guide for Mark Condict for the 2011 season for nine days. Mr. Condict indicated in a letter to the Board that "Nate is a very conscientious and hardworking individual and he went out of his way to make sure that our clients had a memorable and successful hunt." Cole motioned to issue a one year conditional license. Matt said this would need specifications, i.e. able to take out x amount of clients, affidavit of hours guided, number of clients, types, etc. Cole then rescinded his motion and motioned to issue a one year conditional license and Mr. Mattison would need to show he has put another 100 hours into the guiding service and Wendell seconded. Scott indicated when Mr. Mattison appeared at the August meeting there was nothing said that would require more than the 70 hours of experience as required and the motion failed. Scott then motioned to approve Mr. Mattison's application as presented, to include a camp/equipment inspection, and Mike seconded. Motion passed unanimously.

Supplemental Requests Approved since last meeting:

Denny, Scott – Lion 30; Elk 117 – Private

Fales, Gary – Elk 61 - BLM

Haydon, Irby – Elk 103 – private – valid 12/15/11 – 12/19/11

Rogers, Zach – Elk 34,35; Deer 27,30; Bear 4; Lion 15 - BLM

Sellergren, Derrick – Bear 19 – FS

Cole questioned area 35 for elk as it is currently saturated with outfitters and wondered why the Forest Service is still authorizing this area. He was also concerned with Lion area 15 on BLM. Scott has been giving this a lot of thought as these areas are reviewed with the new outfitter applicants, thinks supplemental requests should be reviewed by the Board, and that the process needs revamped. Jim agreed with that so Ron appointed a committee to look at preliminary steps. Matt informed the Board they can do that but this would require a change in the Board's Practice Act. Scott thought outfitters should have to submit a new operation plan with the supplemental request when adding areas to be approved by the Board. Ken, Jane, Scott and Jim will be on this committee.

Treasurer's Report

Jane reported that total receipts from July 1, 2010 to December 14, 2011 were \$537,476. Total expenses for that time period were \$583,659. Expenses since the last meeting totaled \$136,149. This includes \$810 in legal costs for the hearing requested by Tom White. The cash balance as of December 14, 2011 was \$-28,956. There is an outstanding deposit of \$6840 that has not posted and we are getting renewals in daily which should get us into the black by the first of the year. Scott motioned to approve the report, Wendell seconded and motion passed 6-0.

Complaint Update:

F-469 – Matt explained this was postponed from the last meeting as the outfitter and professional guide wanted to address the Board when the Settlement Agreement was presented to them for approval as they dispute the allegations made by the complainant. They were not present at this meeting however did sign the agreements for the Board to review. Their statements are included in the Agreement. Matt then went through the allegations and Settlement Agreement that places the outfitter and guide on a five year conditional license of which two years, and almost three, have passed with no problem. The complaint took time to settle because of other legal issues that had to go through the court system. Cole motioned to accept the recommendation of the committee, Don seconded and motion passed unanimously.

F-520 – Matt informed the Board that the committee had met with the outfitter regarding the hiring of an unlicensed professional guide. The outfitter had been cited and paid that fine. He also attended the training class the day before this meeting that should help him file the proper paperwork in a timely manner. The professional guide will be cited and will need to claim that violation on any future applications. As he has not applied for a license since 2009 this part of the complaint will be dismissed without prejudice and the complaint filed against the outfitter will be dismissed if the Board agrees. Cole motioned to approve the dismissal of the complaint against the outfitter and to dismiss without prejudice that part of the complaint pertaining to the guide. Scott seconded and motion passed unanimously.

Complaint numbers 523 through 529 are new and were assigned to committee.

There were no public comments.

Notaries on professional guide applications:

Jane provided a letter to the Board from a concerned guide regarding this requirement and stated the Board office has received other comments about this over the phone. It was understood this was originally required as false applications have been submitted and it gives the Board investigators a tool for their investigations so it will continue as is.

Final Order – Tom White:

Don motioned to approve the Findings of Fact, Conclusions of Law, and Order denying the application for an outfitter license in the matter of Thomas L. White, Board Docket 11-07 and authorize the Chairman to sign this Order. Cole seconded and motion passed unanimously.

Letters from Clients:

The Board received a letter from Gil and Kay Sparks who were clients of Dwayne Willard, Diamond J Outfitters for a guided elk hunt this year. In part they indicated “this was the most professional hunting experience we have ever experienced.”

The next meeting was set for February 17th in Cheyenne with any committee meetings to be held on the 16th.

The meeting adjourned at 3:40 p.m.

Respectfully submitted,

Jane Flagg, Administrator

Co-Signed:

Ron Platt
Chairman of the Board