

From: [Rob Thornberry](#)
To: [Rulemaking](#)
Cc: [Todd Wernex](#)
Subject: Rulemaking for recreational use of Endowment Land
Date: Tuesday, July 18, 2023 3:20:54 PM
Attachments: [image001.png](#)
[IDL rulemaking comment letter TRCP 71823.pdf](#)

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Mr. Wernex

Please accept and acknowledge receipt of these comments on the negotiated rulemaking process for recreational use of endowment lands.

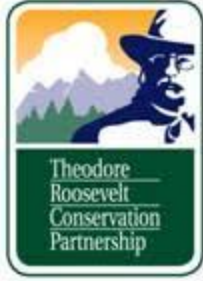
Thank you for your time and effort on such an important cause.

Sincerely,

Rob Thornberry



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July 18, 2023

Todd Wernex
Idaho Department of Lands
P.O. Box 83720
Boise, Idaho 83720-3698

RE: Rulemaking for recreational use of Endowment Land

Mr. Wernex,

Thank you for the opportunity to comment on the Idaho Department of Lands' negotiated rulemaking process to create citations for those who recreate illegally on endowment land. I submit these comments on behalf of the Theodore Roosevelt Conservation Partnership (TRCP), a national conservation organization that works to guarantee all Americans quality places to hunt and fish.

In addition to our 62 formal partner groups, the TRCP represents more than 140,000 individual members across the United States and 3,500, specifically in Idaho. We collaborate with willing partners to ensure access to public lands while also working through federal land use planning to make sure big game animals – such as deer, elk, bighorn sheep, and pronghorn – have room to thrive.

The Idaho Department of Lands (IDL) mission to manage its 2.5 million acres for long-term financial returns has always been difficult, but that mission is made harder now by the unrelenting surge in Covid-driven recreation use and the state's ever-increasing population. The stories of misuse are common and include instances campers blocking allotment roads on Sand Creek, anglers setting up 90-day camps on IDL lands adjacent to Henry's Lake, and unchecked illegal trail building across all corners of the state. This increased use is damaging fragile riparian areas, fracturing important wildlife habitats, and impinging on grazers who lease IDL lands. It is unsustainable.

That is why the TRCP supports IDL's effort to use negotiated rulemaking to create citations for the misuse of endowment lands. It is a wise expansion of the partnership IDL started with the Idaho Department of Fish and Game (IDFG) in 2019. Under the agreement, IDFG compensates IDL 25 cents per endowment acre annually for continued public hunting and fishing

access. In return, IDFG conservation officers are charged with monitoring the proper use of IDL lands. Creating language that allows for citations of people who damage IDL lands will help Fish and Game conservation officers preserve the quality habitat that IDL lands provide and the much-needed access to high-quality hunting and fishing areas.

The TRCP 's support is based on our belief that unchecked recreation will eventually impact wildlife populations in Idaho and the hunting and fishing traditions built on those animals.

In many cases, IDL land is critical to the long-term viability of big game species, such as deer, elk, moose, and pronghorn. It can provide wintertime refuge from the harshest storms or the summertime feed that helps raise fawns and calves. IDL lands also is an important habitat of other huntable species, such as waterfowl, ruffed grouse, and sage grouse.

Take the IDL lands on the Sand Creek Desert as an example of the tremendous value of IDL lands to wildlife. The desert is a checkerboard of private, IDL, and Bureau of Land Management lands that are a winter range for thousands of big game animals annually. The area is also home to sage grouse and sharp-tailed grouse. If the overuse of the Sand Creek desert continues, the critical habitats will be degraded, and wildlife species will suffer as a result.

There is a large body of scientific research on the impacts of trail-based recreation activities – especially high density motorized and non-motorized trail use – on big game habitat function.^{1,2,3,4,5} Contrary to popular opinion, elk and deer generally do not become habituated to hiking or mountain biking, and while disturbance to big game animals can appear subtle to trail users it can have significant cumulative, negative impacts.⁶

Wildlife researchers in Colorado have documented that unrestrained trail-based recreation during the summer calving season disturbs elk and can negatively impact elk calf survival, resulting in negative impacts to elk populations.⁷ There is also evidence that removal of recreation disturbance during summer calving can increase survival rates and bolster elk

¹ Wisdom, M. J., Preisler, H. K., Naylor, L. M., Anthony, R.G., Johnson, B.K., & Rowland, M.M. (2018). Elk response to trail-based recreation on public forests. *Forest Ecology and Management*, 411 (2018) 223-233.

<https://doi.org/10.1016/j.foreco.2018.01.032>

² Naylor, L. M., Wisdom, M. J., & Anthony, R. G. (2009). Behavioral responses of North America elk to recreational activity. *The Journal of Wildlife Management* 73: 328-338.

³ Wisdom, M. J., Ager, A. A., Preisler, H. K., Cimon, N. J., & Johnson, B. K. (2004). Effects of off-road recreation on mule deer and elk. *Transactions of the North American Wildlife and Natural Resources Conference* 69: 67-80

⁴ Taylor A. R., & Knight, R. L. (2003). Wildlife response to recreational and associated visitor perceptions. *Ecological Applications* 13: 951-963.

⁵ Washington Department of Fish & Wildlife. (2013). A Brief review of the scientific literature on elk, roads, & traffic. pp. 26. Accessed Aug. 2022 from:

<https://wdfw.wa.gov/sites/default/files/publications/01491/wdfw01491.pdf>

⁶ Wisdom, M. J., Ager, A. A., Preisler, H. K., Cimon, N. J., & Johnson, B. K. (2004). Effects of off-road recreation on mule deer and elk. *Transactions of the North American Wildlife and Natural Resources Conference* 69: 67-80.

⁷ Peterson, C. (2019, August 27). Hiking trails are a path to destruction for Colorado elk. *High Country News*. Accessed Aug. 2022 from: <https://www.hcn.org/articles/wildlife-hiking-trails-are-a-path-to-destruction-for-colorado-elk-vail>

populations. Recreation disturbance in high priority winter ranges – a limiting habitat for big game populations in Colorado – has also been shown to adversely impact big game.⁸

The TRCP also appreciates IDL's effort to create citations because, without penalties for misuse, IDL's only other option to control misuse is by closing its lands to recreation. Quality access is essential to the tradition of hunting and fishing. IDL is trying to maintain access and it should be applauded for that effort.

As to the specific language in the rule, the TRCP has three suggestions:

- In Section 020.02, the IDL should consider adding a specific statement that “residing on IDL lands is not permitted.”
- Also in Section 020.02, the IDL should investigate rules for camping limits on nearby federally managed public lands and match its language for camping limits with that of the federal agencies.
- In Section 020.03, the TRCP encourages IDL to be more direct, adding language that makes it clear motorized and mechanized travel is limited to designated routes.

Thank you again for the opportunity to comment on this important project. If you have any questions, please contact me directly.

Sincerely,



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⁸ Western Association of Fish & Wildlife Agencies, Mule Deer Working Group. (2016). Fact Sheet 17: Winter Range Disturbance. Accessed Aug. 2022 from: <https://wafwa.org/wpdm-package/fact-sheet-17-winter-range-disturbance/>