

Recreation Rulemaking Public Meeting Minutes

7-10-23

Idaho Department of Lands
(Louise Shadduck Office Building)
Sundance Conference Room
3284 W. Industrial Loop
Coeur d'Alene, Idaho 83815

Meeting called to order by Todd Wernex at 1:04 p.m.

Staff members attending in person: Todd Wernex, Program Specialist; Michele Andersen, Division Administrator of Operations; Jason Svancara, Operations Chief, North; Cori Wood, IDL support staff, recorded minutes.

Staff member attending via zoom: Anna Maria Mancini, Admin Assist 1; Amy Johnson, Technical Writer; Scott Phillips, Chief of Policy & Communication

Audience Attendees:

In person:

Paul Buckland – Inland Empire Paper Company

Andrew Smyth – Area Manager

Via Zoom:

Kyle Maki – Idaho Wildlife Federation

Benn Brocksome – Idaho Sportsman

Taylor Trudeau – Idaho State Department of Agriculture

Don Jenkins – Idaho Fish & Game

Garret Visser – Idaho Wildlife Federation

Patxi Larrocea Phillips – Idaho Cattle Association & Federal Woolgrowers Association

1. Welcome and Introductions

- Todd conducted introductions.
- Todd stated that we were meeting to discuss the rules pertaining to the recreational use of endowment lands.
- Todd covered the participation guidelines for rulemaking.

2. Draft Negotiated Rules

SUMMARIZED REPORT: Todd stated that the goal is to address the most egregious offenses. Endowment lands serve the purpose of generating revenue for beneficiaries such as public schools. Recreation is not the primary focus. Over the last few years, the growing population has placed a heavy demand for recreating on IDL lands. Activities such as off trail riding, building new trails, dumping, long term camping, etc. are damaging endowment lands. This damage is having an adverse effect on revenue generation. We don't have many options available to us to address this issue. One option we have is to press misdemeanor or felony charges that doesn't often match the unwanted activity. With the help of stakeholders such as Idaho Recreation Council, Idaho Sportsman, Idaho ATV Association, and Idaho Outfitters & Guides SB1049 passed legislation and will go into effect July 1, 2023. This bill will allow IDL to keep the endowment lands in production while keeping the lands open to the public. Negotiated rule making is necessary to ensure we do not miss anything by adequately and appropriately addressing the challenges. This is the second meeting of two.

Todd read thru the draft IDAPA 20.05.01 – Rules Pertaining to the Recreational Use of Endowment Lands

- Definitions

- No Comments

- Regulated Uses of Endowment Land

- No Comments

- Continued Camping

- Garret Visser, Idaho Wildlife Federation, thanked IDL for holding the rule making meeting and expressed his support. He then asked a question/comment regarding the continued camping. Specifically on the radius. He looked at some forest service special orders and is trying to figure out the best alignment as IDL lands are interspersed with forest service property. The Payette National Forest has a five-mile radius/boundary. He asked if IDL had looked into that or if IDL could comment on the 10-mile radius. It's something he supports but from a hunter's perspective the 10-mile radius in a controlled hunt situation with one specific unit or one area or drainage they are trying to access could be prohibitive at times. He asked for thoughts and comments.

-Todd stated that this is one of the biggest challenges. The Forest Service, BLM, and all the agencies from district to district are all over the place. Some have five and some have ten and some have one. Trying to find consistency with all the agencies is not something he has been

able to make stick. He said he hadn't thought about the hunting aspect of things but pointed out that fourteen days is a pretty long hunt for most folks.

- Garret agreed that it is and stated that he certainly doesn't have that kind of time but wishes he did. He said point taken and he agrees with Todd. He stated it did seem a little scattered. It seemed to be forest specific and he didn't know if IDL had coordinated with the other agencies or talked to them. He just wanted to flag this.

- Scott Phillips, IDL, added a reminder to all that SB1049 contains provisions that require the department to post the activities that are trying to be addressed at the site where the problem is occurring. This a rifle approach not a shotgun approach to addressing the impacts on endowment land. We are not going to wholesale across the landscape in a given area that may have interspersed ownerships. We will be applying the rules to the places we have problems we have to address. For example, folks will come in and camp all season to keep other folks out of their hunting area. It's not going to apply across the landscape. It applies where we put up signs and the proper notices per the code.

- Todd stated that it is typically the long-term campers or hunters coming in a month in advance to set up their campers to save their spot and nobody gets to use that spot for the summer. If the problem is persistent, it will be addressed.

- Michele Anderson, IDL, stated that thru the negotiated rule making process it has become very apparent to the rulemaking team thru feedback from sister agencies the importance of being consistent across the landscape. We are certainly taking it into consideration.

Garret – voiced his concerns about squatting on IDL lands. He looked at similar forest service stuff and they do have explicit language saying residing on forest service parcels is strictly prohibited or not permitted. He said he knows it gets a bit squishy for IDL with lease agreements or things like that where residing may get a little tricky but that is also a possibility to throw in that language just to make sure the public is aware that residing on IDL parcels is prohibited.

- Roads and Trails

- Paul Buckland, Inland Empire Paper Company, asked what is the understanding of what creating a trail is? What constitutes creating a trail? Is it cutting brush? Is it cutting dirt?

- Todd answered all of the above. It's creating a permanent pathway. That looks like something we may need to define as to what constitutes creating a trail.

- Paul said that shear repetitive use can create a trail.

- Todd said exactly. Ultimately, we would like to limit some areas to designated trails only. For example, if someone takes a pack string in or a group of motorcycles go in or mountain bikers go in, they are physically building trail on us. It's the activity of purposefully creating a path for continued use.

- Garret said he is reading this section as guidance for when on roads and trails. Like the A.B.C.'S of being on the trail. Like as you are on the trail here are the guidelines you have to follow. He was just wondering if the direction IDL might want to go to is to clarify in a separate section that explicitly references that motorized or mechanized travel is only permitted on IDL

designated roads, trails, or otherwise areas. To have that implied that unless there is a designated route or trail you cannot go off road.

- Paul seconded what Garret said. These are for designated trails not just two tracks in the woods I'm using a trail as a trail. It might be better for it to be more explicit that you are talking about designated trails. Trails that have been designated as a trail by IDL. Secondly, he asked if there is an explicit road condition of using unauthorized trails? Is it addressed elsewhere in another rule?

- Todd said it is not. IDL is trying to figure out what all IDL is missing.

- Michele said it was a good point because that is the intent. To keep people on the designated routes. We have seen time and time again where after so many passes with a four-wheeler, how are you supposed to know if you're out there, that that is not where you are supposed to go. People are obviously going there.

- Don Jenkins, Idaho Fish & Game, wanted to echo back discussing as far as designated roads. They have been in cooperation with the large tracks. Our access problem with them is a nightmare trying to figure out for the public to understand which roads are open unless you have designated roads. That makes it much simpler for the public to know and much simpler for those enforcement folks on the ground to say here's your map of the designated roads and this is or is not one of them. It makes it much easier. Don also questioned the two-inch rut. If you're going down one of IDL roads going across lava rock gravel bed and all of a sudden you hit some clay base where it's powdered dust and you're sinking in two-inches, or you hit a rainstorm and you're sinking in two-inches or sand he sees as very difficult for the public to accept for one and then very difficult to enforce. He understands folks going out and digging deep ruts when its mud and just trying to mud things up or get mud on their truck like we did in high school, but he doesn't know how you would define that a little more narrower for more public acceptance.

- Todd said that is why we left it where it was. We didn't know how to define it. We have areas where if you're headed down the road and you're tearing it up we need to figure out a way to address that. This happens primarily when the road base is really soft. He said he understands the powder what with it being really loose. The mudding thing is tough. We just don't know how to address it. Maybe the public has a better thought on how to address it.

- Michele said we have gotten a lot of really good feedback and it's really made us realize we need to come up with a better solution than how so far, we have with this draft.

- Don said he knows other Fish & Game folks have provided comments and he doesn't know what may or may not be already incorporated. He apologized for if he overstepped and repeated some of the stuff that he and the folks talked about.

- Todd reassured him that it's all good information. He said if people are repeating the same things over and over again there is a challenge. Either the wording needs to be changed or, if we can't come up with a good solution, eliminated altogether.

- Don asked about the dog poop. He said if you are out hunting and your dog poops, do you have to clean it up? He wanted to comment what do you mean you can't leave dog poop on IDL property when you're out hunting, and your dog does what he does?

- Todd said we will be getting to that shortly.

- Garret said he will submit it in writing but wanted to suggest a section separate from the sub section 03 Roads and Trails that actually explicitly mentions that motorized and mechanized travel cannot be off designated roads or trails or routes.

- Gates and Fences. Litter. Signs.

- Todd said we have, in our first meeting, gotten really good comments. Don's thought on human and pet waste we are working on better wording for that. It was more of a dumping of human and pet waste in mass. For instance, if you have your travel trailer and you decide to pull the black water open and let loose. The same thing with pet waste. You have a full garbage can and want it to go away. It wasn't meant for your hunting dog that goes to the bathroom or something similar to that. A little bit of follow up. Gates, Fences and Signs will be changed to more of a reference because there is other statute that we will have to reference for those.

- Patxi Phillips, Idaho Cattle Association & Federal Woolgrowers Association, asked which statute for gates and fences that was being referenced. He commented that on behalf of the livestock community, those grazing on public lands, the only thing he found maybe in talking with those members is the gates in Texas traditionally, and I'm going intentionally get a little technical here, but the gate fence you think of barbed wire or wind back, somebody has to travel through on the trail sometimes I have had members get into a little bit of trouble or get frustrated with maybe somebody parking in front of a corral or a chute or some type of livestock handling facility that could traditionally be on public lands so maybe being able to incorporate that in there so if a rancher is bringing their band of sheep or their herd of cows in and you have an R.V. or pickup parked in front of the gate so they can't access their corral it could be that type of situation or problem.

- Todd responded very good. We haven't had anybody mention that but that is a very good point. That is something that we can reference. I don't know what it says off the top of my head, but we will definitely discuss the corrals and that type of stuff as well for livestock.

- Patxi said they will submit the comments before the deadline but if your able to get the statute out then he can adjust the comments per what the statute says.

- Next Steps

- Todd read thru the next steps procedure.

- Discussion

- Paul asked if the rule making address or reference enforcement or fines or ticket writing.

- Todd said yes. It's a warning ticket followed by a \$250.00 fine. It's a graduated approach. Then the last one is \$1,000.00 fine. The \$250.00 and \$1,000.00 fine allows for restitution as well. If somebody decides to into a nice big piece of rangeland and start spinning cookies

everywhere a judge can order them to pay for the damages to fix that. The law enforcement portion of it is any post certified law enforcement can enforce these rules.

- Paul said that was his question because a lot of times there is very few law enforcement per acre. Like one per acre or something like that. More often than not it's the field workers out there doing IDL work that is seeing or witnessing the damage. Is there any authority to write a ticket?

- Todd said we do not but we have an MOA with IF&G. They will be paying us thirty-three cents an acre. Currently it is twenty-six or twenty-eight cents per acre. We give them money back for two full time law enforcement officers spread out around the state so we can call them if we need assistance. He talked about how investigation after the act is also very helpful. He said a picture of a dump site along with a receipt found at the dump site helped them identify and pursue the person who was responsible.

- Michele talked about how the education component is important. If someone is camping past the fourteen days, approach them and educate them first.

- Paul said it is common practice to camp all summer in one spot.

- Todd commented that people have their special hunting areas or tag, and fourteen days should be plenty of time to get you there. It's the consecutive days that are the problem. Folks set up a tent & that is their spot for the entire summer.

All agreed that this is a step in the right direction.

Meeting adjourned