

**From:** [Greg LeDonne](#)  
**To:** [Rulemaking](#)  
**Subject:** IDAPA 20.03.14 - Western Watersheds Project Comments  
**Date:** Monday, April 15, 2024 10:55:13 AM  
**Attachments:**

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Please find attached the comments of the Western Watersheds Project on the proposed changes to IDAPA 20.03.14 (Docket No. 20-0314-2401).

Thank you,  
Greg LeDonne

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(he/him)

Please note that my regular work schedule is Monday through Thursday. If an urgent matter arises on a Friday, please also contact [wwp@westernwatersheds.org](mailto:wwp@westernwatersheds.org).



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Idaho Department of Lands  
Attn: Addie Faust – Rulemaking  
P.O. Box 83720  
Boise, Idaho 83720-0050

Re: Negotiated Rulemaking for IDAPA 20.03.14 (Docket No. 20-0314-2401)

Dear Ms. Faust,

Thank you for this opportunity to provide comments for the Idaho Department of Lands (IDL) negotiated rulemaking process for IDAPA 20.03.14 – Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases. I write on behalf of the Western Watersheds Project (WWP), a non-profit organization with more than 14,000 members and supporters headquartered in Hailey. Our mission is to protect and restore western watersheds and wildlife through education, public policy initiatives, and legal advocacy. WWP also holds conservation leases on state endowment trust lands managed by IDL, and our comments on the draft negotiated rule are informed by this perspective.

Broadly speaking, WWP supports IDL’s goal of improving the clarity and ease of use of the rules governing grazing, farming, and conservation leases. In that context, the majority of changes proposed in the draft negotiated rule appear aimed at reducing duplicative language and the overall word count of the rule. The most significant exception is the removal of two clauses that IDL staff identified as duplicative of language included in the leases themselves during the March 27, 2024 public meeting.

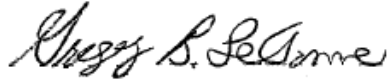
However, in service of that same goal of clarity, IDL should supplement the rule with definitions of the activities that it governs, specifically grazing, farming, and conservation. The contours of these terms are not set out in the rule, and each can mean different things to different people. Similarly, permissible conservation use is not defined in the lease template available on the IDL’s website, and allowable farming and grazing uses are described only in the broadest sense in that document. Providing clear definitions of these categories, particularly as to conservation use, will provide the public with a fuller and more accurate sense of the current uses of endowment lands and the opportunities that exist for future uses.

In addition, WWP opposes the proposal made orally by a member of the public during the March 27, 2024 public meeting that IDAPA 20.03.14.050.02 should limit the ability of IDL to modify or cancel a lease prior to the end of the lease term if such lease is incompatible with a new use. This proposed limitation would conflict with the authority of the IDL Director to alter the use of endowment lands to achieve the objectives of the

State Board of Land Commissioners (Land Board) set forth in IDAPA 20.03.14.030. As well, this proposal would violate the Land Board’s duty under the Idaho Constitution to steward these lands with long-term goals in mind. Indeed, the Land Board “must ‘carefully preserve[]’ the endowment lands and manage them ‘in such manner as will secure the maximum long-term financial return to the institution to which [the land is] granted.’” *Lazy Y Ranch Ltd. v. Behrens*, 546 F.3d 580, 583 (9th Cir. 2008) (citing Idaho Const., Art. IX, § 8). Moreover, particularly in light of the new statutory provision adopted by the Idaho Legislature during the 2024 session that will allow grazing leases on endowment lands to extend for up to forty years (*see* Senate Bill 1342, modifying Idaho Code § 58-307), limiting the Director’s discretion in this manner would harm the interests of the endowment beneficiaries and diminish the value of the land itself.

Thank you again for this opportunity to participate in the negotiated rulemaking process. I respectfully request that WWP be notified of all future opportunities to comment during this process. I look forward to reviewing IDL’s response to this early stage of feedback and to working with IDL to ensure that endowment lands are administered in accordance with the Idaho Constitution and applicable laws.

Sincerely,



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