

MINUTES

(Approved by the task force)

ATV TASK FORCE

August 9, 2011

Capitol Bldg, Room EW20, Boise, ID

In attendance were: Co-chairs Senator Steve Bair and Representative Judy Boyle; Senators John Tippetts, Steve Vick and Elliot Werk; Representatives Marv Hagedorn, Marc Gibbs and Roy Lacey. Legislative Services Office staff present were Eric Milstead and Charmi Arregui.

Other attendees were: Randall Budge, Sharon Kiefer and Mark Gamblin, Idaho Department of Fish & Game; Ernest Lombard, Chairman, Park & Recreation Board; Dave Claycomb, Recreation Resources Bureau Chief, Idaho Dept. of Parks & Recreation; David Claiborne, Idaho ATV Association; Andy Brunelle, USDA Forest Service; Brian Kane, Asst. Chief Deputy Attorney General; Ray Amaya, KBOI News; Becky Johnstone, Backcountry Recreation Club; Nancy Merrill, Idaho Department of Parks & Recreation; Tom Glass & Sandra Mitchell, Idaho Recreation Council; Haden Claiborne, Boise ATV Trail Riders; Adena Cook, BlueRibbon Coalition; Ron Hamilton, Adams County; Mike Paradis, Adams County Commissioner; Ray Houston, Legislative Services Office of Budget & Policy; Keith Reynolds, Division of Financial Management; Jonathan Oppenheimer, Idaho Conservation League; Douglas Schleis, ISHA; Benjamin Davenport, Risch-Pisca PLLC; McKinsey Miller, Gallatin; Dennis Tanikuni, Idaho Farm Bureau; and Greg McReynolds, Trout Unlimited.

Co-chair Senator Bair called the meeting to order at 9:30 a.m. Co-chair Bair welcomed everyone to the task force meeting, stating that the charge of the task force was to find a resolution that the citizens of Idaho can live with. He said that this meeting would deal with the issue of ATVs and how the Idaho Department of Fish & Game (IDF&G) polices ATVs on public lands, and the memorandum of understanding (MOU) between IDF&G and the Forest Service. Co-chair Boyle thanked everyone for coming to help the task force better understand these issues and to come to a resolution. A copy of the MOU is available in the Legislative Services Office.

The first speaker was **Randall Budge**, Idaho Fish and Game Commissioner. He expressed hope that he could clear up misunderstandings about the rule that came up last session. He said that the motorized hunting rule is simply to establish in designated hunting units that someone hunting with a motorized vehicle stay on established roadways. Statute 36-104 sets forth the power and authority given to the commission and is the fundamental basis of authority to manage wildlife and to provide fishing and hunting opportunities. He said that 36-1101 gives the commission authority to enact rules to deal with the taking of wildlife and to regulate by rule the use of motorized vehicles. The rule has three basic concepts: (1) social, (2) biological, and (3) maintaining opportunity for sportsmen to hunt and fish as they desire. The social part has to do with resolving conflicts that exist between those who hunt with off-road vehicles and those who do not. The biological part is that big game (deer and elk) have increased vulnerability if access by motorized vehicles exists; managing the biological aspect includes making sure there are sufficient numbers of bulls to provide opportunity. The third reason for the rule is to meet the

expectations of the hunting and fishing public. There is an expectation from polls and surveys that Idahoans really like to hunt and fish, and they generally oppose rules that restrict those opportunities. The rule in Idaho has been enacted in 31 of 99 game management units.

Commissioner Budge said that the rule is very highly favored by sportsmen; hunters think this the best way to improve the hunting experience. The number one complaint is too many four-wheelers; managing motorized vehicles is one of many tools used to manage species. The rule, he said, was not attempting to manage the use of four-wheelers or off-road vehicles, but simply managing the use of motorized vehicles as an aid to hunting. This is a hunting rule, not an attempt to manage use, and does not apply to someone who wants to use an off-road vehicle for recreational purposes, or their right to bear arms.

If the rule did not exist, **Commissioner Budge** said that the commission would simply have to employ other rules, because from a biological standpoint it would likely mean less opportunity. The commission directs IDF&G to review the rule annually and advise as to what should or should not apply. In 2010 two game management units were removed from the rule, and several were added. Some people misrepresent the rule as trying to take away access of public lands.

Commissioner Budge included in his handout a map of roads and legal trails in game management unit 76 showing trails closed by implementing rule. These handouts are available in the Legislative Services Office. He said that last year there was an effort to take away the rule from the commission's authority, and questions gave rise to confusion. **Commissioner Budge** emphasized that the commission heard those messages and the commission has looked at the rule closely, expressing appreciation for the opportunity to improve the rule. He said that IDF&G was directed to come up with a proposed new rule to address some of these issues, which they did, but are awaiting further guidance and direction from this task force, before the rule is amended, hoping to avoid further controversy. He explained that many thought that IDF&G was trying to regulate all use of motorized vehicles off-road; IDF&G is simply trying to regulate the use of motorized vehicles *for hunting purposes off of established roadways*. **Commissioner Budge** pointed out four exceptions to the rule: (1) it is not applied for retrieving downed game, (2) it is not applied to persons with a handicapped license, (3) does not apply to private landowners, and (4) allows a person setting up or taking down a camp to be excepted from the rule, which is difficult to enforce and easily abused. Any proposed changes to the rule will be given public hearings. The IDF&G handout is on LSO's website at: http://legislature.idaho.gov/sessioninfo/2011/interim/atv0809_idfg.pdf.

Senator Tippetts asked about staff recommendations for changes to the rule, saying that he did not see any changes as to how the rule would be applied. **Commissioner Budge** answered that they were simply trying to clarify the rule, with no fundamental change in how or where the rule applies.

Representative Hagedorn said that since Idaho is a right-to-carry state, and if a recreationist is using an ATV and carrying a weapon, he asked how conservation officers distinguish whether that person is or is not hunting. **Commissioner Budge** replied that the rule is not intended at all to adversely affect one's right to bear arms and, like any fish and game rule, it is a matter of judgment based upon circumstances and facts. **Representative Hagedorn** said that in 2008, Idaho Code 49-426 was modified; he asked if, prior to that change, IDF&G had a process of

determining road and trail closures and has that methodology changed since that statute change and, if not, why not. **Commissioner Budge** deferred that question to **Sharon Kiefer**.

Sharon Kiefer, Deputy Director, IDF&G, responded that just as they did prior to the enactment of that legislation, any time the commission is considering amendment of any rule, there are public hearings starting at the local level with regional meetings, working upward.

Representative Hagedorn asked how these closures were communicated to the non-hunting public who utilize trails. **Ms. Kiefer** said this is one issue that IDF&G is trying to improve; she said they have a good mechanism for hunters in the big game rule book and, for every single hunt, it says whether or not the motorized hunting rule applies or not to that particular hunt. For recreationists, this may be a more onerous expectation and IDF&G is trying to determine if there is an easier way to designate the rule to make it easier to visually depict the rule for both hunters and non-hunters; this is part of policy discussion at the commission.

Senator Bair asked if a person in a pickup, driving on a legal road, carrying a rifle, could stop the pickup, get out, and harvest an animal as long as not on the roadway. **Commissioner Budge** answered “yes.” **Senator Bair** asked if a person could do the same thing, on a legal road or trail, if riding on an ATV, according to the rule, and **Commissioner Budge** answered there would be no difference at all, in any motorized vehicle. He added that, in all circumstances, a person can hunt from an ATV on an established roadway in those areas where the rule applies. **Senator Bair** asked about closed trails on the map handout, asking how these road closures came to be, wondering if the Caribou National Forest wanted them closed or IDF&G. **Commissioner Budge** answered that the closures, in most cases, were identified by the Forest Service or BLM as trails, as opposed to roads, explaining that an established roadway would be one capable of carrying a full-sized vehicle or one designated by federal agencies’ travel plan map as an established roadway. The question is, how does a person out in the field know which it is; he commented that signage can be improved. A hunter can clearly see in the IDF&G brochure whether the motor vehicle rule applies. Forest Service travel maps identify established roadways and trails with legends of explanation. There may be more confusion about the rule for non-hunters, but he said that a statewide map is being developed to more readily identify established roadways versus trails.

Senator Bair asked if the red closed trails on the map were seasonal closures concurrent with the hunting season, and **Commissioner Budge** replied that the red trails on the map were closed only to someone using a motorized vehicle *for hunting purposes*.

Representative Tippets commented that his concern was that the whole purpose of the rule was to reduce pressure on game animals in certain areas from excessive numbers of hunters, asking if that was correct. **Commissioner Budge** said that was only part of the rule, the biological portion, the other part being the social aspect. **Representative Tippets** found it interesting that this mechanism has been used, restricting pressure on game and also the number of ATVs in areas for social reasons. In areas near his home, like Maple Canyon, a person physically capable of hiking in very steep, rough terrain can hunt in that area, but if elderly or not able physically, then that person would be restricted from hunting in that area. He believes this to be a wrong approach to take; he thinks there should be other ways to reduce numbers of hunters without

reserving this form of recreation only for those in very good physical shape. **Commissioner Budge** responded that was a valid point, and that the rule does affect the elderly, the young, and everyone in between across the board, that being part of the purpose. He believes there is a fair amount of access. Other tools could be used, such as shortened seasons, reduce the number of permits available, but those create dilemmas since sportsmen do give direction and they want improved quality; other tools may be used, at the expense of opportunity.

Senator Vick inquired about the process of deciding which trails to close in a unit.

Commissioner Budge answered that all trails would be closed to motorized vehicle hunting in a particular unit. If objectives are not being met, per biologists, options are given to meet those objectives by possibly limiting access. **Senator Vick** asked for an explanation on the process for closing trails in a unit and who is involved in that process. **Commissioner Budge** replied that there is an extensive public process with IDF&G, typically starting as a scoping issue and might begin with a recommendation by a biologist, or sometimes hunters in a particular region. Notice would be given in newspapers and on websites, and the public would be informed about a scoping meeting in various cities throughout the area affected, to determine what changes people want. If there is support for a rule, then IDF&G presents it to the commission for approval. When it reaches that level, a public hearing is held as a final opportunity to voice opinion before a policy change proposal is made, usually taking about one year. If the commission approves a rule, then that rule would come before the Legislature, inviting further public process.

Senator Werk requested survey information for the task force. **Commissioner Budge** responded that some survey information was part of the packet. **Senator Werk** said that raw data would be interesting to get as well.

Representative Gibbs commented with regard to Unit 76, saying that during a controlled elk hunt, also open to deer hunting, if this rule were not in effect, definite biological control would have to be looked at, having a definite economic impact, with fewer hunters in the field.

Representative Gibbs inquired about the red closed trails on the map, asking if these closures were due to four-wheelers and off-road vehicles going where they weren't supposed to be, or did the Forest Service implement and establish these trail closures on their own. **Commissioner Budge** said the short answer to both questions was "yes."

Co-chair Representative Boyle asked about how this came to be, adding that the elk were not meeting target objectives; did IDF&G determine it was ATVs causing the loss of the elk or what did cause that loss? **Commissioner Budge** replied that it was not solely access by motorized vehicles, but rather many factors, such as a longer hunting season, too many issued tags, winter loss, low calf/cow survival, and fertility. In Unit 76, he believed the primary factor was probably due to hunters themselves, tags issued and what the take was. **Co-chair Boyle** asked how much this rule has actually helped the elk. **Commissioner Budge** said this was a good question for the biologists.

Representative Hagedorn inquired about data in the survey of 2008 by IDF&G with one of the top issues being too many ATVs; he wondered how the motor vehicle rule impacted those survey results since recreational vehicle use is not impacted by the motor vehicle rule. **Commissioner Budge** said they had not gone back with follow-up surveys, but added that fewer recreationists are out during hunting seasons.

Senator Bair asked about this statement made earlier: “. . . IDF&G closed trails.” He asked if IDF&G was actually closing trails or not. **Commissioner Budge** said that was a poor choice of words on his part, clarifying that IDF&G does not close trails; trails are determined to be open or closed by federal agencies, the Forest Service and BLM. IDF&G does not have jurisdiction or authority to close trails. He said that IDF&G might identify trails where motorized vehicles cannot be used *for hunting purposes*, but as far as designating the trails themselves, he said they do not have authority to do that, other than to limit the number of motorized vehicles *for hunting purposes*.

The next presenter was **Ernest Lombard**, Chairman, Idaho Park & Recreation (IDPR) Board, who explained that his agency was legislatively responsible for managing use in Idaho. Confusion results between users and application of law. The main purpose of the rule is to keep people on trails, which he said was not true because people have to stay on trails now, irregardless of rules. IDF&G has an impact on this because every time there is a forest plan developed by the Forest Service, IDF&G is there testifying and almost 70% of trails in the state have been closed, which were previously open for motorized recreation. He said, in regard to IDF&G’s rule, that technically, maybe IDF&G did not close trails on the ground, but IDF&G gets others to do that for them, which he believes is the same difference. The recreation community has learned over the years about travel plans. He believes that what is being talked about here is access. He believes the problem is that the Forest Service posts “no ATV” signs at the border of the forest, not at the trail head, which is a big difference, causing confusion. He said that if IDF&G sells less tags to reduce the hunt, it also reduces revenue. He believes there is much confusion about this rule and how it is applied. **Senator Werk** asked if **Mr. Lombard’s** comments were representing IDPR or himself. **Mr. Lombard** answered that he feels strongly about his comments, but that his words represent IDPR and staff.

Mr. Dave Claycomb, Recreation Resources Bureau Chief, IDPR, shared a handout with the task force, a copy of which is available in the Legislative Services Office. IDPR’s commitment to recreationists, as per Idaho State Statute 67-4219, is to maintain and enhance recreational opportunities, provide education, and to promote access for ATVs, motorbikes, boats, snowmobiles and recreation vehicles. IDPR has spent in excess of \$300,000 for a campaign about responsible use to keep people on designated trails. Off-highway vehicles have increased 9-10% in annual growth for 20 years; in 1973, there were 2,781 registered OHVs and in 2009 there were 136,559 registered. He pointed out that motorbike trail miles have been greatly reduced. One role of IDPR is to work with federal agencies so that the trail miles left open are maintained by trail ranger crews on about 6,000 miles of motorized trails on Forest Service lands in Idaho; IDPR maintains about one-third of those trail miles annually at no cost to the Forest Service, paid for by registration stickers. IDPR has given IDF&G almost \$250,000 through grants over the last 10-15 years, and probably twice that much to county sheriffs and forest service enforcement officers to conduct enforcement activities. In 2011 IDPR gave \$700,000 for trail funding in Idaho, and these grant programs have been in place over 30 years. Grant-funded projects include bridge installation, trail maintenance, signage/trail heads, restrooms, warming huts and trail development. IDPR is also involved in education through volunteer training, pictures trails, stay-on-trails campaign, brochures and trail mapping. IDPR has spent over \$300,000 developing “trail.idaho.gov” and it identifies every single trail catalogued by the Forest Service and BLM in the state of Idaho, both motorized and non-motorized, free and available to

the public, for the second year now. It will soon have the capability to be downloaded to a GPS device.

Mr. Claycomb said that the two most common questions asked of IDPR are: (1) Where can I ride, and (2) Why I do keep losing opportunities? IDPR has made an effort to educate and engage in the travel planning process by speaking at club functions, answering questions, manning booths at sports and outdoor recreation functions and by offering safety and education classes statewide. **Mr. Claycomb** said that IDPR tried to inform the public about the Forest Service closing 75% of all single track trails. IDPR merely wanted to inform the public about what was at stake and, if the public had an opinion, this was how to get involved. He said he found it astonishing the level of concern from people who did not want IDPR to inform the public about that, and who advocated against educating the public. IDPR took a great deal of heat to continue those efforts; it amazed him that anyone would oppose educational efforts. **Mr. Claycomb** said he used to be an employee of IDF&G, but that IDPR takes exception to the motorized rule. He did add that IDF&G and IDPR do share some common ground; they agree people should be restricted to designated trails. IDPR does not necessarily agree with the decisions made through the Forest Service and BLM travel planning process, but IDPR does respect them; however, IDPR does not want additional layers of restrictions. Seventy percent of U.S. Forest Service trails in Idaho are not open to motorized vehicle enthusiasts, irrespective of IDF&G's motorized rule, which IDPR believes is unnecessary and confusing. **Mr. Claycomb** would like to see IDPR, IDF&G and the users respect the travel planning process. In response to **Representative Gibb's** questions about trails being pioneered by ATVs, he stated that absolutely is not the case.

Senator Tippetts inquired about the fact that IDF&G said in surveys that there was overwhelming support expressed for the motor vehicle rule. He said that individual positions had been expressed today, as well as on behalf of IDPR, asking about off-highway vehicle users and their level of support for IDF&G's motor vehicle rule. **Mr. Claycomb** said that IDPR had not surveyed users, but did review IDF&G data, adding that the first time IDF&G asked the question was about three years ago. **Senator Tippetts** said he understood that IDPR's concern was keeping access available; he asked **Mr. Claycomb** what his response would be to those who say "we are not restricting your access to travel on those trails, we're only saying that you can't hunt game animals while traveling on those trails, but you can ride for other recreational purposes." **Mr. Claycomb** answered that one man's hunting is another man's travel, adding that he does not view this as a hunting restriction. He said that IDPR sees this very clearly, as well as the public, since many view this as restriction to travel. IDF&G's definition of hunting is broadly defined, enough to encompass travel, from IDPR's perspective.

Senator Werk stated that he had heard accusations at this meeting between agencies, and he requested more facts. In his opinion, IDPR was accusing IDF&G of going to the "feds" and pushing for closure; if IDPR has proof, he said this would be helpful to the task force. **Senator Werk** asked about the skyrocketing number of OHVs and IDPR's concern about access, his question being how many off-road vehicles are too many, and how much access is too much. **Mr. Claycomb** replied that the philosophical side of this discussion is interesting, one side preserving sanctity and peacefulness versus allowing more people there. He said a systematic process has gone on for thirty years by managers of the forest; his perfection is that forest

managers view the public as kind of annoying, a problem, and a nuisance. They never consider themselves as recreation managers, but rather commodity people. They have just recently finally realized that they are in the recreation business, so this whole idea is about restricting how many people show up; this is what the process has been over the last 30 years. The IDF&G rule is almost impossible to enforce, to understand and impossible for users in the field to not be in conflict with each other. IDPR thinks it has been very fair as an agency; they understand IDF&G issues, believing this to be more of a revenue issue than an access issue. **Mr. Claycomb** believes this rule must be simplified and thinks it is way too complex and creates confusion everywhere. He suggested going back to the travel plan.

Representative Lacey said that after the first two presentations today, the word “confusing” was often used, adding that he was absolutely confused himself. He believes that IDPR has blamed IDF&G for closing roads; he has personally experienced closures due to erosion or ground damage, believing that rules are necessary for trails. He asked if there were enough trail groomers to maintain all the places motorcycles and four-wheelers go in the state of Idaho. **Mr. Lombard** answered that there are crews available wherever allowed, and he thinks that trail damage is not from motorcycles or four-wheelers, but rather from big rigs with four-wheel drive and the power and capability to tear up roads and trails. **Representative Lacey** said that he has witnessed trail damage from ATVs.

Representative Hagedorn asked if any Forest Service grants were received for trail maintenance on Forest Service grounds. **Mr. Lombard** answered “not that I’m aware of.” **Representative Hagedorn** asked if the Forest Service utilizes any of the trails that are maintained. **Mr. Lombard** answered that many trails are Forest Service fire roads, adding that rangers do need to get around the forests.

Representative Boyle asked **Mr. Claycomb** for clarification relating to the issues of getting users informed on how to comment on trail plans and the criticism IDPR received, asking who that criticism was from. **Mr. Claycomb** replied that criticism came “from a variety of groups.” IDF&G did oppose that, and their criticism was that only one portion of the population was informed, and that was true. He added that IDPR only has information for one portion of the recreating public and IDPR was accused of not explaining the Forest Service rationale for their proposed closures. IDPR’s defense was that it was not IDPR’s job. With regard to IDF&G’s criticism that their users were not contacted, IDPR encouraged IDF&G to do the same. In the interest of public disclosure, during travel planning comments, IDPR provides comments to the Forest Service on what IDPR advocates for and against, all of which is on IDPR’s website. **Adena Cook**, Senior Policy Advisor for BlueRibbon Coalition, spoke next, explaining that the coalition was a nationwide organization representing motorized recreationists, equestrians and resource users, many being hunters. They strongly defend hunting and hunting access and oppose IDF&G’s “ATV as a method of take rule.” She believes the rule itself is an example of convoluted logic. The rule itself was put in place to keep ATVs on roads and only applied in units south of the Salmon River and not in the north. The rule doesn’t apply to recreationists with a gun; it doesn’t apply if camping equipment is carried, along with a gun; if you stop and walk around, the rule does apply; it doesn’t apply if a person walks in, harvests game, drags it to a designated trail and rides in on an ATV to retrieve that game. Try explaining that to the general

public or a law enforcement officer, for that matter. She believes all of this creates misunderstanding and conflict, trying to figure out when and where the rule applies. There is less opportunity for the motorized users, but there is vastly more opportunity for the non-motorized users. She said that due to the few trails that are left and the closures to motorized use, it must be concluded that land manager agencies are in the trail closure business, and she believes they do not mind getting help from the state agencies. She asked: "Do you think a state agency should be helping the federal government close access?" **Ms. Cook** said she thinks that IDF&G should rescind this rule or that legislation may be necessary. She thinks what is really needed is better education, not restriction; non-motorized hunters and non-motorized recreationists need to be educated to know exactly what the rules are and how to cooperatively interact with everyone else.

David Claiborne, Idaho ATV Association (ISATVA), addressed the task force and his PowerPoint presentation is online at:

http://legislature.idaho.gov/sessioninfo/2011/interim/atv0809_idpr.pdf.

His association has 25 locally based OHV clubs in Idaho with over 2,500 members and their purpose is to promote the safe and responsible use of ATVs, sponsor and support fair legislation of ATV use, and are active in trail-building and maintenance. Many ATV owners are also hunters and maintain trails, they have expectations of trail usage to hunt. He shared the association's policies as: tread lightly; stay on trails; law enforcement; concealed weapons/2nd Amendment rights. With regard to IDF&G regulation, ISATVA opposes any designation of use of an OHV as an aid to hunting, fishing and trapping. ISATVA further opposes any rules and regulations that prohibit use of an OHV while hunting, fishing or trapping on roads, trails and areas designated as open to OHV use by the land manager. IDF&G ought not to use its regulatory authority to prohibit uses permitted by the land manager, simply because of the activity for which the OHV is being used.

Mr. Claiborne said that the rule has pitted sportsman against sportsman and divided that community, creating ill will and hard feelings between a community previously cohesive. He does not believe that the motorized vehicle rule meets any biological objective. He believes that IDF&G created the rule to go around the Forest Service, since their opinion was not accepted in public comments to the federal agency. IDF&G did not like the decision made by the democratic process that involved everyone, so IDF&G created their own rule. He doesn't believe that IDF&G gets into site-specific analyses which does take place in the federal process. ISATVA has social and economic concerns about the effects of IDF&G regulation, as well as denying access and opportunity. ISATVA doesn't think anything has been done to verify the effectiveness of IDF&G's rule; with respect to the biological goal, IDF&G says they have implemented multiple management tools at once. ISATVA wonders how IDF&G could effectively measure the success of the rule when IDF&G hasn't implemented it to measure success of wildlife protection or biological concerns. As to the social objective, ISATVA thinks that IDF&G has done nothing to talk to hunters to see if the rule has changed perception.

ISATVA suggested alternatives to the current regulation in the following ways: allow use of OHVs for transportation of the hunter, while in the act of hunting; continue to regulate the methods of take; allow use of OHVs while hunting only on roads, trails and areas open to such use by the land manager; keep open roads and trails that way - OPEN; basically, enforce other existing laws and regulations.

Public testimony was heard by the task force, and the first person heard was **Becky Johnston**, representing 250 members of the Backcountry Recreation Club, and all manner of users who enjoy recreating on public land. Sixty-two percent of all national forest land in Idaho is roadless or designated as roadless; one-fifth of the area of the state of Idaho is closed to all motorized vehicle activity. In her home area of McCall, there are about 2.3 million acres and two-thirds is closed to all motorized activity at any time of the year. If a person is traveling off-trail in pursuit of game or anything else, that person is already in violation of rules, so why have another rule keeping people off trails that the Forest Service has declared as open. IDF&G does comment on travel plans and forest plans and frequently roads are closed at the request of IDF&G to ensure elk security, seasonal closures. The problem she sees with this process is there are times when the Forest Service recommends roads be closed due to a logging project or forest fires, but once that area grows back up when elk security is no longer an issue, those roads are never reopened. She commented on IDF&G's survey, which she took, encouraging the task force to get a copy to see what the questions were. She found the survey to be extremely leading. Does the public really want to see less ATV use out there. She pointed out how seniors or people with physical limitations need ATVs, but with so many rules and regulations, it makes it very difficult for those who need ATVs to hunt. She wondered why IDF&G can go outside the legal process and close roads to hunters during certain times of the year, especially with confusion about hunting or traveling. She hopes that the task force keeps in mind that as IDF&G complains about declining hunter numbers and raising license and tag fees.

Haden Claiborne, representing Boise ATV Trail Riders, testified next, stating that he could not go along with this IDF&G rule, which is incredibly confusing pitting sportsmen against sportsmen, and organization against organization. He has a problem with IDF&G coming up with the idea that taxpayers should pay IDF&G to enforce laws on federal land, controlled already by BLM or the Forest Service, since federal taxes pay for that, and state taxes should not be used for that too. He thinks IDF&G's rule is a way to circumvent federal laws already in place. IDF&G says their emphasis is biological and he has yet to see any biological study that shows ATVs being a hazard to herds, not believing this to be true, emphasizing that nobody should ever chase herds of animals. He also believes that IDF&G's surveys are very biased, asking a question but giving only a list of IDF&G's options as answers; not allowing a person to say what they really think. He believes that 90% of hunters have ATVs; 10% of all ATVs sold in the U.S. are sold in Idaho, amounting to 10,000 ATVs sold in Idaho in 2009. ATV use is increasing as the Forest Service is closing down more trails, and ATV users don't want to ride on roads.

Representative Gibbs asked about state tax dollars going for enforcement on federal lands, asking for an explanation. **Mr. Claiborne** corrected his statement by saying "hunting tag and license fees." **Representative Gibbs** asked how many state tax dollars are on the IDF&G budget. **Mr. Claiborne** answered "zero."

Greg McReynolds, representing Trout Unlimited, said he was a jeep owner and often drives on Forest Service roads, pointing out that one could spend all summer or forever driving such roads. For him personally, as a hunter, access is a tricky word, adding that most people mean motorized access. If hunting were just about access, then people would hunt in the Walmart parking lot, but that is not what hunting is about. Hunting is about finding game, getting out in the backcountry and experiencing Idaho, so to him access means driving his jeep into a canyon, getting out and

searching to find game. So-called roadless areas are generally precluded from new road building and there are plenty of roads inside roadless areas in Idaho, precisely 115,000 miles of roads and 62% of all public land is within one mile of a designated road. In New Mexico, he drew two tags and was limited to hunt big game for only 10 days; in Idaho, there are over-the-counter tags and a hunter can hunt for 5 weeks, having spaces and habitat good for hunting, fishing and sportsmen. This debate he believes to be unfortunate, since there is a middle ground where access is recognized as important to hunting, but not necessarily access all the time. He believes IDF&G has a tough job managing wildlife, not being in the land business, but the wildlife business, and not always having tools needed to manage OHVs. He believes IDF&G is doing the best they can in a tough situation, respecting IDF&G's willingness to do what is right for hunters and for wildlife.

The task force recessed at noon and reconvened at 1:35 p.m.

Sharon Kiefer, Deputy Director, IDF&G, presented next and referred to a handout entitled "Idaho Department of Fish & Game Cooperative Travel Plan Enforcement for Wildlife Protections - 8-9-11" which is available online at:

http://legislature.idaho.gov/sessioninfo/2011/interim/atv0809_idatv.pdf.

Ms. Kiefer said that she wanted to cover the statutory basis of the cooperative law enforcement MOU with the Forest Service regarding travel planning when there is a wildlife protection nexus. She referred to 36-104(b) which covers the important elements of that statute, required before entering into any kind of cooperative enforcement. The statute requires that the landowner or manager must have their own travel plan that is restricting motor propelled vehicles. The commission must enter into an agreement to enforce those restrictions when there is a wildlife nexus, as per statute, and the travel restrictions must be to protect wildlife or wildlife habitat, which is the only reason IDF&G could enter into a cooperative law enforcement agreement. The land must be within or adjacent to the proclaimed boundaries of a national forest, a further prescription of who and where IDF&G would be able to enter into such an agreement, and there must be notice of restrictions posted on main traveled roads entering the affected areas. She said that those are the elements that govern when IDF&G has the authority, via statute, to enter into an agreement or not.

Ms. Kiefer gave a brief history of this statute, saying that the legislation was passed in 1986 and came to IDF&G on behalf of a conjoined interest between IDF&G (for wildlife) and the timber industry (for proceeding with their business operations). She said that some issues grappled with, in terms of access into the forest, dated back to the 1970s, but that folks really started to get active, from a legislative standpoint, in the mid 1980s. At that time, the timber industry advocated for IDF&G's involvement in travel restriction enforcement relative to wildlife concerns and road construction. Representatives of the industry felt that road construction would not be unduly impeded and that wildlife could be protected. The legislation was premised on the fact that IDF&G conservation officers are the primary law enforcement presence on both federal and state lands for the purpose of enforcing IDF&G laws.

Ms. Kiefer said there had been discussion about the commission's motorized hunting rule and the biological basis for that rule, which has to do with harvest vulnerability. She asked everyone to not mistake or confuse harvest vulnerability, a distinct aspect of wildlife management, with wildlife disturbance or overall habitat fragmentation. She clarified that in her presentation today

when talking about federal travel management and the wildlife nexus, the federal government is not under any obligation to manage wildlife for purposes of herd composition; that is not an aspect of their considerations. Overall wildlife disturbance, particularly during critical periods of the life cycle, as well as overall wildlife and wildlife habitat, are aspects that the federal government does consider relative to the National Environmental Policy Act (NEPA) planning processes. When it comes to harvest vulnerability, **Ms. Kiefer** said this question is asked: Are there enough big bucks on the hill? She said that is a function of IDF&G, and the federal government is not going to worry about that. At the time the statute was passed, there was increased scrutiny of logging activities, road construction and subsequent use by others of those timber roads, particularly on national forests, which increased state and federal research showing correlation between road density and negative effects to wildlife, with particular emphasis on elk and the fall hunting pressure. IDF&G sent original summary reports about some of that, as well as literature showing interaction between off-roads, roads, and multiple things affecting wildlife relative to motorized travel. IDF&G found that particularly seasonal closures for critical security breed areas were effective, allowing continued timber harvest, adding this only worked when there was public compliance to closures.

Ms. Kiefer referred to her handout about how IDF&G implements cooperative travel plan enforcement, pointing out that right now she is aware of two: (1) that IDF&G has with the Forest Service (sent to the members pre-meeting), and (2) one with the Idaho Department of Lands (IDL) for the Mini-Ha-Ha section of IDL that does meet the prescriptions of the statute, and she agreed to send that to members as well. She stated that IDF&G has been focused on critical time periods that overlay when IDF&G employees are in the field anyway, with hunting season or other normal enforcement activities. She emphasized that this is about restrictions that protect wildlife and if IDF&G sees someone breaking a Forest Service rule for motorized travel to protect cultural resources, IDF&G does not deal with that. **Ms. Kiefer** also emphasized that if IDF&G should take enforcement action, the citation or ticket does not cite federal law. IDF&G cites state law, which is the authority under which IDF&G governs enforcement. Relative to any land management travel plan, whether federal, private, or IDL, IDF&G does not create new closures; IDF&G enforces what is already in the plan when there is that wildlife nexus. IDF&G has done joint patrols with the Forest Service, when there is a mutual interest to do so, adding that IDF&G has 100 sets of enforcement boots on the ground as well as other personnel. The Forest Service statewide has 28 law enforcement officers. Any detected violations, if a warning or citation is issued, is under Idaho Code 36-104; IDF&G does not cite anyone into federal court. Members were given general information on IDF&G's citations, which average about 3,100 citations per year.

Ms. Kiefer's handout included information relating to the motorized hunting rule, and where and when it applies; motorized hunting use restriction units; expansion of motorized travel for hunting restrictions to predatory and unprotected species; and interpretation of when the motorized travel is for a hunting purpose. **Ms. Kiefer** offered that when the commission had a rule workshop on May 20, 2011, an excellent update was received on the status of Forest Service and BLM travel planning which made very clear that BLM is considerably lagging behind the Forest Service with travel planning and also lagging behind in terms of designating roads, trails and where a person cannot travel cross-country or off trail.

Senator Tippetts inquired about how IDF&G implements travel plan enforcement, saying that the Forest Service wouldn't have much interest in managing game herds, and his understanding

is that IDF&G can only enforce the rule regulations put in place by the landowner. He read in the handout that this was limited to the protection of wildlife or wildlife habitat, i.e. during calving season to protect from disturbance. He then asked: “Does, in fact, the Forest Service impose travel restrictions during calving season to protect them from disturbance?” **Ms. Kiefer** replied that they do, keeping that distinction between critical periods for survivability versus big bucks, and lots of them. **Senator Tippetts** then asked if IDF&G has some input to the Forest Service and other landowners to make recommendations as to road closures and where and when imposed. **Ms. Kiefer** responded “absolutely.” She added that the information that the federal land managers provide the commission does a wonderful job laying out the NEPA public process, and IDF&G and other agencies participate in that process. **Senator Tippetts** asked about agreements with private parties, asking if IDF&G also makes recommendations to private landowners where there is not a public process with regard to closures. **Ms. Kiefer** said in the past IDF&G has had some agreements, but they don’t presently, to her knowledge. However, IDF&G has had landowners ask for IDF&G’s technical expertise on those issues. **Senator Tippetts** expressed his curiosity about why statute imposes the requirement that land be in or adjacent to the proclaimed boundaries of a national forest. He asked: “If there is an agreement with IDL, potentially BLM and private landowners, does that particular requirement make sense or should that be changed?” **Ms. Kiefer** said that the statute preceded her arrival at IDF&G, but she said she would give him the anecdotal background of her understanding. At the time, this was very much advocated by the timber industry, naturally talking about primarily private timber land and Forest Service land, often commingled or adjoining. The primary concern at the time was related to timber interests.

Senator Werk said that he wanted to give **Ms. Kiefer** the opportunity to respond to earlier testimony saying that the motive behind the rule was money. **Ms. Kiefer** answered that money was important to IDF&G; however, at the end of the day, the surveys show that one of the most important things heard from hunters is the opportunity to hunt every year. The motorized hunting rule is about limiting opportunity to a level to still offer opportunity in large areas every year, and she affirmed that does provide revenue to the Department, as well as to Idaho’s economy. On the flip side, if a different tool needs to be implemented to limit opportunity, such as a controlled hunt, that would have economic effects far beyond IDF&G.

Senator Bair referred to the statute, 36-104(b) 10: “. . . . may enter into cooperative agreements with those owners or possessors to enforce those restrictions . . .” adding that in the IDF&G’s documentation it says that the commission “must enter into an agreement to enforce these restrictions” and he asked if this was a stretch of the statute. **Ms. Kiefer** replied that was probably poor wording on her part, clarifying that what it is saying is that IDF&G cannot do cooperative law enforcement unless IDF&G has entered into the cooperative agreement. The statute says it is discretionary, whether or not the commission enters into the agreement, but what is not discretionary is IDF&G’s ability to enforce those laws without the cooperative agreement. **Senator Bair** added: “So, it is IDF&G’s understanding that it is optional to enter into those agreements with the Forest Service?” **Ms. Kiefer** answered that she would interpret that statute similarly, adding that IDG&F doesn’t have an agreement with BLM because it does not fall within the prescription of statute.

Andy Brunelle, USDA Forest Service, spoke next and said he had been asked to present a perspective on this MOU with IDF&G, why it is still viewed as useful today and to share information on travel planning. The Forest Service relies on agreements of various types where

programs and activities benefit from coordination in order to meet management objectives and to eliminate duplicate efforts by agencies. **Mr. Brunelle** said that **Representative Hagedorn** had asked whether IDPR received grants from the Forest Service and IDPR said “no” and if IDPR provides support to the Forest Service and the answer was “yes.” **Mr. Brunelle** confirmed this to be true, through use of trail rangers, adding that many agreements are in place. He said the chronology dates back to 1976 between the two agencies, and this MOU was from 1983 and then amended following the statute being enacted in 1986. Prior to 1986 there was not statutory authority for the cooperative enforcement activity between the two agencies, and that amendment in 1986 was the basis for joint enforcement efforts to more effectively manage fish and wildlife resources in national forests. In 2004, IDF&G and the Forest Service worked together and made slight adjustments in the MOU language, specifically to make sure the MOU talked about motor vehicle restrictions, not necessarily road closures. Roads may still be open to certain vehicles or there may be seasonal restrictions and also reflected that over time, land use plans made changes as far as how areas were managed that may or may not have been open to off-road vehicle use. The MOU was reviewed again in 2009-2010, since Forest Service policy mandated that agreements be looked at every five years.

Mr. Brunelle said that the Forest Service has a great relationship with IDF&G with regard to sharing resources and facilities. In 2010 the other change in the MOU dealt with use of pesticide or chemical treatment of waterways on national forest lands. The big picture in this MOU, he said, was that the Forest Service recognizes that IDF&G was created under the laws of the state of Idaho to preserve, protect, perpetuate and manage fish and wildlife in the state. The Forest Service is authorized by acts of Congress, as well as Department of Agriculture regulations to administer and manage the national Forest Service lands in Idaho, which does include fish and wildlife habitats. **Mr. Brunelle** said that the Forest Service recognizes the legal authorities of state government on national forests. Prior to the mid 1980s, scientific understanding of the relationship of land management activities affecting wildlife habitat advanced to the point where society was recognizing that land management projects like timber harvest and road building were clearly having effects on wildlife population and mitigation was necessary, seasonal road closures were implemented, and national forests were developing land use plans. This all became an important element of protecting habitat. Without mitigation, the underlying logging project could be questioned, appealed, litigated and could affect whether or not logging would occur. This type of situation was contemplated in the legislation when passed in 1986, and he said is still relevant today. **Mr. Brunelle** said that the value of collaborative efforts are being recognized more and more across the state where locally driven collaboration brings a wide range of interests together to resolve conflicts in public forests. Groups may have distinct origins and membership objectives, but all seek to balance the interests of forest ecology, local jobs, and community and long-term stewardship of national forests. These local collaborative efforts hold great promise to break the gridlock on national forest management. This is why the Forest Service sees the 1986 law has value today. In 2005, the Department of Agriculture adopted new regulations that require all national forests to publish a motor vehicle use map that informs users as to which type of vehicle roads and trails are open or closed and times of year when open or closed. Much national forest land has been closed to cross-country travel, but the current status is that all forests in southern Idaho completed travel management plans. He did say that sometimes comments are received from different agencies with sometimes conflicting viewpoints; the Forest Service respects that agencies have legal authority and objectives which they are trying to meet, and often they must work together to achieve mutual goals. He said the Forest Service looks forward to working together with other agencies.

Senator Bair asked about exchanges between state and federal agencies, asking if money changes hands between IDF&G and the federal government for compensation. **Mr. Brunelle** answered that the typical use relates to guard station cabins. Lodging accommodations may be exchanged with IDF&G and it is up to the local national forest to take accounting of actual usage, but actual money is not exchanged. **Senator Bair** inquired about IDF&G officers who write citations on behalf of the Forest Service, asking if there was compensation for that and **Mr. Brunelle** said he was not aware of any compensation. **Senator Bair** asked how many citations and warnings were issued by the Forest Service and **Mr. Brunelle** answered that he would provide more data to the task force, adding that the total for Idaho was 815 in 2008, 926 in 2009 and 820 in 2010 (250 of which were violations, and the rest were notices or warnings). **Senator Bair** asked if it was correct that the Forest Service writes more citations for travel plan violations than IDF&G. **Mr. Brunelle** said he would agree with that.

Representative Boyle asked if **Mr. Brunelle** had with him a copy of the MOU and he did. She referred to page 4, IV (F) at the bottom, last sentence which reads: “The Forest Service and Department may choose to enter into separate cooperating agency agreements to define responsibilities for individual NEPA documents.” She asked if that had ever occurred. **Mr. Brunelle** said that one particular example did occur where IDF&G and the Office of Species Conservation cooperated with the National Forest Service on a planned amendment to the National Forest Land Use Plan dealing with standards for grizzly bear protection. That was in the last decade; there is a second mechanism, besides cooperative agency agreements, that has been exercised. **Mr. Brunelle** said an example of this second mechanism was when Senator Kempthorne, under the Federal Unfunded Mandates Act, included a waiver for elected officials or their designee, on a personal basis or agency-to-agency basis, to enter into agreements. **Mr. Brunelle** said that they used that in particular with the Payette National Forest bighorn sheep EIS that was recently concluded where IDF&G had some people designated from the Governor’s

Brian Kane, Assistant Chief Deputy Attorney General, gave the legislative history of SB1359aa from 1986 brought by the timber industry to establish entering into an agreement between landowners, the forests and IDF&G for enforcement of road restrictions. This bill included the following:

- Affects lands adjacent to or adjoining national forests (amended during the process and inserted that limiting language);
- The landowner makes the decision regarding the restriction;
- The commission consults with the other affected landowners (another amendment during the process);
- The commission then has to have a hearing on the agreement (final amendment made) and it requires 10 or more county residents to request a hearing. This was made into a cooperative agreement to enforce restrictions, notice must be posted, cannot interfere with forest or range management and provides for a misdemeanor within the statute.

Mr. Kane said, as previously discussed, this MOU between IDF&G and the Forest Service was reratified in 2010 and that section five of that agreement expressly refers to this statute as part of the terms of this MOU. Since 1986, changes in the emphasis have occurred; the timber emphasis decreased within this area and recreational and wildlife emphasis have increased. Additionally, the Forest Service has undertaken an effort to formalize trail uses and vehicle types, as well as seasons and routes throughout this process.

Senator Tippets asked for help understanding subsection 10 of the statute, specifically who all

other potentially affected landowners would be. **Mr. Kane** said one example would be if some access was limited, i.e. checkerboards of land between private and public land and for some reason the road had limited access to a landowner or group of landowners and could be affected, that being the simplest example.

Senator Bair stated that in the minutes pertaining to SB1359aa from 1986, in testimony it was said that the commission was asking only for road closures that would benefit IDF&G. He said it appeared that most of the testimony surrounding this bill seemed to basically revolve around the logging industry, yet it appears that IDF&G had an ulterior motive, to provide a vehicle for them to close roads, asking **Mr. Kane** to comment on that. **Mr. Kane** responded that is clearly revealed by the legislative history; there was a give and take that occurred where the timber industry said they wanted to have access to timber and IDF&G wanted to make sure they could adequately manage wildlife. It looked like one thing heavily researched was the impact of motorized vehicle usage on elk calving. IDF&G also commented on seasonal closures so the wildlife would be more prone to motorized vehicle issues during certain seasons than others.

Ms. Kiefer stated that at no time did IDF&G have the authority to make any land management decisions; those were made by the landowner meeting those prescriptions, and IDF&G would have authority to enforce land management decisions when there was a wildlife connection. **Senator Bair** asked if it would be fair to say that IDF&G, at times, had aggressively tried to persuade the landowners to close roads. **Ms. Kiefer** said that IDF&G would be deficient in their obligation to preserve, perpetuate, protect and manage wildlife if IDF&G did not use all their technical expertise to provide the best information about motorized travel and wildlife effects. **Senator Bair** said he would like to have recent, documented information to provide concrete evidence that increased travel on any properties is detrimental to herds. **Ms. Kiefer** said IDF&G would be happy to provide the task force with more recent studies.

Randall Budge commented that he was surprised and disappointed that IDPR would come here and take such an aggressive role to undermine another agency's rule; it seemed to him that IDPR's viewpoint that the rule creates conflict and confusion seems to be largely as a result of IDPR's own advocacy or misinterpreting the rule and misrepresenting the rule. This underscores to him that there is a problem, when one state agency undermines the rule of another agency. He doesn't think it would be advantageous coming to the Legislature next session with this unresolved; he said he would try to seek support on behalf of the IDF&G Commission for new and improved dialogue to try to close the gap, if not eliminate the gap. He said it troubled him to hear suggestions that IDF&G is closing roads, which IDF&G has no authority to do or to restrict any kind of general use of trails within public lands. He said that the reality is that IDF&G and the commission, in fact, have to regulate and manage what would be classified as an aid to hunting, for example, the use of airplanes. IDF&G regulates the use of dogs, artificial lighting, but has no authority to impose road closures or restrict cross-country travel. He said that IDF&G simply wants to use as a management tool, socially and biologically, the ability to restrict the use of motor vehicles for hunting purposes. **Commissioner Budge** said this is an important tool to IDF&G, but they could live without it; without the rule, IDF&G would have to go back to these other tools and reevaluate, to meet wildlife objectives. IDF&G probably doesn't have the tools to regulate the conflict that hunters ask IDF&G to regulate between those who hunt and those who do not hunt with four-wheelers on the trails.

Senator Bair agreed that IDF&G needs to get together with IDPR for a heart-to-heart discussion and he suggested that they also meet with ATV groups to see if an understanding could be reached. **Commissioner Budge** again expressed surprise by the level of concern and confusion about the rule, and he accepted some responsibility on behalf of IDF&G; he said that IDF&G would try to dispel that confusion.

Senator Bair invited public testimony at this point in the meeting and **Mike Paradis**, Adams County Commissioner since 2002, spoke first. He said that he'd worked in the timber industry in 1972, and that agriculture, hunting, fishing, and natural resources are his passions. He said the economy in Adams County was robust in 1970, based on proactive forest management practices of that era; today about 40% of storefronts have closed and unemployment is usually in the top three in Idaho, at times exceeding 20%. Sixty-nine percent of Adams County is owned by the state or federal government, being a very productive big game habitat with hunting and fishing being very popular. In 2007, the Payette National Forest adopted a travel management plan, and through that action over 3,000 miles of what used to be called "work roads" were closed. Adams County recommended that no cross-country travel be allowed for hunting purposes, except for big-game retrieval, but the forest supervisor chose not to allow that. He believes that the Forest Service is obliterating roads at an unprecedented rate, reducing all forms of travel. When roads are put back to slope, the Forest Service in this district does not have a feasible reseeding program, in his opinion, causing increased erosion and toxic weeds. **Mr. Paradis** believes that these restrictions to motorized access create more problems than those being solved. He believes that the IDF&G rule should adhere to the Forest Service travel rule and not create an additional layer of restriction.

Representative Gibbs asked if **Mr. Paradis** was speaking for himself or was he representing Adams County as Commissioner and he replied "as a commissioner."

Ron Hamilton testified next; he is the Adams County Forest Service Coordinator, but said he was not personally representing them today. **Mr. Hamilton** said he was here to explain encounters as they deal with the Forest Service and wildlife issues. He said he was a retired Forest Service employee, having worked there for more than thirty years, beginning his career in 1966 on the Payette National Forest, retiring in 1998. **Mr. Hamilton** said he had opinions about IDF&G's influence on roads, trails and national forest management, and that he'd been involved actively with IDF&G in land management since 1966. He thinks that the Forest Service has recently responded to more and more requests for restrictions on usage by motorized vehicles, not only by sportsmen, but strongly influenced by IDF&G. The Forest Service, he believes, views IDF&G as a consulting agency, rather than as a normal member of the public, and IDF&G's recommendations are high on the Forest Service priority list. The collaboration process is taking place, believing that everyone is on much more equal footing. **Mr. Hamilton** expressed his concern about cooperation. He said that at one meeting IDF&G presented material and left, and he didn't view that as appropriate or as cooperation, and neither did the forest supervisor. He admits he is jaundiced by IDF&G's attitude of "this is how it's going to work" and the Forest Service responding "okay."

The Forest Service's efforts to restrict ATV use has been greatly influenced by IDF&G. He believes that the law enforcement division of the Forest Service is a stovepipe organization, directed out of the Washington office, and law enforcement officers (LEOs) work with people on

the ground, but they are really federal LEOs and can be assigned anywhere. There may be 23 in Idaho now, but if something occurs involving federal land, many may leave the state, depending on politics.

Representative Gibbs inquired if **Mr. Hamilton** was unhappy with enforcement of the LEOs in general or the ATV rule itself. **Mr. Hamilton** said these two issues were rolled together in some ways; his concern is that if there is not enough emphasis on how wildlife habitat should be managed, he doesn't see how adding a few more IDF&G personnel could make anything different. **Representative Gibbs** wondered if the enforcement side was **Mr. Hamilton's** main concern and he replied his concern was more "overall."

Representative Boyle asked about IDF&G stating that IDF&G does not close roads, saying that **Mr. Hamilton's** testimony is that IDF&G has great influence on the Forest Service who then closes roads, and **Mr. Hamilton** said "that is exactly right, in his opinion."

Senator Werk asked when **Mr. Hamilton** retired and the answer was "January, 1998." **Senator Werk** asked about **Mr. Hamilton's** opinion that IDF&G has a lot of pull with regard to road closures; he asked for the nature of IDF&G's input or testimony, how it was presented, and what was contained that made it so influential to the Forest Service. **Mr. Hamilton** answered there were (1) biologist to biologist interaction, (2) NEPA process interactions, usually causing certain shifting in the way management is paired down, and (3) after a NEPA document is published and a draft goes out, then typically there is a response from a regional biologist, dealing specifically or generally with things they would like protected. Another issue concerns wildlife conservation strategy, and that process is being driven heavily by a document published by IDF&G. **Senator Werk** reiterated that the initial interaction is scientist to scientist, a biologist looking at what is occurring with species and habitat, exchanging information to see if there is agreement, and that information forms an opinion which is commented on by IDF&G managers based on importance of protection of species and habitat. **Mr. Hamilton** responded that when scientists talk, then comments come regarding concerns and numbers, the overall project is discussed, alternatives are laid out and come from higher levels.

Jonathan Oppenheimer, representing the Idaho Conservation League, testified next, saying that there were over 20,000 supporters in the state, focused on protecting wilderness, clean water and quality of life. He spoke in strong support of IDF&G and in defense of their ability to manage the hunting experience and to control access, to protect, preserve and harvest wildlife in the state, believing that to be entirely within IDF&G's purview and mission. He believes that IDF&G has taken a measured approach, not overreaching, but where appropriate to have control over motor vehicles in the aid of hunting. **Mr. Oppenheimer** said the League strongly supports IDF&G's MOU and the cooperative agreement between IDF&G and the Forest Service. At the state and federal level, it is entirely appropriate to ensure public safety and to promote conservation of wildlife, abiding by the law. With regard to roads, there is much research to support looking at opportunities to appropriately manage road systems, working with communities, using common sense approaches and prioritizing road maintenance dollars to also improve wildlife and fisheries habitat, while still providing access.

Senator Werk asked about budget cuts at the federal level trickling down to the Forest Service and their ability to manage and maintain the current road system; as budgets are cut further, more roads may be closed, and he asked if that was **Mr. Oppenheimer's** concern. **Mr.**

Oppenheimer answered there is a direct relationship between the amount invested into maintenance and, if dollars are not there, the Forest Service has no choice but to close additional roads due to public safety issues. He offered to give a written report on this to the task force and **Senator Werk** said he would appreciate receiving that.

Senator Tippets asked for an explanation if the Legislature were to remove the authority of IDF&G's influence over road closures on forests, how might that somehow prevent an IDF&G officer from helping someone in need? **Mr. Oppenheimer** explained that the MOU established between IDF&G and the Forest Service basically provides for enforcement of various authorities on either side; as funds decrease for public land management for any issues at both the state and federal level, he thinks it is increasingly important to look for ways to work together in a balanced way to manage resources.

Representative Boyle asked if **Mr. Oppenheimer** would support the Forest Service and the state jointly managing lands. **Mr. Oppenheimer** said he was not prepared to comment on that at this time, but offered to explore that opportunity, saying that the League does work closely with the Idaho Department of Lands, IDF&G, the Forest Service and other agencies with regard to finding common ground in managing federal land.

Mr. Greg McReynolds, Trout Unlimited, spoke again saying he thought the word "federal lands" to be a misnomer, adding that such lands are your lands and his lands and believes that everyone at this meeting has a very close connection to these lands. Collectively, lands belong to citizens of the United States, but those of us living in Idaho, and for him personally, that means that he wants IDF&G to have input on what happens on his public lands, looking out for his money, his fishing and hunting opportunities and those of his children. He hopes that when we discuss federal lands, we think about the Idaho tie to these lands.

Mr. Tom Glass testified on behalf of himself, although he said he had been a member of recreational groups for fifteen years, having advocated for motorized and non-motorized recreation in a variety of forums. **Mr. Glass** is a retired employee of the Bureau of Reclamation. He said that IDF&G has two constituencies, fish and wildlife, and those who pursue fish and wildlife, many using ATVs; IDF&G has the obligation to manage these constituencies effectively. He believes that IDF&G, within these constituencies, is kind of at war with themselves. Unlike some of his fellow recreationists, he does not see IDF&G's effort as a grand constituency to take over the world; he said he does see it as a bureaucracy wanting to survive, and to increase IDF&G's influence, budget and staff. He believes that the ATV rule is beyond confusing; he is no longer a hunter, partially due to increased ATV use, even though he is an avid ATV user. He believes that every sport has mindless participants, and regulations are generally promulgated to deal with mankind at his worst, which puts everyone else in a dilemma. He said that IDF&G's fish and wildlife biologists do a good job, but he suggested there may be a need for a cultural shift in the organizational structure of IDF&G. He suggested that IDF&G also needs "people biologists or sociologists" to better manage IDF&G's second constituency, the land users, and he doesn't see that currently being dealt with effectively. ATV use has exploded; he thinks that tinkering with ATV use on trails is not the solution.

Senator Bair thanked all the presenters and those who testified. He then pointed out a letter from the Pro Tem and the Speaker to the ATV Task Force members authorizing this task force, with the goal of being responsible for providing legislation on this subject for the 2012

legislative session. The co-chairs encouraged IDF&G to meet specifically with IDPR, as well as ATV groups, hoping that something could be worked out prior to the next meeting of this task force, anticipating good results. The task force agreed to meet again on September 27, 2011. **Senator Bair** said that draft legislation would be appropriate or resolutions directing agencies might be an option.

Representative Gibbs said he would love to see this problem go away, without legislation, hoping to get this issue solved without legislation that might be construed as micro-managing a state agency. He expressed hope that all parties involved will cooperate to find a solution, short of legislation. **Senator Bair** said that would be the first step, encouraging the groups to work together toward a solution, believing that this can be accomplished. It is well within the purview and right of the Legislature to draft legislation, if the parties involved cannot resolve differences. He expressed hope that significant progress will be made prior to the next meeting of this task force.

The meeting adjourned at 3:40 p.m.