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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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Final Supplementary Rules for the Cove Recreation Site, Owyhee County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Final supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) is finalizing supplementary rules for public use of the campground and day use areas at Cove Recreation Site, located along C.J. Strike Reservoir in the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA) in Owyhee County, Idaho. These final supplementary rules are compatible and consistent with the September 2008 Record of Decision (ROD) for the NCA's resource management plan (RMP).

DATES: These final supplementary rules are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may direct your inquiries to the Bureau of Land Management, Four Rivers Field Office, 3948 S. Development Avenue, Boise, ID 83705. Electronic mail: blm_id_cove_rec_rules@blm.gov.

FOR FURTHER INFORMATION CONTACT: Jared Fluckiger, Outdoor Recreation Planner, Bureau of Land Management, Four Rivers Field Office, 3948 S. Development Avenue, Boise, ID 83705, telephone 208-384-3342. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay

Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours (8:00 am - 4:30 pm). You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Background

The Cove Recreation Site is a 29-unit campground and day-use site located along C.J. Strike Reservoir, about 35 miles southwest of Mountain Home in southwestern Idaho. The site provides opportunities to fish, hike, view wildlife, boat (motorized and non-motorized), waterski, swim, camp, and picnic.

There are no changes to Cove Recreation Site user fees, which were established in 2005 under the Federal Lands Recreation Enhancement Act. The final supplementary rules will help the BLM achieve management objectives for the Snake River Birds of Prey NCA, which include restoring and rehabilitating non-shrub areas, and improving raptor and raptor prey habitat, while imposing only moderate restrictions on recreation. They will also provide the BLM with the enforcement tools needed to enhance public health and safety and help prevent damage to natural and cultural resources.

II. Discussion of Public Comments

The BLM published proposed supplementary rules for the Cove Recreation Site in the Federal Register on June 25, 2014 (79 FR 36094). Originally, public comments were due August 25, 2014. The BLM accepted comments from the Owyhee County Commission on September 15, 2014, at the next in a series of monthly coordination meetings held to facilitate communication and understanding of BLM issues and decisions of concern to the County. The Commission had notified the BLM in a letter dated August 18, 2014, that it would need additional time beyond the original due date for comments to respond.

Had the BLM received other comments in the period between August 25, 2014, and September 15, 2014, those comments would also have been accepted. However, no comments besides those from the Owyhee County Commission on September 15, 2014, were received after August 25, 2014.

The Owyhee County Commission's comments showed support for increasing the proposed number of people allowed per site by 2 for single, double, and triple sites. In response to these comments, in the final rule the maximum number of people per campsite was changed to 8 for a single site, 12 for a double site, and 16 for a triple site. During the regular comment period, the BLM received one form letter sent or signed by 121 people. The letter identified three concerns. The first concern was that camping would no longer be permitted on undeveloped land to the west of the developed portion of Cove Recreation Site fee area. This area was included in the 160 acres analyzed by the 2003 environmental assessment (EA), but is currently outside the fee area that contains developed recreation sites and facilities.

The second concern was that restricting the number of people per campsite to 6 for a single site would burden larger and/or low-income families.

The third concern was that the rule that does not permit off-highway vehicle (OHV) use within the campground would be applied outside the developed portion of the campground to the west.

In response to these comments, the final supplementary rules clarify that they only apply to the area within the developed recreation site, RV dump, and related facilities. The boundaries include a fence line one-half mile east from the boat ramp at Black Sands, the

Cove Inlet on the east side of the recreation site and, the BLM private property lines on the south side. These rules will be applied within these boundaries.

Rule number four, which restricts the number of people per campsite, was changed in the final rule to 8 for a single site, 12 for a double site, and 16 for a triple site.

III. Discussion of the Final Supplementary Rules

These final supplementary rules will help the BLM achieve management objectives for the NCA and implement the decision associated with the 2003 environmental assessment (EA) for Reconstruction of the Cove Recreation Site, C. J. Strike Reservoir, 2003 EA No. ID 090 03 022 (2003 EA). These final supplementary rules are compatible and consistent with the ROD for the NCA's RMP. The final supplementary rules also provide the BLM with the enforcement tools needed to help prevent damage to natural and cultural resources and provide for public health and safety.

These final supplementary rules revise some of the definitions that were in the proposed supplementary rules. The definition of "Motorbike" is revised to correct a typographical error ("trials bikes" has been changed to "trail bikes"). The definition of "Specialty off-highway vehicle" is revised to clarify that a mention of other definitions refers to other definitions that are found in these supplementary rules. The definition of "Utility type vehicle" is revised to delete a reference to a definition of "snowmobile," which does not appear in these supplementary rules.

Rule number one requires immediate payment of user fees at a self-service pay station. It also provides that holders of Golden Age or Golden Access Passports are entitled to a 50 percent fee reduction. Acting on a recommendation from the BLM's law enforcement officers, rule number one has been revised. As proposed, the first sentence in rule

number one would have stated, “User fees must be paid within one hour of arrival to the campground for overnight use and must be paid immediately upon arrival for day use.”

That sentence in the final supplementary rule states, “User fees must be paid immediately upon parking or entering Cove Recreation Site.” This change will help ensure prompt payment of user fees.

Rule number two provides that fees for overnight camping permit up to two vehicles per numbered campsite, and requires an extra fee for additional vehicles.

Rule number three permits camping only at numbered sites and rule number four limits the number of visitors allowed in each site. These rules will help ensure public safety and protect resources.

Rule number five requires a check-out time of 2:00 pm to allow other users to use a site.

Rule number six will prevent resource damage by prohibiting cross-country vehicle travel within the campground.

Rule number seven prohibits the use of OHVs in the campground. This rule will help ensure the protection of persons, property, and resources.

Rule number eight prohibits vehicles and camping gear from being left unattended in the recreation site for longer than 24 hours. This rule will assist in making the recreation site available to other visitors.

Rule number nine establishes quiet hours so that visitors may rest and sleep without interruption.

Rule numbers ten and eleven establish acceptable behavior regarding the use of campfires and obtaining campfire fuel. These rules will help ensure visitor safety and will help prevent resource damage.

Rule number twelve requires immediate removal and disposal of refuse. This rule will help ensure visitor safety and prevent resource damage. The second sentence of rule number twelve is revised in response to a recommendation from the BLM's law enforcement officers. As proposed, that sentence would have stated, "All persons must keep their sites free of trash and litter during the period of occupancy." The second sentence of the final supplementary rule states, "All persons must keep and leave their sites free of trash and litter at all times." The BLM believes that compared to the proposed wording, this wording will more effectively ensure public safety.

Rule number thirteen prohibits dumping of graywater or blackwater anywhere outside an approved area. This rule will help safeguard public safety.

Rule number fourteen provides that the maximum length of stay in the campground is 14 consecutive days. This rule will prevent semi-permanent visitation.

Rule number fifteen prohibits the use or discharge of paintball equipment in the campground and day-use areas. This rule will help reduce conflict between users of the established recreation area and potential damage to facilities.

The BLM has replaced the proposed "Penalties" provision. The replacement, titled "Enforcement," improves the precision and accuracy of the supplementary rules.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

The final supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. They will not have an effect of \$100 million or more on the economy. They will not adversely affect, in a material way, the economy; productivity; competition; jobs; environment; public health or safety; or State, local or tribal governments or communities. The final supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. They do not materially alter the budgetary effects of entitlements, grants, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues. The final supplemental rules impose rules of conduct for public use of a limited selection of public lands and provide greater consistency with the Idaho State Code to protect public health and safety.

National Environmental Policy Act (NEPA)

The BLM prepared the 2003 EA to evaluate the environmental effects of the reconstruction of the Cove Recreation Site. These final supplementary rules are designed to mitigate issues discussed in the 2003 EA. This action is strictly procedural and is therefore categorically excluded pursuant to 516 DM 2, Appendix 1.10. There are no extraordinary circumstances that would present potentially significant effects to the environment.

The BLM has noted an increasing network of trails throughout the NCA due to widespread OHV use throughout the area. The 2003 EA states that the ground surrounding the structures on the site is disturbed and highly compacted from historic and heavy unrestricted vehicle traffic. As a result, soil erosion is a concern at the Cove Recreation Site, particularly on the east side of the inlet. The associated impacts to

vegetation, water quality, and public health are also a concern. Uncontrolled OHV activity impacts wildlife populations (including raptors) and their habitats, and can adversely impact other recreational uses. The final supplementary rules are designed to mitigate:

1. OHV impacts to wildlife, soils, and vegetation;
2. User conflicts (noise, pets, weapons, vehicle speeding, etc.); and
3. Human-caused wildfires.

OHV impacts and user conflicts are described in the decision record for the 2003 EA, which is available for review in the BLM administrative record at the address specified in the ADDRESSES section.

The impacts from human-caused wildfires are described in the ROD for the 2008 Snake River Birds of Prey National Conservation Area RMP EIS. The ROD for the RMP EIS was signed by the BLM Idaho State Director on September 30, 2008. The ROD is available for review in the BLM administrative record at the address specified in the ADDRESSES section and online at:

<https://www.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=46154>

The issues that form the basis of these final supplementary rules were analyzed in the 2003 EA for reconstruction of the site. The final supplementary rules are also compatible and consistent with the 2008 ROD for the NCA's RMP and also provide for enforcement.

The BLM found that the final supplementary rules would not constitute a major Federal action significantly affecting the quality of the human environment under NEPA section 102(2)(C), 42 U.S.C. 4332(2)(C).

Regulatory Flexibility Act of 1980

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These final supplementary rules establish rules of conduct for public use of a limited area of public lands and should have no effect on business entities of any size. Therefore, the BLM has determined, under the RFA, that they would have no significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These final supplementary rules establish rules of conduct for public use of a limited area of public lands and do not affect commercial or business activities of any kind. Thus, the rules do not constitute a “major rule” as defined at 5 U.S.C. 804(2). They will not result in an effect on the economy of \$100 million or more, an increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

These final supplementary rules will not impose an unfunded mandate on State, local or tribal governments in the aggregate or the private sector of more than \$100 million per

year, nor will they have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

These final supplementary rules will not have significant takings implications, nor will they be capable of interfering with constitutionally protected property rights, as no property rights are at stake in this final rule. Therefore, the BLM has determined these rules will not cause a “taking” of private property or require preparation of a takings assessment.

Executive Order 13132, Federalism

The final supplementary rules do not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. The final supplementary rules will not conflict with any Idaho state law or regulation, but provide greater consistency with the Idaho State Code to protect public health and safety. Therefore, in accordance with Executive Order 13132, the BLM has determined these final supplementary rules will not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

The BLM has determined these final supplementary rules will not unduly burden the judicial system and they meet the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

The Shoshone-Bannock Tribes of the Fort Hall Indian Reservation and Shoshone-Paiute Tribes of the Duck Valley Indian Reservation were consulted during planning for the environmental assessment for reconstruction of the site and supported these decisions.

The tribes continue to be consulted regularly on implementation actions. Based on these consultations, the BLM has determined that these supplementary rules do not involve policies having tribal implications.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that the final supplementary rules will not impede facilitating cooperative conservation; will take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; will properly accommodate local participation in the Federal decision-making process; and will provide that the programs, projects, and activities are consistent with protecting public health and safety.

Information Quality Act

The Information Quality Act (Section 515 of Public Law 106-554) requires Federal agencies to maintain adequate quality, objectivity, utility, and integrity of the information they disseminate. In developing these supplementary rules, the BLM did not conduct or use a study, experiment, or survey, or disseminate any information to the public.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These final supplementary rules will not constitute a significant energy action. The final supplementary rules will not have an adverse effect on energy supplies, production, or consumption, and have no connection with energy policy.

Paperwork Reduction Act

These final supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq.

AUTHOR: The principal author of these supplementary rules is Jared Fluckiger, NCA Outdoor Recreation Planner.

For the reasons stated in the preamble, and under the authority of 43 CFR 8365.1-6, the BLM establishes final supplementary rules for BLM-managed public lands at the Cove Recreation Site, to read as follows:

FINAL SUPPLEMENTARY RULES FOR THE COVE RECREATION SITE

Definitions

Blackwater means water that contains animal, human, or food waste.

Graywater means wastewater drained from sinks, tubs, showers, dishwashers, clothes washers, and other non-toilet sources.

Off-highway vehicle (OHV) For the purpose of these supplementary rules, the following are included within the definition of OHV (taken from Idaho Code 67-7101 (2010)):

- "All-terrain vehicle" or "ATV" means any recreation vehicle that has 3 or more tires and measures 50 inches or less in width, having a wheelbase of 61 inches or

less, having handlebar steering and a seat designed to be straddled by the operator.

- “Motorbike” means any self-propelled two-wheeled motorcycle or motor-driven cycle, excluding tractors, designed for or capable of traveling off developed roadways and highways and also referred to as trailbikes, enduro bikes, trail bikes, motocross bikes, or dual purpose motorcycles.
- “Specialty off-highway vehicle” means any vehicle manufactured, designed or constructed exclusively for off-highway operation that does not fit the definition of an all-terrain vehicle, utility type vehicle, or motorbike as defined in these supplementary rules.
- “Utility type vehicle” or “UTV” means any recreational motor vehicle other than a snowmobile or an ATV or motorbike as defined in this section, designed for and capable of travel over designated roads, traveling on 4 or more tires, maximum width less than 74 inches, maximum weight less than 2,000 pounds, and having a wheelbase of 110 inches or less. A utility type vehicle must have a minimum width of 50 inches, a minimum weight of at least 900 pounds or a wheelbase of over 61 inches. This does not include golf carts, vehicles specially designed to carry a disabled person, or implements of husbandry. A “utility type vehicle” or “UTV” also means a recreational OHV, or recreational off-highway vehicle.
- For the purpose of these final supplementary rules, OHVs include any ATV, motorbike, specialty vehicle, or UTV not licensed for highway use (not street legal).

On BLM-administered public land within the Cove Recreation Site, you must comply with the following final supplementary rules:

1. User fees must be paid immediately upon parking or entering Cove Recreation Site. Fees must be paid at the self-service pay stations located in the campground and day-use areas. Golden Age or Golden Access Passport holders are entitled to a 50 percent fee reduction.
2. Fees for overnight camping permit two vehicles per numbered campsite. Additional vehicles will be charged an extra fee per day.
3. Camping is permitted at developed (numbered) sites only.
4. The maximum number of persons allowed on campsites is 8 for a single site, 12 for a double site, and 16 for a triple site.
5. Checkout time for overnight users is 2:00 pm.
6. Cross-country vehicle travel within the campground is not allowed.
7. Off-highway vehicles (OHV), as defined above may not be used within the campground.
8. Vehicles and camping gear must not be left unattended in the recreation site for longer than 24 hours.
9. Quiet hours are established from 10:00 pm. to 6:00 am. No loud talking, loud music, barking dogs, operation of generators, or other disturbing activities are permitted in the campground during these hours.
10. Campfires are permitted in agency-provided fire rings and grills only.
11. Cutting or collecting firewood of any kind is prohibited, including dead and down wood or other vegetative material.

12. All trash, garbage, waste, or pet fecal material must be immediately removed and disposed of in a sanitary manner. All persons must keep and leave their sites free of trash and litter at all times.

13. Dumping of graywater or blackwater is prohibited anywhere other than in an approved area.

14. Maximum length of stay in the campground is 14 consecutive days.

15. Paintball equipment must not be used or discharged in the campground or day-use areas.

Exemptions: Any Federal, State, local, and/or military employee acting within the scope of their duties; members of any organized rescue or fire-fighting force performing an official duty; and persons, agencies, municipalities or companies holding an existing special use permit and operating within the scope of their permit.

ENFORCEMENT: Any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8560.0-7, or both. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Idaho law.

Michael C. Courtney
Bureau of Land Management
State Director, Idaho - Acting

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