

Attachment 1**Idaho Public Television****Examples of Public Access Issues**

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Following the conflicts of 2014 and Chief Tidwell's directive, we operated largely without difficulty on public lands in Idaho. We often interviewed Forest Service, BLM and NPS officials on those lands with no requirement – or even mention – of having to obtain permits. It felt to us as if the agencies had embraced the spirit of the Tidwell guidelines.

But in recent years we have encountered an increase in friction over permits and access to federal lands. We recently had a forest PIO tell us that, in her opinion, we had gathered enough footage in previous decades, and that we should use alternative methods (and people) to gather video. And the friction is coming from both federal agencies as well as a new source: A proposed City of Boise film-regulation ordinance, which was halted after widespread protests about its onerous provisions and overreaching scope.

Here are recent examples documented by IdahoPTV over access to federal lands:

- In winter 2021, Idaho PTV's program Outdoor Idaho wanted to spend the year shooting video for a program about Idaho's Bitterroot Mountains. The producer of the program reached out to a U.S. Forest Service representative with the Lochsa/Powell/Moose Creek Ranger District on the recommendation of a local Nordic club, to get more information about Lolo Pass. The USFS employee asked for information about the production and said IdahoPTV would need to apply for a filming permit. In response, the producer sent over the 2014 memorandum by former USFS Chief Tom Tidwell that says non-commercial, informational and news organizations can film in national forests without a permit. The USFS employee told the producer over a phone call that the memorandum was dated and no longer applied. The producer filled out a filming application; many of the possible locations were undecided and would be weather-dependent, so the producer left dates and location blank. The USFS employee said dates and locations were required. The producer sent a new application with estimated dates and locations. The USFS employee responded with suggestions of her own ideas as to where Outdoor Idaho should and should not shoot video. She also recommended Outdoor Idaho use footage gathered as far back as 1995, which she said was adequate for the purposes. In another email, she suggested Outdoor Idaho ask a group of trail volunteers to shoot video on their phones instead of Outdoor Idaho's two-person team shooting their own video in the forest. That project got delayed, and our crews worked directly with civilians to document life in the Bitterroots.
- In July 2022, an Outdoor Idaho crew encountered a Forest Service law enforcement official in the backcountry of the Bitterroot National Forest asking if the crew had a permit to be filming. The officer had heard our drone flying at Baker Lake and had come to inquire. Our staff explained that we don't need a permit for our work, drone or otherwise, based on the Tidwell memorandum. We also explained that we were careful to fly the drone OUTSIDE the Selway-Bitterroot Wilderness Area boundary, as we always do when filming with drones near

wilderness areas. The incident was satisfactorily resolved, but emblematic of the questions/issues we encounter.

- In September 2022 the Bureau of Reclamation required our team to obtain a permit to film a scientist who was researching fossils on the lakeshore of American Falls Reservoir. Our crew would not be digging, but simply filming the scientist who already had permission to do his research. The agency did not accept the rationale of the Tidwell USFS guidance, despite the fact that BuRec's stated policy says "News media do not require a permit." We were told we did not qualify as "news media" and that all filming required a permit. Idaho Public Television requested and received the endorsement of the Idaho Press Club that our staffers are, in fact, legitimate and recognized journalists and newsgatherers, and that our activities should not be subject to a permit. As the date for the interview neared, Idaho Public Television agreed to apply for the permit, stipulating that we still believed it was not required to film on public land. The nine-page, one-day license was expeditiously approved by courteous BuRec officials, and the fees waived, three days before the interview. But as it stands today, the agency maintains that it can require us to obtain a permit before we do any of our First Amendment-protected work on Bureau of Reclamation lands.
- In December of 2022, IDPTV's Outdoor Idaho was preparing to shoot a winter bike race near Island Park, Idaho. The race organizer told an employee from the Caribou-Targhee National Forest that a film crew was coming. The USFS employee told the race organizer that IdahoPTV would need a film permit. When the Outdoor Idaho producer reached out to the USFS employee directly, he again said a film permit would be needed. The producer forwarded the USFS employee the memorandum from former USFS Chief Tidwell. The USFS employee said in that case, no permit would be required.

These incidents illustrate the random and unpredictable patchwork of treatment our work gets from Idaho federal land managers. These may seem like minor inconveniences in the larger world of resource management challenges, and it is true our producers and videographers usually find a workable arrangement when conflicts arise. It is also true that the vast majority of agency personnel are professional, accommodating and well-meaning; we do not want to jeopardize that good relationship or demonize hard-working agency officials. But we do encounter enough delays and obstacles to our project timelines that we are seriously concerned about this trend. And what happens when we encounter agency personnel who are not well-meaning or who don't like our project or personnel? How do unestablished journalists and documentarians fare if they do not have Outdoor Idaho's and IDPTV's connections, 50-year track record and credibility? Predicating access to federal lands on a producer's charm and a federal employee's good will is not a sufficient way to guarantee First Amendment right.

In its most simple form, we are asking that we be allowed to work unimpeded on public lands that are open to the general public. If we have no impact, no permit required. Simple for all concerned. Our crews are typically two or three people, and we have no more effect on the public land than does a forest hiking trio or a family on a lakeside picnic.

The patchwork of permission and permits presents a practical difficulty in scheduling and arranging filming projects, and subjects our productions to the caprice of land managers who can smooth the way for projects they like and delay projects that might cast them in a less-positive light.

A clear, simple process that is based solely on the actual impact to the resource would eliminate such barriers and allow the work of legitimate news-gatherers and documentarians. We need a clear policy that respects the promise that Congress “shall make no law ... abridging freedom of speech, or of the press.”