

Isle Royale Boaters Association February 2002 Newsletter

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IRBA Officials Meet With New Isle Royale Superintendent

Article

Isle Royale now has a new Superintendent in place. Three members of the IRBA Executive Committee - Jim Markham, President, Fred Bieti, COO, and Dave Jukuri, Secretary - had a very constructive two hour "get acquainted" meeting with the new Superintendent, Phyllis Dorman Green, on December 20, 2001.

Ms. Green's family lived in the Houghton area, and she attended area schools, including Michigan Tech. Dave Jukuri reminisced about working with Ms. Green's father, Ken, on many community interest projects in years past.

Jim Markham described his days growing up on Isle Royale, where his father worked for the NPS from 1946 to 1959 (which explains the abundance of great historical photos on the IRBA web site). Jim also indicated to Superintendent Green that the IRBA remains interested in volunteer efforts to maintain campsites and other public facilities at Isle Royale. He also indicated the formation of the new IRBA Western Chapter could enhance these opportunities for such involvement, regardless of the ongoing lawsuit.

Because of the ongoing litigation pertaining to the General Management Plan the group did not discuss issues related to that lawsuit. However, Fred Bieti spent some time discussing the IRBA's concerns with the Wilderness Backcountry Management Plan, including the proposed restrictions that no more than two boats be allowed to anchor within sight or sound of each other.

Fred also pointed out that NPS Directors Order No. 82 states that employees of the NPS who are assigned to the park or who are visiting the park in connection with their duty assignments are nonreportable visits and are not to be reported as public visitors, as apparently has been the case at Isle Royale since June of 2000. We are pleased to tell you that Ms. Green agreed.

Superintendent Green comes to Isle Royale from the U.S. Forest Service. In many areas of the country, the Forest Service has been more inclined to support "Multiple Use" policies than the NPS has been. Perhaps that philosophy will now find a home at

Isle Royale. If so, it could be very helpful in preserving the traditional visitor access that has been enjoyed for generations.

Following the meeting, Jim, Fred, and Dave expressed optimism that the IRBA can work with the new Superintendent to preserve and improve a quality visitor experience for the majority of Isle Royale's visitors. We look forward to working with Superintendent Green.

Western Chapter Meetings

Announcement

The Western Chapter of the IRBA meets at 7:00 p.m. on the first Monday of the month at the Lakeview Castle in Duluth, MN. For information please call Dwayne Falconer at (218) 721-3195.

Executive Committee Report

by Fred Bieti

Oral arguments on our Appeal of the District Court decision in our lawsuit are anticipated to be heard this fall with the decision to follow some time after that. More details regarding the appeal follow in a separate section of this Newsletter.

Now that the time consuming filing of the Appeal for the IRBA lawsuit to protect visitors' traditional rights has been completed, your Executive Committee will move on to other areas of interest to IRBA members, areas we hope will enhance the quality of the boating experience at Isle Royale and elsewhere.

In appreciation of your patience and support, Betty M. Bieti, IRBA's unofficial volunteer Recording Secretary and "legal assistant," has requested that we include with this newsletter a copy of a handy pocket version of the "Declaration of Independence and the Constitution of the United States of America" that she likes to present to so many of her friends. (Some of you may have already received a copy at an IRBA meeting.)
Thanks, Betty.

What's on the IRBA horizon?

by Fred Bieti

With the major legal work behind us, the IRBA will now turn its attention to "enhancing the quality of the boating experience at Isle Royale and elsewhere." One of the areas of increased focus will be the IRBA Newsletter. Future Newsletters will include items of interest that have been put on the "back burner" due to the heavy time commitment invested in the legal activities.

Planned items of interest include historical features and photos, stories depicting the many great family experiences enjoyed at Isle Royale, more fishing "tales," and clever boat gadgets created by members. We may even release some of the heretofore well guarded, secret "camp recipes." We will also include a comment section from the Western Chapter representatives and we will include updates on the proposed Apostle Islands Wilderness Designation activities.

To help in this effort we ask all of you to consider sending some of your favorite stories, photos, and gadget descriptions to the IRBA. Simply send them to the IRBA at P.O. Box 97, Houghton, MI 49932, or use our web site "contact IRBA" email address info@isleroyale.org.

Fundraising Report - 86% of Goal Reached - We Thank You

Announcement

Our recent fundraising efforts have been very successful, thanks to your steady support. We have received contributions amounting to \$43,000 - 86% of the amount needed to assure completion of the appeal.

We certainly would appreciate your help in raising the additional \$7000 to get us over the top and thank you in advance for any contribution you can send. The IRBA is a 501 (c) (3) organization and any deduction is tax deductible.

NOTE: The Special "Sponsor Decals" - mentioned in our Fall fundraising letter are included in this mailing.

An Update on the Legal Case

Article

The complete texts of the IRBA Appeal Brief (filed November 19, 2001), the Government's Brief (filed December 19, 2001), and the IRBA Reply Brief (filed January 16, 2002) are now on the IRBA website www.isleroyale.org. We suggest you read the Reply Brief first as it provides a great overview of this entire argument. We think you will agree that this is a fine piece of legal work.

Simply put, our attorneys have narrowed the focus. While the Judge did in fact rule in our favor on many elements of the earlier trial, he did not decide in our favor on any count in its entirety. On some counts the Judge said the issue was not "ripe." Overall, the original case was too complicated to be ruled on in our favor.

The appeal focuses on the crystal clear Congressional Intent of the Isle Royale Wilderness Legislation, what it was expected to accomplish, and points to the related legislative history to make the case. It is clear the NPS, in trying to hide this legislative

history knew they had a problem if it was ever made generally available to the public. In fact our attorneys say, "The GMP's professed reliance on legislative history makes the government's decision to withhold certain critical legislative history documents ... that much more bizarre."

For example, the legislative history clearly calls for all the docks, shelters and trails that existed in the exempted areas, when the legislation was written, to remain, and defines the use of these facilities as "traditional." The legislative history also allows the NPS the flexibility to move these facilities "a couple hundred yards," *not 8 miles!*

The three briefs filed in the appeal process contain 109 pages of background, law, and argument. Even an attempt to summarize so large a quantity of material would change this newsletter into a small book. Perhaps it is best to quote the "Nature of the Case" from the Appeal Brief itself:

This is a case of bureaucratic betrayal.

In 1976, Congress incorporated Isle Royale National Park into the nation's wilderness system. The legislative history makes it crystal clear that both Congress and Defendants the National Park Service (the "NPS") and the Department of the Interior intended that the wilderness designation would have no effect whatsoever on the motorized boating community's long-standing use of Isle Royale's docks and campsite shelters. For over 20 years, the Department and the NPS honored that intent, confirming in numerous letters to the public that (1) Congress directed the NPS to retain and maintain the docks and shelters as they existed in 1976, and (2) this Congressional mandate could only be changed by another act of Congress.

In the late 1990's, the NPS reversed its position. In a General Management Plan ("GMP") promulgated to guide administration of the island, the NPS declared its intent to "separate" motorized boat users of the park from other users. Separation of uses may be an entirely legitimate goal for the NPS. That is not the focus of this appeal. What is at issue on appeal is the particular means the NPS chose to reach its goal. Rather than leave established boating facilities intact and re-direct use of other facilities, the NPS attacked precisely and most aggressively the boating facilities Congress sought to preserve. The end result is a net 45% decrease in the number of docks that have access to both trails and shelters. In short, the proposal undisputedly alters the boating community's long-standing use of the island's docks, shelters, and trails, even though Congress and Defendants expressly sought to preserve these facilities and patterns when designating the Park as a national wilderness area in 1976.

The District Court held that the NPS' proposed actions did not violate Congressional will because the plan did not "result in drastically fewer docking opportunities for boaters." But in so holding, the District Court erred. When Congress incorporated parts of Isle Royale into the wilderness system, it clearly

stated its intent to preserve the boating community's long-standing use of the island's docks and shelters. The GMP changes that long-standing use, a change which denies the boating public the right to the continued use of docks, shelters, and trails traditionally used for over thirty years. Thus, the only question for this Court is whether the NPS will be allowed to take these actions, which violate a clear statement of Congressional intent regarding the management of Isle Royale.

The real issue is one of enforcement of the will of Congress and access by all users to the island. This is best summarized by quoting the "Conclusion and Relief Requested" from the Appeal Brief:

Plaintiffs [the IRBA] do not seek to void the entire GMP that Defendants [the NPS] have proposed. They seek only to enforce the will of Congress when it incorporated Isle Royale into the wilderness system. Defendants [the NPS] are therefore free to pursue their goal of "separating" motorized and non-motorized uses on the island; but in the process they must not reduce the traditional access to docks, shelters, and trails that boaters have enjoyed.

Accordingly, the District Court's decision should be reversed in part, summary judgment should be entered in Plaintiffs' [the IRBA's] favor, and Defendants [the NPS] should be enjoined from removing the Indian Portage Trail and the docks and shelters at Duncan Bay, Siskiwit Bay, Three Mile, and McCargoe Cove. Defendants [the NPS] should also be enjoined from enacting any General Management Plan that does not call for the restoration of the dock that used to exist at Huginnin Cove.

That would seem to be a much more reasonable view of the future of Isle Royale National Park than that presented by Jack Oelfke, Isle Royale branch chief for natural resource management, who was quoted by the Daily Mining Gazette as saying, "**The challenge is how to make fewer people come (to the park).**"

Oral arguments on the appeal are expected to be held in Cincinnati, Ohio, this fall. The case will be decided some time after that.

Late Summer Fishing Report for Isle Royale

by Dave Hand (Dr. Trout Too) and Don Hannula (Skipper)

This is a bad time of the year to sit at the computer and write about the past summer's fishing. While it is great to recall the fun of fishing, it has also started the fever to get back out there: a fever I will have to live with for the next few months.

"Dr. Trout Too" had a couple of good trips in July and August. During a trip in mid-July, we caught several trout off Passage Island and Blake's Point using Dave and Mickey's Creative Touch Tackle (Duluth, MN) fire tiger needle-nose spoons and some green and

raspberry striped Northport nailer spoons. On our annual August trip, with IRBA members Tom Kukulski and Bruce Sabin, and Dave Turnquist (Auggie Doggie) and his fishing buddies Dave Cole and Tony Palmer, fishing was fantastic. We trolled thirty to sixty feet down around the south reef off Bateau Rocks and caught several beautiful eight to fifteen pound dark-golden red-fins that had a lot of fight in them. Fishing was also very good between Passage Island and Five-Foot Reef. The fish were stacked up in eighty to ninety feet of water at the edge of the reef. The Auggie Doggie caught several salmon just off the red can outside of Duncan Bay and near the Palisades. He was fishing thirty-five feet down in one hundred forty foot of water using Dave and Mickey's chrome/rainbow kaleidoscope spoons.

Walleye fishing on Isle Royale is alive and well. We all fished for four hours in an inland lake near Chippewa Harbor and caught 25 legal size walleyes fishing with artificial jigs. To all you big lake fishermen, I suggest you take a morning off the big pond and fish one of the inland lakes for walleyes. They are really tasty.

"Skipper" and crew managed one trip each in the month of July and August to the Island. In July, we found the fishing to be a little slow. We tried Middle Island Passage for several hours with no success. Camping at Caribou Island we also tried the inside banks of Rock Harbor channel. We had several downrigger releases but only managed to boat two small lakera. Finally, we got a calm day and decided to head to Passage Island. Alas, we found them. Several favorite spots around the island produced fish in good numbers. Many fish were in the six to eight pound size. We found them from ninety to one hundred and ten feet of water. While other fishermen try spoon after spoon I stick with my old favorite needle nose spoons made by Dave and Mickey. The fire tiger colors (watermelon) are the best combination.

We kept enough fish for our annual Surf & Turf meal at Caribou Island on Saturday evening after the IRBA island meeting. This year the meal was better than usual; two guys paid off a bet made earlier in the year and provided the beef tenderloin. Thank you Dave Hand and Ed Glowacki. We also picked up a new cooking tip. Filet your fish, remove the skin, cut into eating size (chunks for deep-frying), put into a zip-lock bag and marinate for 2-3 hours in fresh lemon juice. Squeeze the lemon over the fish then cut up the rind and add to the baggie. This not only gives the fish a slight lemon taste but softens the bones (if any) and firms up the flesh. Delicious!!! Come to think of it, I have never had a BAD meal at Caribou Island.

Now some would say that you cannot possess fish in small chunks with no skin on. However common sense should prevail as the fish are in the process of being prepared by being marinated. Now, if you had 100 pounds in a marinade and were not going to cook it until you got back to the mainland, then I think you would have a problem! I realize common sense is not too common, but some how we have to get common sense back into all rules and regulations. Enough of that... back to fishing.

Our late August trip was the best I have ever seen. Fishing that is. We started fishing east of Five-Foot Reef and trolled toward Passage Island. We got three lines out, turned

north to catch shallower water, and BANG! No, not the reef. All three lines went off. Three fish at once. Glad we didn't have six or eight lines out like sometimes. We landed two of the three releases. We then fished the area for less than two hours having over 20 releases on the downriggers. FUN, FUN, FUN. The wind picked up, so we went into Passage Island and had a fresh lake trout shore lunch. HEAVENLY! After stretching the legs by walking to the lighthouse and cleaning up the dishes it was time to (what else) fish.

We dropped the cannon balls in forty feet of water right off the mouth of Passage Island Cove and started catching fish again. We caught and released many fish the rest of the day. We kept several fish in the ten to twelve pound size and smoked them up the next day. Somehow the smoked fish disappeared at Rock Harbor where my son Craig worked the summer at the store. I didn't make a larceny report to the ranger; I had a very good idea where it went. We simply went out the next day and caught some more.

The fish were very plentiful this trip and most likely they would have hit a kitchen spoon with a hook on it. However, we also successfully used the old stand-byes, which included jointed and straight Rapala's in the fire tiger colors. When fishing slows at times because the trout were not cooperating, I usually place a small piece of sucker on the last hook of the lure and catching fish would pick-up. But we did not have to do it this trip.

The summer newsletter contained a fishing report for the east end of the island. We have still not heard from the fishermen on the west end. Some of you west end fishermen please provide us east enders with a fishing report. We would like to know how the fishing is over there. You can email Dave Hand at dwhand@mtu.edu or contact IRBA. If we get enough current reports this summer we will put them on the web site so you don't have to wait for the newsletter to hear about the hot spots.