

Capitol Reflections



2018 LEGISLATIVE SESSION

“So great, moreover, is the regard of the law for private property, that it will not authorize the least violation of it; no, not even for the general good of the whole community.”
- William Blackstone

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LANDOWNERS WANT THEIR RIGHTS PROTECTED

This week the House Agriculture Affairs Committee, Chaired by Rep Judy Boyle (R-Midvale) listened to testimony on H658, the property rights protection bill. This bill is supported by a coalition of more than 30 agricultural and business organizations, industries, utilities, recreational and timber organizations who are all concerned their property rights are routinely being violated.

Many landowners have testified of the egregious violations that have occurred on their property and the cavalier

attitude of the public regarding other people’s property. Landowners stated they are more than happy to grant access when someone asks for permission and respects their property. However, there are increasing numbers of people who believe they can go anywhere they want until someone says they can’t. This is a fundamental misunderstanding of property rights guaranteed by the Constitution.

H658 seeks to organize and harmonize our current patchwork of confusing and sometimes contradicting laws. It was very evident during committee testimony that law enforcement, landowners and the public really don’t have a clear understanding of what the current law says or does. Even the Idaho Dept of Fish & Game has been publishing incorrect information in their hunting proclamations for years about posting requirements under current Idaho code.

This confusion has led to a fundamental misunderstanding of current Idaho law. Many are misinformed that current law requires private land to be posted with “no trespassing” signs, or orange paint every 660 feet. That is not what the law says. Posting every 660 feet is an option under the current law but is not required. Also, according to Idaho Code 36-1602, hunters must first seek permission from



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the landowner before entering any land that is cultivated, fenced, or posted in any way.

Once committee members were able to better understand the current law, and how it is so confusing and convoluted, they saw the wisdom in supporting H658 which clearly articulates landowner rights and the responsibilities of those who would like to recreate on the land.

The primary opponents to H658 were the Idaho Wildlife Federation and Trout Unlimited, who continued to claim

that the bill would remove posting requirements. They have generated hundreds of form letter emails to legislators which are full of completely false allegations and misinformation. In the end, the committee voted 11-3 to send H658 to the floor with a “do pass” recommendation. Those voting against were the two Democrats on the committee and Rep Randy Armstrong (R-Inkom). IFBF policy #192 supports this effort and **IFBF supports H658.**

FSMA INSPECTION BILL PASSES SENATE AG

The Senate Agricultural Affairs Committee gave a “do pass” recommendation to Rep. Clark Kauffman’s (R-Filer) H537, a bill which transitions mandatory Food Safety Modernization Act (FSMA) inspections from the Idaho Dept. of Health and Welfare (H&W) to the Idaho State Department of Agriculture (ISDA). Sen. Abby Lee (R-Fruitland) is Senate sponsor.

The bill shifts inspection authority and responsibility to ISDA by 2020. These inspections are mandated by the federal FSMA rule and will allow the Dept. of Ag to inspect food manufacturers and fresh produce. Inspections will not be conducted if federal funding is no longer available and Idaho standards will not exceed federal standards.

This change in responsibility is important because ISDA understands the agriculture industry and already has an inspection presence in fresh produce facilities. That said, the fresh produce and food manufacturer FSMA inspections will be conducted by different inspectors because the FSMA inspections will address food safety issues. Current ISDA inspections look at grade and quality standards.

Candi Fitch, Executive Director- Idaho-Oregon Fruit and Vegetable Association, and Elizabeth Criner, Veritas Advisers, researched and drafted the legislation. **Idaho Farm Bureau supports H537.**

WOLF COLLARING BILL GETS A “DO PASS” THEN PASSES HOUSE

Last week this writer reported that S1275, Sen. Abby Lee’s (R-Fruitland) bill which codifies wolf collaring as a management practice had been held until Monday-March 5, 2018- in the House Resources and Environment Committee.

On Monday, the hearing continued and Sen. Lee explained to the committee that constituents in Valley and Adams Counties had expressed concerns about continued collaring and wanted to make sure that IDFG would collar wolves into the future. She went on to say that Rep. Judy Boyle (R-Midvale), Rep. Ryan Kerby (R-New Plymouth) and she had met with IDFG last May. Sen. Lee said the collaring program had been funded with licensing revenues prior to and separate from, the Wolf Depredation Control Board. Sen. Lee went on to say she felt it important to put wolf collaring into the Idaho Code as a statutory requirement when circumstances, administrations or personnel change in the future.

Sharon Kiefer, Deputy Director-IDFG, said the department had technically reviewed the bill and had no

position. The Department operates under the 2002 Wolf Plan and language in S1275 which addresses “. . . *packs predisposed to depredation.* . . .” is consistent with the plan. When questioned, she went on to say that current collaring and other predator management is funded through a Department predator budget of approximately \$200k which utilizes money and discretionary funds created by 2017’s H230.

Collaring is necessary, but expensive. Collars cost about \$1,000 each. If ground trapped, a wolf collar will cost approximately \$1,500-2,000 to install and last 1-3 years depending on how many times a signal is emitted from the collar. If planes are used to locate wolves in a collaring operation, cost can be as much as \$10,000 per wolf. Deer and elk collars can last up to 5 years.

After a thorough explanation of funding sources, costs and operations, S1275 received a “do pass” recommendation from the Committee. On Thursday, the bill was heard in the House and passed 67-1-2. **Idaho Farm Bureau Federation supports S1275.**

ELECTIONEERING USING TAXPAYER FUNDING

This week H620, sponsored by Rep Jason Monks (R-Meridian), was approved in the Senate State Affairs Committee. It prohibits the use of taxpayer funding to advocate for or against any ballot measure or candidate. H620 will now head to the Senate floor for a vote before going to the Governor for his signature.

This is a new and improved version of a bill IFBF supported last year, which did not ultimately advance.

This year the sponsor worked closely with those

entities most affected and, after modifications, received either support or no position on the bill from the cities, school boards, school administrators, counties and others. Only the ACLU spoke against the bill.

H620 is simply codifying case law from Idaho. The most recent example was a case before the Idaho Supreme Court. It is totally inappropriate to use taxpayer dollars to advocate a position against what the taxpayers want. **IFBF supports H620.**

FARM BUREAUS OPPOSE SCOTCHMAN PEAK WILDERNESS

The Boundary and Bonner County Farm Bureaus and Idaho Farm Bureau Federation (IFBF) oppose wilderness designation for the Scotchman Peaks area near Clark Fork, Idaho. Earlier this month the Farm Bureaus sent opposition letters to Sen. Jim Risch (R-Idaho) expressing their concern and opposition.

Farm Bureau opposition is based on IFBF policy no. 76- Wilderness and Restrictive Zones which says in part “... We oppose all dedication of land in Idaho for wilderness and roadless areas. . .”

The proposed Scotchman Peaks Wilderness is an 88,000 acre area due east of Sandpoint, Idaho which straddles the Idaho-Montana border. The attempt to designate this tract of land wilderness has been going on for over 10 years. 13,900 acres of the proposed wilderness are in Idaho. The remainder is in Montana and would have to be designated by a separate Montana bill. If this did not happen, Idaho could end up with a 13,900 acre wilderness area that

was formerly accessed and used by generations of Idahoans for a variety of recreational purposes.

All users of the area respect and responsibly utilize the area. However, since 62% of Idaho is public land and over 60% of Bonner County is land under state or federal control, a wilderness designation could impose even greater restrictions on this popular area and heavier use on less restricted areas.

Supporters and opponents of the issue both say the other side is overestimating their numbers and position. The Bonner County Commissioners have decided to put the wilderness designation issue up for an advisory vote on the May 15, 2018 primary election ballot.

In 2016 Sen. Jim Risch (R-Idaho) introduced legislation in the 114th Congress to designate Scotchman Peaks a wilderness. At that time, he said the bill's purpose was to start the public process and that it would not progress until he'd heard directly from Idahoans about it. Legislation has not been introduced in the 115th Congress.

MEMORIALS: COLUMBIA RIVER TREATY AND FEDERAL LAND DESIGNATIONS

The Senate Resources and Environment Committee sent two House Joint Memorials to the floor with "do-pass" recommendations. These joint memorials are both supported by Farm Bureau and we appreciate their sponsors.

HJM11 is sponsored by the Idaho Water Users Association and carried by Rep. Megan Blanksma (R-Hammett) and Sen. Jeff Siddoway (R-Terreton). HJM11 urges the U.S. Department of State to support certain positions in negotiations with Canada regarding any modification or future implementation of the Columbia River Treaty. These positions include:

- 1. Recognize and protect the authorized purposes and water rights for storage projects in Idaho, including irrigation, recreation, hydropower and local flood control;
2. Advocate that only storage projects specifically authorized by Congress for system-wide flood control may be required to provide such benefits under the treaty, with no increased flood control burden placed on projects in Idaho;
3. Recognize a need to review and rebalance the Canadian Entitlement;
4. Recognize the ecosystem benefits that have already been provided by storage projects in the United States pursuant to the other federal laws and refrain from advocating for additional ecosystem contributions from U.S. projects;
5. Recognize that ecosystem restoration, as the term has been used by some proponents of modernization, is intentionally vague and if incorporated into an international treaty could be used as a vehicle to override and infringe upon existing federal environmental laws and usurp state sovereignty over water. Because of

this, it could therefore, require any treaty modification to preserve federal environmental protection laws and state water laws and reject any additional mitigation requirements;

- 6. Require any treaty modification to recognize the primary authority and state sovereignty of Idaho and its sister states over their respective water resources;
7. Reject any attempts through the treaty modification process to incorporate the reintroduction of anadromous species above Hells Canyon or Dworshak, as such efforts are outside the scope of the treaty purposes; and
8. Protect navigation so that adverse flows do not impact the transportation channel or block system operations.

IFBF Policy #50 states, "We support renewal of Columbia River Treaty with Canada in such a manner as to maintain its original focus upon flood control and power generation." IFBF supports HJM11

HJM14, sponsored by Rep. Van Burtenshaw (R-Terreton) and Sen. Jeff Siddoway (R-Terreton), urges Congress to introduce legislation to oppose any federal land designations in the state that restricts land use unless approved by Congress and the Idaho Legislature. It also urges Congress to ensure federal agencies follow the coordination process as directed by law. Nothing in the memorial is intended to conflict with the Good Neighbor Authority or the collaborative process to address stakeholder interest in the management of federal lands.

Farm Bureau has been a long-time supporter of legislative oversight of land designations within the state. IFBF's basic principles support the protection and defense of state's rights and state sovereignty. IFBF supports HJM14

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