



In this issue

Senate 1044 Eminent Domain, pg. 1
Senate 1062 Direct Primary Care, pg. 1
Big and Little Wood River, pg. 2
Memorials and Resolutions, pg. 2
Transportation, pg. 3
Senate 1073 hearing, pg. 3 & 4

The ultimate result of shielding men from the effects of folly is to fill the world with fools. --

Herbert Spencer, English Philosopher (1820-1903)

Eminent Domain Restriction Moves to Governor

S1044 which would prohibit the use of eminent domain for recreational trails and bike paths was approved by the full House this week with a vote of 54-15. Opposing the bill were the fourteen democrats and one republican, Rep Lance Clow of Twin Falls. Ironically, four years ago when this same bill passed the House, but was not given a hearing in the Senate, the vote was identical, with all democrats opposed as well as one republican, Rep Leon Smith of Twin Falls, who was replaced by Rep Clow.

Farm Bureau would like to thank Senator Jim Guthrie (R-McCammon) for the excellent job he has done in shepherding S1044 through the legislative process. This is a great victory for all private property owners in the state. Local governments will no longer be able to forcibly take property, but must now enter negotiations with landowners when they want to develop recreational trails and jogging paths. Secure private property rights are the cornerstone of economic prosperity. S1044 now goes to the Governor for his signature. **Idaho Farm Bureau supports S1044.**

Direct Primary Care Bill Advances

This week S1062a was approved by the full Senate with a vote of 34-0. S1062a is sponsored by Senator Steve Thayn (R-Emmett) and clarifies that Direct Primary Care is not an insurance product and will not be regulated by the Idaho Department of Insurance. Direct Primary Care is a new business model in the health care field which allows primary care doctors and dentists to contract directly with a patient to deliver a specified list of services for a set fee.

When the bill was first heard in the Senate Commerce & Human Resources Committee, the major insurance companies came out in full force to oppose the bill. They had concerns that some of the definitions were too broad and would allow a health care provider to engage in insurance-type activities.

Since that time, Senator Thayn has done a good job of working with all interested parties to come up with language that has satisfied those concerns while still providing the opportunity for those who want to provide these services to do so. It is our understanding that the insurance companies no longer oppose the bill as amended.

S1062a will now move to the House Health and Welfare Committee for a hearing next Tuesday. **Idaho Farm Bureau supports S1062a.**



Idaho Farm Bureau's Governmental Affairs Report

P.O. Box 167, Boise, ID 83701 www.idahofb.org (208) 342-2688

Issue 10
March 20, 2015

Big and Little Wood River Water Call

On February 12, 2015 members of the Big Wood and Little Wood Water Users Association filed a “Request for Administration of Water Rights under the Prior Appropriation Doctrine.”

That is the terminology generally used in the legal practice to announce that a water call has been made. The filing delivered to Idaho Department of Water Resources (IDWR) Director Gary Spackman states, “In 1980, your predecessor issued a policy memorandum declaring surface water in the Big Wood River basin, upstream from Magic Reservoir, as full appropriated. Following the issuance of the policy memorandum, no new water permits for consumptive purposes were issued for diversion of surface water from the Big Wood River, or its tributaries, above Magic Reservoir. However, the Department continued to issue water permits for the consumptive use of groundwater within the Wood River Valley aquifer system.”

In June of 1991, Big Wood River Ground Water Management Area was created that included groundwater located in the Wood River Valley and the Camas Creek drainage above Magic Reservoir, also the Silver Creek/Bellevue triangle area.

The filing goes on to say that a 1991 IDWR order includes a finding that the surface and ground waters of this area are interconnected and that diversion of groundwater from wells can deplete the surface water flows in streams and rivers. The water users assert that by allowing additional ground water diversions, a declining trend in ground water levels in area wells has been measured over time. This has resulted in a significantly reduced average flow in Silver Creek and Big Wood River. The declining surface flow has caused premature curtailment of delivery of water to senior surface right owners.

On March 6, 2015, the IDWR acknowledged receiving the “Call Letter.” A docket has been assigned and IDWR is now in the process of identifying and notifying potentially affected ground water users. The response letter further states that, “the Department will issue an order setting a date for the initial status conference soon.”

The Year of Memorials and Resolutions

The end of the session appears to be approaching with going home bills that focus around increasing the transportation funding to address infrastructure needs and an education budget that includes implementing some recommendations made by the Governor’s committee on K-12 education.

House and Senate Concurrent Resolutions and Memorials have been keeping the legislature busy during this entire session.

House Concurrent Resolution 12 seems interesting and worthy of mention. This legislation asks for consideration of a two year interim committee to undertake and complete a study of the Endowment Asset Issues of Importance to the State of Idaho and to monitor implementation of the recommendation of the Callen Report.

An interim committee of legislators was approved during the last session to investigate and study issues related to actions of the Idaho Board of Land Commissioners, the Idaho Department of Lands and the Endowment Investment Board that affect the State of Idaho. That bi-partisan interim committee voted unanimously to endorse the Callan Report findings and its recommendations.

Callan Associates is a consulting firm that was retained by the State Land Board in May of 2014 to review the findings and recommendations of the Land Board’s subcommittee on endowment governance, to identify any governance shortcomings and make recommendations for improvements, to look at policies and procedures and to conduct an asset allocation study that combine land assets with financial assets. The Callan Report was issued on November 7, 2014 and made many suggestions as to where improvements in the managements of endowment lands could be considered to benefit the stability and financial viability of endowment lands.

Endowment trust lands are classified into the following areas:

Forest Land – Lands capable of regenerating and growing successive crops of commercial forest products and a sustainable basis.

Agriculture – Lands used for growing cultivated plants or agricultural produce (grains, vegetables, and/or fruits).

Rangeland – Lands supporting natural vegetation suitable for grazing by domestic livestock and wildlife.

Commercial Real Estate – Lands normally recognized as “commercial” in local zoning regulations, including retail and light industrial businesses, public facilities, energy resources (wind, hydro), communication sites, ski resorts, etc.

Residential Real Estate – Sales or leases of cottage/cabin/home sites.

Minerals – Includes the sale of sand and gravel, oil and gas, and other minerals including precious metals, decorative rock, phosphates, etc.

Conservation – Conservation lands are generally lands for which certain real property rights have been removed or otherwise restricted temporarily or permanently to maintain open space, preservation of habitat, natural areas, parks, or other such purposes.

Recreation (Non-Commercial) – Includes easements, leases, or licenses for dispersed recreational use (hunting, fishing, trapping, camping, hiking, trails).

Idaho Farm Bureau Federation is monitoring Concurrent Resolution 12.

Transfer Fees and Transportation Funding

There are a number of bills that seek to raise funding for transportation that include a two cent increase in the transfer fee. Not very many people seem to understand what the transfer fee is, what it does and who pays it.

Essentially, the transfer fee is a tax on all petroleum products that are delivered or stored in Idaho. Currently, the fee is one cent per gallon and is collected from the petroleum distributor who receives fuel in Idaho, and it is passed on in the price of the fuel to the retailer and then ultimately, the consumer even though they are unaware of the fee.

The money that is collected from the transfer fee currently goes into the Idaho Petroleum Clean Water Trust Fund which is used to clean-up any leaking petroleum storage tanks. Since all fuels, whether they are used on the road or off-road, are stored in tanks, it makes sense for all fuel to pay into this account. All the fuel in the state has a direct connection with what this tax is used for.

However, it is completely inappropriate to increase this tax for the purpose of maintaining and building roads. This is wrong for two important reasons. The first is that it sets the precedent of taxing fuel that is never used on the roads to fund road maintenance and construction. Once you start down that path it is a very slippery slope. There is no direct connection between taxing off-road fuel and maintaining roads. It is like requiring a non-smoker to pay a cigarette tax devoted to cigarette related health care costs.

Many people mistakenly think that agriculture is the only sector which uses off-road fuel. That is incorrect. Mining, construction, aviation, railroads, and other types of off-road equipment also use off-road fuel. Furthermore, state and local governments are specifically allowed to use non-taxed fuel, even in their vehicles that are on the roads such as snow plows and school buses. This means that not only will many sectors of the economy be paying higher taxes for their off-road fuel, but many local governments will also be required to send money from their local budgets to the state for road maintenance if the transfer fee is increased.

Secondly, and perhaps just as importantly, the transfer fee is a hidden tax. Nobody knows it exists and nobody knows they are paying it. This is not a good way to set tax policy in Idaho. If we need to raise money for transportation, we should do it in an open and transparent manner. The citizens need to know what they are paying and where the money is coming from. The transfer fee will not be listed on the sticker at gas pumps which details state and federal fuel tax that is included in the price of fuel. However, the transfer fee is certainly included in the price.

This week H260 was sent to the floor with a “do pass” recommendation by the House Transportation Committee. Although it contains many interesting and unique ideas for increasing transportation funding which Farm Bureau does not oppose, it also includes raising the transfer fee by two cents. For that reason alone, Farm Bureau opposed H260, along with representatives from the Food Producers of Idaho and the Milk Producers of Idaho. We hope legislators and other user groups will recognize the impropriety of using the transfer fee as a vehicle to raise transportation funding. **Idaho Farm Bureau opposes any bill which increases the transfer fee.**

“So Weird It’s Gotta Be True”

A lot of strange legislative happenings have occurred under the Capitol Dome. This week’s House Ag Committee hearing on S1073, a solid, straightforward bill that provides greater statutory clarity and authority over research into bio control of aquatic noxious weeds will stand out in the memories of those lucky enough to be present. It got bizarre to the point of being funny and is a classic example of not watching laws or sausages being made as well as perfect standing in the way of good. Apologies for the length. Read for yourself.

After a three year effort, Sen. Shawn Keough (R- Sandpoint) and Rep. Mat Erpelding (D-Boise) brought S1073 to clarify the law regarding bio control research over aquatic noxious weeds and to provide the Director of Agriculture and the Idaho State Department of Agriculture (ISDA) clearer authority to deal with this type research. In its original form the bill was very simple and direct, providing a few new definitions and adding specific responsibilities to the powers of the director and was a general, broad policy statement. Farm Bureau has always been a strong supporter of ISDA, state and county noxious weed and invasive species programs.

Idaho Farm Bureau, Food Producers of Idaho and others have supported S1073 since early in the legislative session and continue to support the bill as amended. A lot of people looked for bogey-men before supporting the bill. IFBF called former representative, Eric Anderson, who was at the forefront of the invasive species efforts during his service in the House, and Director of Agriculture, Celia Gould, with its concerns. Questions answered, Farm Bureau supported the bill, and then Food Producers of Idaho did as well. The bill did not receive any dissenting votes in either the Senate Ag Committee hearing or on the Senate floor.

After the bill cleared the Senate, it was reviewed by the Idaho Weed Control Association (IWCA). Certain members of that Board were obviously better Ghostbusters than everyone else and created huge alarm, enough to convince IWCA to oppose the

legislation. **This is more than OK. . . . it's how the system works.** One individual traveled to Boise to provide information against S1073.

A letter was sent to House Ag Chairman, Rep. Ken Andrus (R-Lava Hot Springs) requesting the bill's hearing be delayed until the industry could meet with the co-sponsors. Sen. Keough, Rep. Erpelding, members of the House Ag Committee and IWCA representatives met March 13. IWCA expressed their concerns, after which changes to the legislation and the Statement of Purpose were made. The IWCA Board reviewed the amendments they'd requested on March 17, rejected them, and continued their opposition for the following reasons: 1) legislation has been rushed without full vetting of the weed control industry, 2) ". . . do it right the first time", 3) the bio control system that has been in place is not broken, but perhaps can be improved through discussions with all parties involved.

The Ghostbusters had prevailed and although not members themselves, directed Rick Waitley to ask through IWCA if Food Producers of Idaho could reverse their support position. (To clarify, IWCA is a voting FP member, but apparently this request was driven by the Ghostbusters pushing the issue at IWCA's end.) This request was rejected, but IWCA was allowed to abstain from the original supporting vote of the FP membership.

Thanks for your patience; we're finally at the good part, the hearing. IWCA told their Executive Director, Rick Waitley, to oppose the bill at the hearing. Mr. Waitley distributed IWCA's opposition letter and explained their opposition. Prior to the hearing, the amendment process had continued with Rep. Tom Dayley (R-Meridian) Idaho Farm Bureau and others offering amendments in order to pass the bill and protect Idaho water from unauthorized aquatic noxious weed research.

Six county weed supervisors or employees attended to apparently oppose or testify against the bill on behalf of IWCA: Bill Martell- Canyon County, Bryce Fowler- Fremont County (and IWCA VP), Gordon Edwards-Cassia County, Mitch Whitmill-Jefferson County, Jeff Pettingill-Bonneville County, and Brian Wilber- Ada County. Only Mr. Wilber did not testify. All opposing witnesses (OWs) had checked the "con" box of the committee registration sheet and all but Mr. Wilber wanted to testify.

At this point the lobbyist's worst nightmare happened- witnesses changed their position without notice. Mr. Martell led off and said he considered the original S1073 a work in progress and that the bill should be killed until all players were in agreement.

Mr. Fowler who is Vice-president of the IWCA, told the committee that researchers, protocols and monitoring had to be specifically defined in the bill, but he could **support** S1073 with Rep. Dayley's amendments (which only clarify existing parts of the bill). He said that the OWs had met over lunch and decided they could support the bill with the Dayley amendments. This was much to the surprise of Mr. Waitley who had just presented a letter outlining IWCA's opposition, the committee and all others present.

Mr. Edwards said he was concerned about unforeseen financial liability for the county programs, but could also **support** the bill with the Dayley amendments. Puzzled looks around the room.

Mr. Whitmill, a declared OW, testified his concerns were that no other types of research; mechanical, herbicidal, etc. are addressed by the bill and also expresses concern about no specific enforcement guidelines. He tells the committee that he can **support** the bill with the Dayley amendments.

At this point in time Chairman Andrus asked Mr. Whitmill to clarify matters and express his position, (unaccustomed to witnesses changing their positions on the fly, all present were grateful to the Chairman since general confusion in varying degrees had overtaken the room.) Mr. Whitmill said he could **support** the bill.

Another OW and IWCA board member, Mr. Pettingill, spoke generally about the responsibilities of a weed supervisor and cautioned the committee not to allow hybrid milfoil and other invasives into Idaho. He said if things aren't broken, don't try to fix them and said there should be no gray area in the weed law. He also addressed some of the amended definitions. When asked if S1073 should pass, he replied that he would "love to see this happen" and **expressed support** for the bill.

Jim Lowe had testified in support of the bill for Food Producers of Idaho and Dennis Tanikuni testified in support for the Idaho Farm Bureau.

Since S1073 had obviously been loved to death the committee discussion centered on how to proceed in the most expeditious manner. After a thorough and thoughtful discussion, it was determined to further develop committee amendments and send the bill to General Orders with committee amendments attached.

The House Ag Committee met upon adjournment Friday and S1073 was sent to General Orders with committee amendments attached. Rep. Dayley and Rep. Erpelding will manage the amendments on the floor of the House.

IWCA met by conference call Thursday and supports the bill as amended. Food Producers of Idaho support the bill and **Idaho Farm Bureau continues to support S1073 as amended in the House.**