

Capitol Reflections



2016 Legislative Session

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“Since I was privileged to be named as the Chief, I have spoken many times about the “analysis paralysis” that grips the Forest Service.

When I use that expression, I mean the difficult, costly, confusing and seemingly endless processes that have been put in place in order for agency line officers to comply with the laws enacted by Congress and the implementing regulations put in place by the Forest Service and other agencies. Those processes involve many people, result in many studies and analyses and involve many administrative appeals and much litigation. Too frequently, however, these processes combine to keep on-the-ground work from ever actually being accomplished, even very small projects or projects of great environmental merit. The inability to complete projects can have a detrimental effect on the land. We have too little to show for our efforts except for completion of the processes. Too little value returns to the public, or the resources that we are charged with protecting and managing.” Dale Bosworth, 15th Chief of the U.S. Forest Service, (2001 – 2007), House Resources Committee, US Congress – December 4, 2001

Catastrophic Public Nuisance

S1338 passed the House Floor on Friday and will now be sent to the governor for his signature. The bill provides a mechanism for county governments to declare a catastrophic public nuisance on federally managed lands and request abatement by federal agencies. Such actions will encourage federal agencies to work with county governments and coordinate efforts to protect both the land and the safety/welfare of the public. The voting for S1338 was 56 yes, 13 no, 1 absent. Idaho Farm Bureau Policy #59 supports county coordination with federal agencies to promote better management of the public lands. **IFBF supports S1338**

Farm Bureau Bills Headed to Governor

A number of bills either sponsored or supported by the Idaho Farm Bureau have reached a successful end to the legislative process and have been transmitted to Governor Otter’s office.

H469 added the definition of “private research facility” to S1073, a 2015 aquatic noxious weed research bill which allowed the Director of Agriculture to regulate the transportation and use of aquatic noxious weed plant material in the State of Idaho. A definition of “private research facility” was left out of the 2015 legislation. In this day of huge personal wealth, private islands and self-funded Presidential campaigns, it was prudent to include this definition.

It is not beyond imagination that a super-wealthy individual could establish a totally private funded university or laboratory and conduct any type research. If aquatic noxious weeds were among the research ar-

reas, the Director of Agriculture would have no power to regulate the type of research, plants or plant material under the 2105 law.

Farm Bureau drafted the language for H469. The bill’s House sponsors were Rep. Tom Dayley (R-Boise) and Rep. Mat Erpelding (D-Boise). Sen. Shawn Keough (R-Sandpoint) sponsored the bill in the Senate. *IFBF policy no. 78- State and County Noxious Weed Control* provides policy support for this bill. **IFBF supports H469** as well as Food Producers of Idaho.

H531 is a Farm Bureau bill that creates fines and penalties for anyone spreading or attempting to spread a disease or poison on a farm, ranch or processing facility. House sponsor was retiring Rep. Gayle Batt (R-Wilder). Senate sponsor was Senate Agricultural Affairs Committee chairman, Sen. Jim Rice (R-Caldwell).

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FB Bills

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Several years ago legislation was passed which provided aquaculture operations protection from certain criminal acts or attempted acts. H531 was written to provide similar protection for agriculture facilities and operations. Right to Farm Act definitions for ag facilities and operations were used in the bill to provide consistency with other Idaho law.

Processors were included in the Right to Farm Act a number of years ago when a now-defunct Nampa computer manufacturer complained about the odor from the nearby Amalgamated Sugar Company plant. Maximum fines and penalties are established by the legislation and are the same that appear in other code sections. Normal agriculture practices which could be construed as behavior prohibited by H531 are permissible with the knowledge and consent of the owner; chemical application, live virus vaccinations, etc. The bill does not preclude civil action by injured parties, allows restitution and provides consumer protection. H531 is consistent with Idaho Farm Bureau policy #19 Bioterrorism. **IFBF supports H531** as well as Northwest Food Processors Association, Food Producers of Idaho and IACI (Idaho Association of Commerce and Industry).

Senate Transportation Chairman, Sen. Bert Brackett (R-Rogerson) sponsored S1229, the final piece of legislation needed to allow 129,000-pound trucks on Idaho's federal highways. The bill is the culmination of 20 years' effort by a number of interests to allow 129,000-pound trucks on designated Idaho roads and includes I-15, I-84, I-90 and I-184 as designated Idaho routes.

Late in 2015, Congressman Mike Simpson (R-Idaho) put language in the omnibus spending bill which allowed for the 129,000-pound trucks on Idaho's interstate highway system. Chairman Brackett's bill designates and codifies those highways for use by heavy trucks. This legislation conforms to IFBF policy #192 Transportation. The bill is now law. **IFBF supports S1229** as well as Food Producers of Idaho and others.

Aquifer Recharge Bills Pass Legislature

Both SCR136 and SCR137 passed the House Floor on Thursday and will now be sent to the governor for his signature. These concurrent resolutions recognize the established Eastern Snake Plain Aquifer managed recharge goals and requests that the Idaho Water Resource Board identify and implement aquifer stabilization and enhancement projects throughout the state. The voting for SCR136 was 69 yes, 0 no, 1 absent, and SCR137 was 68 yes, 1 not, 1 absent. Idaho Farm Bureau Policy #34 supports the beneficial use of managed basin-wide aquifer recharge with the state involved in both financial support and implementation. **IFBF supports SCR136 and SCR137**

Questions?

Email staff at
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Fire Suppression Deficiency Fund FY 2017

The Joint Finance & Appropriations Committee approved \$34.5 million to the FY 2017 Fire Suppression Deficiency Fund. Last year, the state paid more than \$60 million in fire suppression costs. Currently, the deficiency fund has a negative \$13 million balance. The average fire suppression costs for the last three years is \$34.5 million; this appropriation will help prepare the state to cover those expenses in the coming year. Co-Chair Representative Maxine Bell (R-Jerome) said essentially that the state was investing in fire insurance with this appropriation.

Port of Lewiston

On Wednesday, the Secretary and Treasurer of the Port of Lewiston Commission, Mary Hasenoehrl reported to the Food Producers of Idaho on the Port of Lewiston and some current issues that are being faced. As Idaho's only seaport, the Port of Lewiston is a large economic engine for the region, providing more than 1800 direct jobs and also millions of dollars of economic investment. Approximately sixty percent of the wheat produced in Idaho, as well as many other agriculture goods and crops are shipped out of state via the Port of Lewiston. For many industries, the port's role/position is critical and essential for the state's continued economic development. Recently, however, there is a local effort that is pushing to eliminate the Port of Lewiston. Activists are preparing a petition to place the issue on the Nez Perce County ballot. In response to such efforts and activist groups, a non-profit association – Snake River Multi-Use Advocates – was created for the purpose of promoting and supporting the multi-use benefits of dams and public ports on the Snake/Columbia River System through public education efforts. Ms. Hasenoehrl states that she believes that these education efforts are important to inform not only Nez Perce County but also the entire state and region.

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No Additional Federal Lands

This week H586, sponsored by Rep Judy Boyle (R-Midvale) was heard in the House Resources Committee Chaired by Rep Dell Raybould (R-Rexburg). H586 does one thing. It follows the procedure included in the United States Constitution requiring the state legislature to provide consent before the federal government can acquire additional land within that state.

Idaho already has 62+% of its land under the control of the federal government. It is not wise or Constitutional for the federal government to acquire any additional land without consent from the state legislature. We want to protect the remaining 30% of private property in Idaho, which is what our economy and tax base are built upon.

There was a vigorous debate in the hearing, but the more interesting debate took place amongst committee members prior to the Committee meeting. Eight of the 18 committee members are listed as co-sponsors of this bill, and several others had indicated their support a week or more prior to the hearing. Then just a couple days prior to the hearing, there began to be

softening by several members. They started voicing concerns that the bill was infringing on property rights. Several stated they wanted the right to sell their land to the federal government if they wanted to without state consent. The backtracking had begun.

Idaho Farm Bureau has arguably been the staunchest supporter of property rights in the state capitol for years. We would never support efforts to infringe upon property rights.

Farm Bureau supports H586 because it reasserts the historic practice of granting consent for purchases by the federal government. The bill includes many current code sections that show the legislature used to follow this Constitutional provision, but over the years, the legislature began offering “blanket” consent for any additional purchases the federal government wanted to make. This was a relinquishment of the Legislature’s sovereign duty to approve purchases by the federal government.

It is easy to see why this provision exists in the Constitution. As more land is

sold to the federal government, the state’s jurisdiction and sovereignty are diminished. It was included as a protection against the federal government growing larger and against state governments growing smaller without their consent. H586 would not bar land exchanges. Legislative consent would only be required if the federal government would receive more land through the exchange than they were giving up. This does not affect any other land transactions between private parties. It only requires the legislature to provide consent if the federal government will gain additional land.

The bill was held in committee on a 9-7 vote. Those opposed to H586 were Rep Dell Raybould, Rep Fred Wood, Rep Marc Gibbs, Rep Steve Miller, Rep Van Burtenshaw, Rep Rick Youngblood, Rep Donna Pence, Rep Mat Erpelding and Rep Ilana Rubel. Those in favor were Rep Terry Gestrin, Rep Ken Andrus, Rep Paul Shepherd, Rep Judy Boyle, Rep John Vander Woude, Rep Linden Bateman, and Rep Ron Mendive. Reps Moyle and VanOrden were absent.

Multiple-Use, Sustained Yield Act

This week H582, sponsored by Rep. Judy Boyle (R-Midvale), received favorable action in the House Resources committee and then passed on the House Floor. H582 sets up the framework of how public lands would be managed if Idaho is able to take over management of the federally administered lands at some point in the future.

The Act is patterned after the federal multiple use sustained yield Act, which was enacted by Congress in 1960. This is the way federal agencies used to manage public lands prior to the 1980’s when management began to change drastically. The Multiple-Use, Sustained Yield Act specifies that lands will be managed for multiple uses, including timber harvest, mining, grazing, recreation and other compatible uses. It would not be required to maximize revenues as state endowment lands are.

The Act also protects any currently existing property rights which exist on

federally administered lands such as grazing preference rights and mineral rights, which are already recognized in Idaho Code.

This bill does not make any request or demand for the federal government to turn over management of the lands to the state. It simply specifies how Idaho will manage the land if that opportunity presents itself in the future.

There were over 40 people who signed-up to testify on the bill during the committee hearing. The majority of people spoke in favor of the bill, but there were lots in opposition. Those opposed mostly complained that they would lose access to public lands under the bill, or that the state would sell off the lands if they received them. Farm Bureau testified that the bill actually protects access by specifying that the lands will be managed for multiple-use.

Several Farm Bureau members spoke in favor of the bill and did a great job of

countering the arguments by opponents. Rep Vander Woude (R-Nampa) gave a great analogy. He explained that opponents fears of the state not having the money to manage the lands is like a farmer planting corn each year and then rather than harvesting the corn, he burns the crops and wonders why he is losing money each year. That, in a nutshell, explains federal “management” of public lands.

The House Resources Committee sent H582 to the floor with a “do pass” recommendation on a party line vote. Later this week, H582 passed the House by a vote of 53-14 the lone Republican vote against was Rep Paul Romrell. H582 now heads to the Senate Resources Committee for consideration.

Idaho Farm Bureau policy #59 states “we support multiple-use management of federal and state lands with due regard for the traditional rights of use.” **IFBF supports H582**