

Capitol Reflections



2016 Legislative Session

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"This Union was and is a union of States, equal in power, dignity and authority, each competent to exert that residuum of sovereignty not delegated to the United States by the Constitution itself. To maintain otherwise would be to say that the Union, through the power of Congress to admit new States, might come to be a union of States unequal in power, as including States whose powers were restricted only by the Constitution, with others whose powers had been further restricted by an act of Congress accepted as a condition of admission. Thus it would result, first, that the powers of Congress would not be defined by the Constitution alone, but in respect to new States, enlarged or restricted by the conditions imposed upon new States by its own legislation admitting them in the Union; and, second, that such new States might not exercise all of the powers which had not been delegated by the Constitution, but only such as had not been further bargained away as conditions of admission."
U.S. Supreme Court in *Coyle v Smith* (221 U.S. 559 (1911)) as quoted in Legal Analysis prepared for the Utah Commission for the Stewardship of Public Lands, December 9, 2015 <http://le.utah.gov/interim/2015/pdf/00005590.pdf>

Farm Bureau Legislative Conference a Success

This week nearly 150 members from around the state attended the annual Farm Bureau Legislative Conference at the Riverside Hotel in Boise. During the opening lunch, Governor Otter spoke about sage grouse management and Idaho's lawsuit against the Forest Service and BLM over land use restrictions that have been put in place on federally administered lands. Idaho Farm Bureau has filed an amicus brief in the lawsuit.

Next, members heard from Senate President Pro Tem Brent Hill (R-Rexburg) and Speaker of the House Scott Bedke (R-Oakley). They discussed a variety of issues including tax bills which affect agriculture, Medicaid expansion, education, the water agreement between the surface water users and the groundwater pumpers, aquifer recharge and codifying the Idaho Supreme Court Joyce decision.

We then heard from Senator Jeff Siddoway (R-Terretton), chairman of the Senate Local Government and Taxation Committee, and Senator Steve Bair (R-Blackfoot), Chairman of the Senate Resources Committee. They shared insights with members about bills that have been, or will be coming through their committees including several tax measures that affect agriculture, the water agreement and concerns over big game depredation of haystacks this winter.

The Chairs of the Senate and House Agricultural Affairs Committees addressed the crowd next. Senator Jim Rice (R-Caldwell) and Representative Ken Andrus (R-Lava Hot Springs) discussed concerns about recent incidents of animal cruelty and the different approaches that they thought would be best to address the situation. They also discussed other ag topics such as methyl bromide residue from PCN eradication efforts, dyed fuel inspection issues and volatility in the agricultural markets.

The concluding speaker was John Tippetts, Director of the Idaho Department of Environmental Quality. He gave a good overview of the Department's mission and goals. He stated his philosophy is education and assistance with compliance first, and enforcement second if necessary. He discussed the progress DEQ is making on moving towards primacy of the NPDES permitting program, the fish consumption rules, and ag residue burning programs. EPA has recently changed the national ozone standards from 75 parts per million to 70 ppm. Director Tippetts explained that due to this change, no-burn days will likely double or triple unless Idaho adjusts the statutory ozone standard under which we allow for crop residue burning. A hearing will be held on March 9 in Boise to address this topic.

Sixty-eight legislators along with a number of spouses, several state agency representatives and Idaho Controller Brandon Wolf attended the Farm Bureau strolling buffet that evening. Farm Bureau members were able to visit with their legislators and other elected officials and discuss issues of concern. It was a memorable evening with more than 250 in attendance.



Idaho Farm Bureau's Governmental Affairs Report

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Bills regarding Ground Water Districts

The Senate Resources and Environment Committee held a hearing on four bills that affect ground water districts. The bills primarily relate to the provisions regarding the content of petition for annexation, the participation of nonirrigators for mitigation purposes, determining member cost-share, and approval for short-term debt by districts without an election. Many costly mitigation efforts have been made by ground water districts to avoid curtailment and water-calls, and these bills address how such costs will be shared with joining members. The committee passed all four bills to the floor with a do-pass recommendation. A further description of each bill follows:

S1222 - Amends the Ground Water District Act to place irrigators and nonirrigators on equal footing. This bill clarifies that nonirrigators who only join a ground water district for mitigation purposes may be subject to all mitigation plans and activities of the district. With many ground water districts having implemented multiple mitigation plans – several of which providing overlapping and compounded benefits – this bill would allow districts to distribute these costs equally. For practical reasons, districts must have the ability to require both their irrigator and nonirrigator members to participate in all mitigation plans and activities that benefit the member.

S1223 - Amends the Ground Water District Act to give ground water districts the ability, but not the obligation, to contract with nonmembers who wish to participate in and obtain the benefits of the district's mitigation plans. While ground water districts have geographic boundaries, many mitigation plans have limitations that might be geographical or other sorts. The amendment gives districts the ability to decline to contract with a nonmember if the district board of directors determines, for any reason, it is not in the district's best interests. This does not affect the right of nonmembers within a district's boundaries to join the district under Idaho Code.

S1224 - Amends the Ground Water District Act to enable ground water districts to impose assessments based on the number of acres authorized to be irrigated as an alternative to the quantity of water authorized to be diverted. Idaho Code presently provides for assessments based on the quantity of water authorized to be diverted. Some ground water districts prefer to assess irrigators based on the number of acres authorized to be irrigated. These amendments enable districts to do either.

S1225 - Amends the Ground Water District Act to clarify that ground water districts may incur short-term debt without holding an election or seeking judicial confirmation. Idaho Code, as presently written, requires ground water districts to hold an election and obtain judicial confirmation prior to incurring any financial obligation, arguably even routine operations expenses such as utilities. The amendment clarifies that an election and judicial confirmation are not necessary for districts to incur short-term financial obligations with a repayment term not exceeding one year.

Congressional Delegation Speaks at Conference

Each year, a National Affairs Conference Call is included in Idaho Farm Bureau's Legislative Leadership Conference agenda. All four members of Idaho Congressional delegation were scheduled to speak during this week's call, but an unforeseen schedule change had Senator Risch on an airplane and unable to participate. Melinda Smyser, Sen. Risch's Regional Director, attended the National Affairs Breakfast and conference call.

Congressman Mike Simpson's office was represented at the breakfast and call by Nikki Wallace-Regional Director and Soren Dorius-Constituent Services. The Congressman told the group that in many cases, the courts have been the only protection from federal overreach and cited injunctions against EPA's WOTUS and coal plant rules. He told the Farm Bureau members that Congress is actually reducing discretionary spending. However, entitlements are what drives the federal budget, and these will have to be addressed to significantly reduce the national debt.

Congressman Raul Labrador provided an update on national monument reform, Water Rights Protection Act of 2015 and state management of federal land. He said that national monument reform remains a priority, and he and other Members of Congress will continue their attempts to change the Antiquities Act. The congressman also emphasized the importance of water rights held by individuals and water put to beneficial use. The Water Rights Protection Act prevents federal agencies from co-owning water rights with entities and individuals conducting business on federal lands, i.e., grazers, ski areas, some municipalities since the agencies do not put the water to beneficial use. Congressman Labrador's Regional Director, Brad Griff, attended the breakfast and conference call and answered questions at the end of the Congressman's presentation.

Last to speak was Senator Mike Crapo. He told the group he was the original Senate sponsor of the Water Rights Protection Act of 2015 and also emphasized the importance of putting water to beneficial use; something federal agencies do not do. The Senator used WOTUS and the EPA coal rules as examples of federal overreach and warned those in the room that he expected the Obama Administration to release many, many new rules in the last 11 months of the administration. Senator Crapo also talked about the FIFRA amendment to the Sportsman's bill which says an NPDES permit is not required when spraying chemicals near a water body if the label requirements of the chemical have been followed.

Big Game Depredation Hearing Next Week

Senator Steve Bair, Chairman of the Senate Resources & Environment Committee, has scheduled a hearing on big game depredation issues. The hearing will be held on **Wednesday, February 17 at 1:30 pm** in the Lincoln Auditorium of the state capitol. Senator Bair has encouraged all landowners who are having difficulties with elk, deer, moose or other big game eating their crops or haystacks to come and express their concerns to the Idaho Department of Fish and Game. It will be most helpful if landowners will provide specifics of how many game animals are congregating and for how long, as well as how much hay or other crops have been lost and what the anticipated dollar values are. Idaho Fish and Game Director Virgil Moore and several Fish and Game Commissioners have been invited to attend. Written testimonies will also be accepted. We encourage all agricultural producers who are experiencing depredation losses to attend and share your concerns at this hearing. For further information, please contact your Farm Bureau regional manager or the Boise Farm Bureau office at 208-342-2688.

Senator Rice proposes Animal Care Legislation

Thursday morning, the Senate Agriculture Affairs Committee heard proposed legislation from the committee's chairman, Senator Jim Rice (R-Caldwell). The legislation would simply add two sentences to provide a court the authority to order a psychological evaluation prior to sentencing for violations of animal care laws. Senate bill 1309 will move forward for a hearing. Another proposed bill that dealt with changes to Idaho's animal cruelty laws was pulled from the House Agriculture Affairs Committee's agenda on Wednesday. Several parties continue to work on language that will strengthen the law to address deviant behavior without causing unintended consequences for agriculture.

Prevents Cities and Counties from Establishing Higher Minimum Wage

H463 would revise obsolete language to prohibit political subdivisions from establishing minimum wages higher than the minimum wage provided by the state. This bill would ensure that minimum wage in Idaho is decided by the legislature and applied uniformly across the state. This bill is sponsored by the Idaho Retailer's Association, who have had concerns about cities in Idaho who have attempted to increase the minimum wage within their city.

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