

MINUTES
Approved by the Committee
Invasive Species Working Group (Room EW 42)
Wednesday, November 09, 2016
9:00 A.M.
Room EW 42
Boise, Idaho

Co-chair Senator Rice called the meeting to order at 9:00 a.m.; a silent roll call was taken. Members present: Senators Heider, Harris, and Burgoyne; Co-chair Representative Gestrin and Representatives Dailey, Hixon, and Erpelding; Legislative Services Office staff Katharine Gerrity, Ray Houston, and Jennifer Kish.

Other attendees: Lloyd Knight - Idaho State Dept. of Agriculture; Greg Casey - Veritas Advisors; Rayola Jacobsen - RJ Consulting; Braden Jensen - Idaho Farm Bureau; Sharon Kiefer - Idaho Fish and Game.

NOTE: presentations and handouts provided by the presenters/speakers are posted on the Legislature website: <http://legislature.idaho.gov/sessioninfo/2016/interim/invasivespecies.htm>; and copies of those items are on file at the Legislative Services Office located in the State Capitol.

Co-chair Rice noted the [handout created by Ray Houston](#) that calculated the sticker revenue whether the program increased by 50% or 100%.

Representative Hixon made a motion to accept the minutes of the September 23 meeting, as presented; Senator Heider seconded the motion; the motion was approved by voice vote.

Representative Hixon made a motion to accept the minutes of the October 17 meeting, as presented; Senator Heider seconded the motion; the motion was approved by voice vote.

Senator Burgoyne commented on each bullet listed in the draft final report (prepared by Katharine Gerrity, LSO). #1 – in favor, should express it to be a pilot program, especially at the southern border; #2 – in favor, supported need for law enforcement as a safety issue; #3 – requested that funds be better explained/broken down and tied to bullet #1; #4 – in favor, provide more detail as to what is a "viable roadway"; #5 - not in favor of an increase to invasive species sticker fee, suggest use of general funds for the pilot program; perform the field study first, then consider increase in fees later; #6 – in favor, consider ability to enforce legally on federal agency equipment and consider that firefighting helicopters/planes will not arrive through inspection stations; #7, 8, 9 – in favor; #10 – in favor of a tiered infraction penalty, consider stiffer fine for willful bypass by commercial hauler; #11, 12 – in favor; #13 – in favor, possibly provide detailed manner in which the districts could be "more involved"; #14 – insert "and money" after "time"; #15 – include phrase "multi-state and federal cooperation"; #16 – no comment; #17 – specifically reference the federal government (and other bullets when appropriate); #18 – reference importance of federal responsibility; #19 – no comment; #20 – confusion with "and may be enforced as such" phrase; #21 – in favor, suggest highlight more important items; #22 & #23 – in favor of #22, should not include Idaho Dept. of Fish and Game (IDFG).

Representative Erpelding commented that he was in favor of an increase to the invasive species sticker fee (#5 & #19) to address the stratified risk presented by certain types of watercraft. He felt that boats with ballast tanks clearly presented more of an infection risk than a non-ballast paddleboard, and that the sticker fee should reflect a parallel risk. Representative Erpelding also stated that the issue of aquatic invasive species was better suited to the IDFG mission (#23) than local law enforcement (#22).

Representative Dayley explained that he used the text of the Invasive Species Act, and identified where proposed bullet items could be addressed within the Act ([Rep. Dayley handout](#)). His items

addressed sections 22-1906, 22-1913, and 22-1914, Idaho Code; the renewal of Executive Order #2010-14; and amendment of the Bylaws of the Idaho Invasive Species Council.

Senator Harris agreed that the enforcement for prevention of aquatic invasive species should involve/include IDFG officers (#23), as well as other law enforcement agencies (#22). He complimented the ISDA on its efforts, to date, and supported the notion that the Invasive Species program remain within the department (#11).

Co-chair Rice provided his comments on the bullet items: #2, #22 & #23 - Recognize that operation of the program with Idaho State Police (ISP) troopers would be comparatively more expensive than other law enforcement options; recognize that IDFG officers are Peace Officer Standards Training (POST) certified; use of IDFG officers encourages employment at inspection station by those desiring opportunity to become IDFG officers; and opportunity for IDFG to fulfill officer vacancies with employees familiar to programs. #6 - Not in favor of inspection fees for firefighting/wildfire equipment as the requirement may create bad rapport with those important agencies; in favor of inspection fees on water-related construction equipment and other types of equipment yet to be identified. #11 - Recommended to keep program within ISDA; continue to fund the inspection program within ISDA but find a way to share funds with IDFG to fund inspectors/officers, if that option is endorsed; and, submitted that hunting and fishing citizens should not be responsible for funding this issue, but rather watercraft and other waterbody entities should contribute to funding. #1 - Recommended six stations at these locations: Cedars, Hwy. 93, Malad, Bear Lake, Franklin, Cotterell; and suggested going with the 24-hour operation until reports prove otherwise. He submitted that those six proposed stations would be more than a pilot program. He felt that there would be a better chance for approval of general funds (#3) for the program if there was a simultaneous effort by users, such as an increase in the invasive species sticker fee (#5). He supported the idea of a tiered fee system (#19) in relation to the operation of the watercraft, specifically, motorized watercraft with ballast tanks. He was not in favor of the penalty being a misdemeanor (#10), but rather continue with a bypass as an infraction, which would allow the enforcement officer the option to assess the fine based on whether the offender knew of the requirement to stop. Along that line, he felt that the IDFG officers were more appropriate to the enforcement aspect (#23). Co-chair Rice submitted that those reservoirs built and operated by irrigation districts should have the right to determine how it is accessed and used (#20); he felt acknowledgement of this aspect was enough and did not need a directive for legislation to be created. He noted that the final report should indicate that federal funds would be used first in the efforts of improvements and operations at the stations, and that other funds would be used on an as needed basis.

Co-chair Gestrin supported the use of local law enforcement agencies [LEAs] (#2) since they best knew their district's citizens and geography, as well as it proved more cost effective. He also supported the continued efforts to train Port of Entry inspectors, as a secondary line of defense. Regarding the inspection of firefighting equipment (#6), he supported the creation of an MOU by ISDA with the Bureau of Land Management (BLM) and the US Forest Service (USFS) to require inspections for invasive species (#7, #17) along with their standard safety inspections. Co-chair Gestrin also supported the need to encourage the National Park Service (NPS) to do its due diligence in the effort to prevent species from being transported from NPS contaminated waters (#9).

Representative Hixon supported the effort to keep the awareness of the issue at the federal level with a Joint Memorial to Congress (#18). He was not in favor of increasing the invasive sticker fee (#5) because Idaho was not infested, and Idahoans weren't the most likely culprits to transfer the species given the fact that some boats never leave the state; but he did support the idea of an increase related to the stratified risk. He was in support of general funds for statewide educational awareness on the issue (#7). And, he was in favor of the fine for bypassing an inspection station to have different levels for offenses and related fees.

Senator Heider was in support of the use of general funds since the issue was a problem to all Idahoans, not just boaters, in some manner. He supported the creation of different levels of fees for an infraction for bypassing an inspection station. Senator Heider did not support an increase to the registration fees for Idaho boaters, citing the same reasons as Representative Hixon. And lastly, he supported efforts to impress upon the federal government the need for inspections/cleanings at the infested sources within its purview.

Senator Burgoyne added that he supported the opinion that ISDA should continue to manage the IS program. He reiterated that IDFG had a mission statement and this issue was not relevant. He added that the public instantly recognized the authority of a county sheriff or an ISP trooper, but it may be difficult for the public to recognize IDFG officers as having the same level of authority. He supported the use of general funds for the issue of prevention as it was a risk that could impact the entire state. Additionally, he did not want to penalize Idahoans who had limited funds and chose to spend them recreating, since that was the heart of Idaho. And lastly, he supported the effort of holding the federal government responsible for efforts of prevention. He noted that, as a supporter of the belief that the federal government had a right to operate the many lands that it held in Idaho, the federal government should take care of issues that exist on those lands.

Co-chair Rice summarized that the committee supported many of the same items, and he suggested the committee focus on those items and push forward. He noted that the committee needed more thorough discussion on these items for inclusion in the final report:

- What items should be in Joint Memorial: federal responsibility, ongoing funding for inspection stations in the Columbia River Basin, identify where the invasive species are coming from/threatening (which are federal waters);
- Funding sources and prioritization; identify back-up plan if initial line of funding is not acquired;
- Law enforcement agencies – decide to identify one or the other;
- Currently not in the report: recommendation that invasive species stickers be available for purchase at the inspection stations;
- Decide whether penalty for bypass citation is an infraction or misdemeanor and whether there should be tiered fees for offenses;
- Recommendation for continued training at Port of Entry for inspectors;
- Consider proposed legislation for Clean-Drain-Dry policy that requires ballast tank plugs be pulled when exiting water (consider as part of the infraction discussion);

Representative Dayley requested that there be a research component recommended in the final report. Senator Heider noted that the University of Idaho was currently doing extensive research on the issue. He recommended the final report recognize that research was being done but did not feel that it was the committee's duty to dictate how universities should focus their research.

Co-chair Rice started with the most agreeable items for the committee's approval for inclusion in the final report. Infractions:

- Senator Heider recommended that bypassing an inspection station be an infraction of the law, as supported by law enforcement that testified before the committee.
- Along the line of infractions, Representative Erpelding cautioned that out-of-state boaters may be at an unfair risk of breaking the law because they were not aware of Idaho's "Clean-Drain-Dry" policy. He did agree that a intentional bypass needed a penalty enforcement.
- Senator Harris reminded the committee that he had proposed legislation last session on the issue of bypassing inspection stations [S1355]. He noted that the intent of the fine was to bring about awareness in a more compelling manner. He felt the current misdemeanor level was not effective and supported the infraction level penalty.

- Co-chair Rice asked whether the committee felt the fine for a bypass infraction should be commensurate with a basic infraction, such as 10-15 mph over the posted speed limit, which was assessed at \$90; or was the committee considering a different fee amount.
- Senator Harris suggested it be kept simple, such as the fine suggested in his proposed legislation [S1355], which was approximately \$60.
- Senator Heider commented that the fee should not be excessive, but should be enough to convince folks to stop and be inspected. He felt a fine in the \$60 range was adequate.
- Senator Burgoyne agreed with the fee amount. He felt there may be a need for a misdemeanor level fine for those that habitually or intentionally bypass inspection stations, as determined by law enforcement.
- Co-chair Rice asked whether the different level of fines could exist in willfully bypassing an inspection station and willfully bypassing an inspection station with evidence of mussels, dead or alive.
- Senator Burgoyne questioned whether determining one's intentions had any impact on the committee's goal of raising awareness with the creation of a bypass fine. He suggested the misdemeanor include the phrase "knowingly or intentionally", while the infraction should have no intent attached.
- Representative Hixon proposed a first infraction at \$60, a second infraction at \$100, and a third offense being charged as a misdemeanor. Additionally, as suggested by Co-chair Rice, if a bypass is found to have evidence of mussels, the offense is automatically a misdemeanor.
- Representative Erpelding did not agree with Representative Hixon's proposal, because he said a first-time offender from out-of-state who may be unaware of the inspections would be hit hard on a first offense and that was not the intent of the committee's educational goal.

Co-chair Gestrin made a motion [#1] to include in the final report a recommendation that the Legislature approve legislation for the addition of an infraction with an established fine amount for bypassing an inspection station; Senator Harris seconded the motion; the motion was approved by majority voice vote.

The committee then took a break.

At 10:40 a.m., the committee resumed and addressed the topic of the inspection stations.

Senator Heider made a motion [#2] to include in the final report the recommendation that stations for Bear Lake, Cedars, Cotterell, Franklin, Hwy 93, and Malad be extended to operate with 24-hour shifts and be funded with state general funds in the amount of \$4 million, which is an increase of \$2.7 million over the current budget; Senator Harris seconded the motion;

- Senator Burgoyne asked whether that included the necessary funds for law enforcement. Senator Heider replied that it did.
- Representative Dayley asked whether the committee knew how much funding was available from the US Army Corps of Engineers, or any other sources, at this time. Senator Heider responded that there would be \$4 million available from the Army Corps of Engineers, an amount which may be extended up to \$40 million over ten years.

The motion was approved by majority voice vote.

Co-chair Rice commented that the Joint Memorial should encourage the federal government to continue to be engaged in efforts at the source and to support inspections. **Senator Heider made a motion [#3] to include in the final report the recommendation that such a Joint Memorial be issued to Congress; Representative Erpelding seconded the motion;**

- Representative Dayley asked whether the committee needed to identify the items to be included in the memorial at this time. Co-chair Rice felt that the committee members could work that

out at the beginning of session; for now, it just needed to recommend that it be included in the final report.

The motion was approved by majority voice vote.

Co-chair Rice asked for unanimous consent that the final report contain the recommendation that the Department of Parks and Recreation provide for the sale of the invasive species sticker at the watercraft inspection stations; all agreed.

Co-chair Rice asked for unanimous consent that the final report contain the recommendation that the ISDA continue to provide invasive species training to the Port of Entry inspectors; all agreed.

Co-chair Rice asked for unanimous consent that the final report contain the recommendation that the signage be improved; he then withdrew his proposal since the ISDA had been at meetings where the topic had been discussed.

Representative Erpelding made a motion [#4] to include in the final report the recommendation that the out-of-state motorized boat registration tags be increased from \$22.00 to \$30.00; Senator Burgoyne seconded the motion;

- Representative Hixon asked whether committee members knew what the surrounding states charged for out-of-state registrations, and wondered about the impact of Idaho raising its fee, knowing that most of the surrounding states did not have infested waters either. Representative Erpelding commented that individuals who own powerboats with ballast tanks should be quite capable of absorbing an eight dollar increase, and would also work to raise awareness of the issue.
- Senator Heider questioned whether the increase would look like a penalty to out-of state boaters and would have a negative impact on Idaho recreation. Representative Erpelding commented that it was not a penalty, as the state was already charging \$22.00 for the privilege to recreate in Idaho. He asked the committee to consider how the additional revenue would positively impact the efforts to fund additional law enforcement officers to enforce the inspections.

The motion was approved by majority voice vote.

Co-chair Rice asked for unanimous consent that the first section of the draft final report (before the Potential Recommendations) and the proposed attachments be included in the edited final report; all agreed.

Senator Burgoyne made a motion [#5] to include in the final report the recommendation that if the Legislature finds an effective program to fight the introduction of quagga and zebra mussels into the state, it should include fostering cooperation between the states and the federal government regarding inspections and enforcement; Senator Harris seconded the motion; the motion was approved by voice vote.

Co-chair Rice recommended that a finding from the working group be added to the first section of the final report stating that "the proposed increase in time for the operation of the inspection stations was appropriate, proper, and necessary for the inspections to effectively prevent zebra and quagga mussels from being introduced into Idaho"; all agreed.

Representative Erpelding asked whether a statement should be added regarding the ability of private irrigation districts to operate their facilities as they saw fit; possibly to the point of recognizing that they may create their own inspection policy and charge fees to support those inspections. Co-chair Rice supported the idea since the testimony of the irrigation districts noted that it was an issue with the public not recognizing their authority to close reservoirs. **He asked for unanimous consent that an additional finding be included in the opening section of the final report stating that the irrigation districts may regulate waters under their purview; all agreed.**

Co-chair Gestrin asked that the edited final report be submitted to the members by email for review. Co-chair Rice agreed that there was no need for a future meeting; the final report could

be submitted electronically, comments could be collected by Katharine Gerrity, and then it could be approved by the members through email.

The committee adjourned at 11:05 a.m.