

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 02, 2016

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Heider, Nuxoll, Bayer, Hagedorn, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Nuxoll** moved to approve the Minutes of February 17, 2016. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

Senator Siddoway moved to approve the Minutes of February 19, 2016. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

Senator Heider moved to approve the Minutes of February 22, 2016. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Vice Chairman Vick** moved to send the Gubernatorial appointment of William B. Booth to the Northwest Power and Conservation Council to the floor with recommendation that he be confirmed by the Senate. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**. Vice Chairman Vick will be the sponsor.

S 1338 **Chairman Bair** said discussion would continue on **S 1338** as not everyone got to testify at the meeting of February 29, 2016. **Chairman Bair** asked Fred Birnbaum, cosponsor of the bill and representing the Idaho Freedom Foundation, to provide a brief overview of the bill.

Mr. Birnbaum said that **S 1338** allows counties in Idaho, through their elected commissioners, to identify forest lands owned by the U.S. government and managed by the United States Forest Service (USFS) as "catastrophic public nuisances." After consultation with the Attorney General (AG), the counties can then demand that federal agencies abate the nuisance or provide a response with a plan to abate the nuisance by a requested date of 30 days. It allows counties to confer with the prosecuting attorney or AG should no action be taken by the USFS.

Mr. Birnbaum stated that the bill does not impair, interfere with or infringe upon federal laws or regulations or the management of federal lands.

Mr. Birnbaum said there were two points that came up in the previous meeting that he would like to address. The first was regarding New Mexico's similar legislation that was struck down by the federal court. That legislation authorized agencies to act and this bill does not. The other issue related to the AG's letter; Mr. Birnbaum drew attention to the final paragraph in the letter, which read, "...The proposed legislation clarifies and defines the County Chair's authorities under Idaho law with respect to the question of 'catastrophic public nuisances' on federally managed land with the county, and limits the County Chair's authority to take unilateral or unapproved abatement actions on federal lands that could result in liability to the county and/or state."

TESTIMONY:

James Piotrowski, an attorney, fly fisherman and hunter, speaking for himself, testified in opposition to **S 1338**. He said this legislation will start a fight that the State of Idaho cannot win and should not win. Outdoorsmen help clean up the environment and participate in forest collaborative groups to find solutions for problems that face our forests today. The USFS and the Bureau of Land Management (BLM) don't always accomplish their goals and don't always do what we think is the best possible job in managing the federal lands. This bill conflicts with Article 4, Section 3, of the U.S. Constitution and it simply doesn't do anything. **Mr. Piotrowski** said Idahoans know how to solve the problems we face in our forests and how to improve the management of the federal lands. It is through a forest collaborative process, much like that used to establish the the Owyhee River Wilderness, which had the support of hunters, anglers, ranchers and farmers. **Mr. Piotrowski** said that he knows of at least 10 collaborative groups that are making great strides in land management and suggested that people support these groups and reject this bill.

Jeff Brooks, civil engineer, outdoorsman and hunter, said that he opposes **S 1338** because it seems to place undue authority in the hands of nonresource professionals who do not have the expertise to manage the land. **Mr. Brooks** stated that the executives, as defined in the bill, are not well-equipped or suited to be given the authority for land management that should be conducted by professionals.

Michael Gibson, Idaho Field Coordinator for Trout Unlimited Sportsmen's Conservation Project, testified in opposition to **S 1338**. He stated that he represents more than 2,000 members in Idaho, all with a mission to conserve, protect and restore Idaho's world-class cold-water fisheries and their watersheds. Trout Unlimited staff and volunteers have been, and still are, members of forest collaborative groups throughout Idaho. **Mr. Gibson** praised the county sheriffs for the work they do, but said he doubts if any have a degree in forest management. On behalf of the members of Trout Unlimited, he asked that **S 1338** be held in Committee.

Rialin Flores, representing the Conservation Voters for Idaho, also testified in opposition to **S 1338**. She said they support land management strategies and this bill does not accomplish that goal. The bill does nothing that is not already available to the counties and sheriffs. **Ms. Flores** stated that the impact of the bill undermines the current collaborative land management strategy.

Brian Brooks testified on behalf of the Idaho Wildlife Federation. They are dedicated to the conservation and protection of Idaho's natural resources, wildlife and habitat. **Mr. Brooks** said they feel that **S 1338** will undermine Idaho's history of collaboration among agencies and conservation groups that solve complex issues on public lands, and for that reason they do not support the bill.

Jonathan Oppenheimer, Senior Conservation Associate with the Idaho Conservation League (ICL), said ICL represents more than 25,000 members and supporters from across the State of Idaho. **Mr. Oppenheimer** said they are in opposition to **S 1338** as they have concerns with the bill, and urge that the bill be held in Committee. He said that at least 10 efforts are currently underway across the State to promote collaborative solutions for federal lands. Instead of encouraging counties to use a stick to go after the public land managers, he is urging the Committee to learn more about and support the existing successful collaborative efforts. **Mr. Oppenheimer** urged the Committee to hold **S 1338** in Committee.

Travis Smith, a student at Boise State University and a resident of Malad City, spoke in opposition to **S 1338**. He feels it will have a negative impact on the hunting and fishing areas and suggested that more work should be done on collaborative efforts.

Kahle Becker said he is representing himself and his family, but is also a lawyer. **Mr. Becker** said **S 1338** will allow counties to sue the federal government, and the State will have to defend its law. History has shown that Idaho has sold 1.2 million acres of endowment land and people that don't know their history are doomed to repeat it. **Mr. Becker** stated that this bill is a way for Idaho to stick its finger in the eye of the federal government and asked the Committee to reject the bill.

Ian Malepeai, a member of the Backcountry Hunters and Anglers, is representing himself and is opposed to **S 1338**. One of his concerns is how "public nuisance" is defined. He suggested to work on things that are enforceable.

Braden Jensen, representing the Idaho Farm Bureau Federation, spoke in favor of **S 1338**. He stated that this bill makes the county government aware of the action that they can take to protect the public as well as the land. It also calls attention to the areas of mismanagement and is a step in the right direction. **Mr. Jensen** said that he urges the Committee to support this bill.

Andy Brunelle, Capitol City Coordinator with the USFS, said he talked with the seven national forest supervisors regarding this legislation. The information he received was: 1.) Are they (writers of the bill) aware that everything is already going on. 2.) There are legal uncertainties regarding how the bill would apply to the national forest managers.

Mr. Brunelle said there are two things that are going on today between the USFS and county officials. First, the Idaho Panhandle National Forest officials sit down with county officials from every county, in the same room, at the same time, to develop a five-year vegetation action management plan for the national forests in Benewah, Shoshone, Bonner, Boundary and Kootenai Counties. **Mr. Brunelle** stated that these meetings have been going on for years, and they just met last Monday. Second, every county in Idaho has a plan that is called the Community Wildfire Protection Plan. These plans were first developed in 2001 and have been updated twice. The Healthy Forest Restoration Act was passed by Congress in 2003 and signed into law; it recognizes the Community Wildfire Protection Plan as guidance documents to promote treatment of hazardous fuels on national forest and BLM lands. **Mr. Brunelle** said that is a piece of legislation that is in U.S. law that gives counties or cities in Idaho the approach the USFS takes. The USFS then identifies and prioritizes the hazardous fuel treatment projects. He emphasized that these two things are already going on.

The forest supervisors wanted Mr. Brunelle to pass along to the Committee that they are now working on the Governor's priority areas identified in the farm bill for treating insect and disease. Also, some supervisors are feeling some uncertainty because of the laws passed in New Mexico and Utah. However, after receiving the opinion from the Attorney General in Idaho, it helped to dispel some of the concerns that the supervisors had.

Mr. Brunelle said that the USFS has no position on this legislation.

Written testimony was received from the Board of Blaine County Commissioners, signed by Angenie McCleary, Vice Chairman of the Board, opposing **S 1338**.

MOTION:

Senator Bayer moved that **S 1338** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Voting nay and asked to be recorded as such were Senators Stennett and Lacey. Senator Nuxoll will be the sponsor of the bill.

Due to time restraints, the bills on the agenda for the Idaho Department of Fish and Game will be held and heard at the next meeting. **Chairman Bair** apologized for the inconvenience and thanked them for their patience.

ADJOURNED: **Chairman Bair** adjourned the meeting at 3:10 p.m.

Senator Bair
Chair

Juanita Budell
Secretary