

MINUTES
Approved by the Committee
Federalism Subcommittee on Federal Lands
Friday, November 22, 2019
9:00 A.M.
92 S. 100 W.
Malad, Idaho

Co-chair Boyle called the meeting to order at 9:04 a.m.; a silent roll call was taken.

Committee members in attendance: Co-chair Judy Boyle and Co-chair Dan Johnson; Senator Mark Harris; and Representatives Dorothy Moon and Jake Ellis. Representative Sage Dixon participated via conference-phone. Absent and excused: Senator Grant Burgoyne.

Other attendees: Dr. Bill Barton - Idaho State Dept. of Agriculture; Josh Sorensen - United States Congressman Mike Simpson; Sarah Wheeler and Robert Mickelsen - Caribou-Targhee National Forest; Brayden Eliason and Russell Boyer - Curlew Grazing Association; Krystal Bates - Farm Service Agency; and Mayor Joan Hawkins - Malad City.

Opening Remarks

Co-chair Boyle welcomed everyone to the meeting and asked the committee members, the public, and LSO staff to introduce themselves. She stated that the committee is making the effort to visit rural Idaho where most federal land issues take place.

Brucellosis Update - Dr. Bill Barton, Administrator, Idaho State Dept. of Agriculture (ISDA)

Co-chair Boyle called upon Dr. Barton to present. Dr. Barton briefly summarized his education and occupational background. He began his [presentation](#) by explaining that the Division of Animal Industries within the ISDA is responsible for managing all the livestock diseases provided in statute. He emphasized that brucellosis is of particular concern, not only because it is animal disease risk, but also because of the economic effects it may have on producers and trade implications among states. He explained that brucellosis is a bacterial disease that causes abortion and infertility in livestock with potential human infection.

Dr. Barton stated that in 1954, the United States Dept. of Agriculture (USDA) initiated a brucellosis eradication program. He emphasized the significant negative economic effects that can result from infection. He reported that in 2009, brucellosis was considered eradicated from U.S. livestock herds. However, he said, the only known reservoir of the disease in the U.S. is the infected wildlife in and around the greater Yellowstone area. He informed the committee that in 2005, Idaho's USDA brucellosis class free status was downgraded, but it regained its class free status in 2007 and remains brucellosis class free to date. He provided a list of Idaho rules governing brucellosis on [slide 3](#).

Dr. Barton stated that in Idaho's designated surveillance area (DSA), all intact cattle and domestic bison are subject by rule to additional requirements for the surveillance, prevention, and eradication of brucellosis. He noted that all intact animals, regardless of age, that leave the DSA must have individual official identification. He explained that this allows the state to prove that the animal came from the DSA area and the state can retain its class free status. He stated that the test eligibility is all intact cattle over 18 months of age that have been located within the DSA at any time between January 1 and June 15 of any calendar year. He said that all test-eligible cattle within the DSA must have a negative brucellosis test within 30 days prior to a change of ownership or interstate movement or prior to leaving the DSA, except those animals moving directly to an approved Idaho livestock market or a federally inspected slaughter plant that will test for brucellosis on arrival. He added that all persons transporting test-eligible cattle from within the DSA to a location outside the DSA must, by rule, obtain a movement permit from the ISDA at least 24 hours prior to movement.

Dr. Barton stated that the ISDA receives \$200,000 from the federal government for its program, and it uses this funding for the testing needed for the cattle that leave the DSA area since the producers in this area are at a disadvantage. He explained that ISDA reimburses private veterinarians \$5 per head to test the cattle. He directed the committee to the map of Idaho's DSA on slide 5. He noted how significantly smaller in area Idaho's DSA is compared to the DSAs in Montana and Wyoming. He provided a list of affected herds since 2002 on slide 7.

Dr. Barton provided a list of risk mitigation strategies on slide 8, which included:

- Mandatory official calf hood brucellosis vaccination;
- Imported cattle must be brucellosis-vaccinated unless going to an approved feedlot to be fed for slaughter only;
- Voluntary brucellosis herd management plans for all herds in the designated surveillance area;
- Surveillance testing;
- Maintain a strict separation of elk and cattle;
- Require whole-herd testing if known elk/cattle interaction occur; and
- Adult brucellosis booster vaccination.

Dr. Barton emphasized the importance of preventing elk/cattle interaction. He stated that it was vital to continue fencing haystacks and winter feeding enclosures within the DSA and at sites within the buffer area where wild elk are known to congregate during the winter. He reported that the brucellosis program objectives are to:

- Prevent transmission of brucellosis from infected wildlife in and around the greater Yellowstone area to Idaho cattle herds;
- Maintain economic viability of cattle producers by minimizing the risk of contracting brucellosis infection; and
- Maintain unrestricted market access for Idaho cattle producers by reassuring trading partner states that the risk of exposure to infected wildlife is minimized and that Idaho cattle exports are free of brucellosis.

Discussion

Senator Harris inquired about the time frame to obtain test results. Dr. Barton responded that it is a 24-hour turnaround once the sample arrives in Boise.

Co-chair Johnson inquired about the language "officially vaccinated" found on slide 3. Dr. Barton responded that brucellosis vaccinations can be performed only by a licensed veterinarian.

Representative Gibbs inquired about the number of reactors from the 15,000 tests performed this year. Dr. Barton responded zero.

Mining - Permitting Process - Randy Vranes, Second Vice President, Idaho Mining Association

Co-chair Boyle called upon Mr. Vranes to present. Mr. Vranes began his [presentation](#) by briefly summarizing his occupational background. He informed the committee that Bayer Corporation has a processing plant in Soda Springs that employs 400 employees and 100 plant contractors. He commented that he is responsible for the mining division and oversees 200 employees who do the mining for the plant. He directed the committee to [slide 3](#), which provided a flow chart of the phosphorus manufacturing process.

Mr. Vranes stated that phosphate mining is regulated by the Mineral Leasing Act of 1920. He referred to slide 6 and explained that during the Caldwell Canyon permitting process, Bayer approached the Bureau of Land Management (BLM) with a pre-plan of operations. Over the next several years, Bayer transitioned through the various phases (e.g., baseline studies, impact analysis) of the permitting process and were provided a record decision in September 2019. He noted that there is a phase for litigation contingency, but in this case Bayer's mine permit was not litigated.

Mr. Vranes provided a list of federal agencies and state agencies on slide 7 that are involved in the mine permitting process such as: BLM, United States Forest Service (USFS), Idaho Dept. of Environmental Quality, Idaho Dept. of Lands, etc. He explained that royalties are based on a federal government formula (5% of the net value), which means that Bayer pays \$1.50 for every ton it mines. He further explained that the royalty is paid to the federal government if it is a federal lease or to the state if it is a state lease. However, he said, half of the phosphate royalties that are paid to the federal government are provided to the state of origin, and half of that money is provided to the local county.

Mr. Vranes provided a list of the various permits and authorizations that are required on slide 8. He directed the committee to slide 9, which provided an overview of the permitting process. He explained that the government occasionally has a competitive lease sale, which is similar to an auction. He stated that after a lease sale has been secured, the company then proposes a drilling plan and the BLM performs an environmental assessment. He noted that the company will then perform exploration during a 10- to 20-year period. He said that once they have done sufficient exploration, the engineers will review the information and submit a pre-plan of operations to BLM. He stated that once the studies are completed, BLM selects a first-party contractor and the company hires a first-party consultant to ensure that the public is protected and to avoid potential lawsuits. He noted that the permitting process takes about five to six years to complete. He referred to slide 10 and noted the cost to permit and how much that cost has increased over time.

Discussion

Representative Moon asked whether the Idaho Mining Association is adding to its membership. Mr. Vranes responded in the affirmative.

Senator Harris noted the \$300 million of capital that Bayer invested during the Caldwell Canyon permitting process and asked whether there may come a point when it will be too costly to mine. Mr. Vranes readily agreed that the high cost is a concern and stated that some of that cost is passed to consumers.

The committee recessed for a break at 10:50 a.m.

The committee reconvened at 11:10 a.m.

Conservation Reserve Program - Thomas Dayley, State Director, Farm Service Agency (FSA)

Mr. Dayley expressed his appreciation for being invited to present before the Federalism Subcommittee on Federal Lands. He directed the committee to a [handout](#) that provides an outline of the 2018 Farm Bill, including what is new and what has changed from the previous farm bill. He explained that FSA works to create a safety net for farmers so that they may recover from natural disasters and market fluctuations. He referenced the "import duty war" and how it has impacted producers. In order to address this impact, the federal government created the Market Facilitation Program, which grants producers that have been impacted by federal action the ability to request money to make up for the loss of traditional exports. He noted that this year in Idaho, over 6,000 producers participated in the program, which amounted to \$43 million.

Mr. Dayley stated that in 1985, Congress created the Conservation Reserve Program (CRP). He explained that, at that time, its primary function was to remove land from production and to install conservation measures. He noted that there have been several adjustments to the CRP by the various farm bills. He directed the committee to the [handout](#) that provides a list of Idaho counties and the number of CRP acres that are within the physical boundaries of the counties. He explained that the CRP contract requires the producer to maintain a vegetative cover over the land and to not allow grazing on the land.

Mr. Dayley stated that the federal government has written rules regarding the production of hemp. He explained that, in order for a producer to participate in the hemp program, there must be a

plan in place either by the federal, state, or tribal government. He reminded the committee that hemp must not surpass a certain level of THC, otherwise it does not qualify as hemp and it must be destroyed. He commented that the state should consider whether the testing program should be placed within Idaho or somewhere else.

Discussion

Co-chair Boyle asked when cattle are allowed to graze on CRP land. Mr. Dayley responded that it depends on a number of factors, but noted that the 2018 Farm Bill is less restrictive and provides additional options. The FSA noted that, at the national level, some grazing is allowed during the nesting season, which has never been allowed before. It was their hope that some things that have been allowed on the national level also be allowed on the state level. Mr. Dayley encouraged the committee members to contact the Natural Resources Conservation Service (NRCS) to attend and participate in its quarterly meetings.

Public Testimony

Co-chair Boyle invited the public to testify before the committee or to ask questions. The public chose to not testify at this time.

Committee Discussion

Co-chair Johnson noted that the Nez Perce Tribe is very aggressively buying land in the counties within his district, noting that the tribe had stated that it wished to become a majority owner. He noted that when the land comes off the tax rolls, it places a burden on the county for services. He reviewed a study from the congressional research office to review similar situations across the country. He stated that, while the study did not offer any clear conclusions, it did propose some options. He asked whether there has been discussion on the federal level to help states with payment in lieu of taxes (PILT) and similar programs. The congressional staff that was present had not heard any discussion on the topic. Mr. Sorensen noted that Congressman Simpson was proposing legislation to classify PILT and Secure Rural School (SRS) as mandatory funding.

The committee recessed for lunch at 11:56 a.m.

The committee reconvened at 1:40 p.m.

Logging Industry - Distinctions Between Certain Forests - Brad Jensen, County Commissioner, Bear Lake County

Co-chair Boyle called upon Commissioner Jensen to present. Commissioner Jensen said that he owns a lumber mill and has been in the lumber business for over 50 years. He provided some additional occupation background. He commented that Bear Lake County has three forests in close proximity: Caribou-Targhee National Forest, Bridger-Teton National Forest, and Cache National Forest. He noted that 60% of Bear Lake County is federal land. He stated that the last timber sale from the Caribou-Targhee National Forest took place in 2014. He directed the committee to the FY19 Summary of the Forest Volume Offers and Attainment by Quarter [handout](#) to better demonstrate the forest sales. He estimated that 95% of the timber land in the Caribou-Targhee National Forest, which makes up half of the forest, needs some form of treatment. He also referenced another [handout](#) to describe the different costs per unit of measure for each forest. He opined that the USFS should receive more funding to obtain the resources needed to be successful. He suggested that the Good Neighbor Authority could be used to provide assistance to the USFS. He stated that logging costs are usually \$45 a ton, depending on a few factors. He commented that state timber sales have provided some relief to his company, noting that private timber can be very costly.

Discussion

Senator Harris asked why the John Wood Timber Sale's unit of measure was so much higher than the other sales. Commissioner Jensen responded that he was not sure. He explained that they had

a meeting with the USFS in Ogden to ask this very question. He reported that the USFS in Ogden planned to focus its resources on half of its forests to make them successful rather than trying to address all the forests with a limited amount of resources.

Co-chair Boyle asked whether the USFS plans to reissue the sale. Mr. Mickelsen stated that the USFS had received a notice of intent to sue under the Endangered Species Act, which requires any organization or individual that intends to sue over an activity to provide the USFS with a 60-day notice. He explained that the USFS is responding to the notice of intent to sue and plans to reoffer the timber sale.

Representative Moon asked Commissioner Jensen whether he had reviewed the forest plans to see how much board feet should be produced yearly, noting that the forest plans are legally binding documents. Commissioner Jensen responded that he had requested this information from the Caribou-Targhee National Forest, but noted that timber has not been sold in the last five years from that forest.

Co-chair Johnson asked whether set-aside sales have been useful for Commissioner Jensen's small business. Commissioner Jensen responded that he has not seen a set aside sale in over seven years.

Grazing Issues - Brayden Eliason and Russell Boyer, Curlew Grazing Association

Mr. Boyer stated that grazing issues have caused him frustration over the last 25 years, but a new management plan has been approved and he believes that it will provide improvements, especially with regard to water rights issues. He said that noxious weed issues are also a concern, noting that the weeds have spread from federal land onto private land. He echoed Dr. Barton's remarks regarding the concern that elk are mingling with cattle and increasing the risk that cattle will be exposed to brucellosis. He opined that the Dept. of Fish and Game is not allowing enough elk hunting. He advocated for additional funding for ISDA. He expressed concern regarding quagga mussels contaminating Idaho water. He commented that many boats are coming through Idaho without boat testing. He noted that, unfortunately, the boat-testing station can easily be avoided.

Mr. Boyer briefly summarized Utah's Grazing Improvement Plan (GIP) and provided the committee with a [handout](#) pertaining the program's major components. He stated that GIP's resources focus on grazing improvement projects to influence better management and change on rangelands. He also noted, in reference to the high number of elk and deer, that it is much easier to obtain depredation tags in Utah than it is in Idaho.

Mr. Eliason referenced the Taylor Grazing Act of 1934 and commented that there is a significant amount of brush on the land and it has created grazing issues. He opined that BLM's fencing regulations in open ranges are too stringent and cumbersome.

Mr. Eliason summarized Utah's GIP and explained that the program is designed to strengthen Utah's livestock industry, improve rural economies, and enhance the environment.

Public Testimony

Co-chair Boyle invited the public to testify before the committee or to ask questions. The public chose to not testify at this time.

Closing Remarks

Senator Harris expressed his appreciation toward the public and elected officials for attending and participating in the meeting.

Co-chair Boyle echoed Senator Harris's remarks, also thanking the fire department for the use of its building. She also thanked Senator Harris for organizing the meeting.

The committee adjourned at 3:07 p.m.