

MINUTES
Approved by the Committee
Committee on Federalism
Wednesday, October 25, 2023
9:00 A.M.
State Capitol
Boise, Idaho

Members in attendance: Cochair Representative Boyle and Representatives Horman, Dixon (1), Monks, and Mathias; Senators Lakey and Carlson; Legislative Services Office staff Ryan Bush, Janet Jessup, and Baylie Moore. Members in attendance via video conference: Senators Harris and Just. Absent and excused: Cochair Senator Burtenshaw.

Other attendees: Dustin Miller, Craig Foss - Idaho Department of Lands; Josh Uriarte - Office of Species Conservation; Kevin Beaton - Natural Resources Attorney; Julie Ellsworth - Idaho State Treasurer; Tom Schultz - Idaho Forest Group; John Foster - Kestrel West; and Dan Johnson - Mayor of Lewiston.

NOTE: Presentations and handouts provided by the presenters/speakers are posted to the Idaho Legislature's website <https://legislature.idaho.gov/sessioninfo/2023/interim> and copies of those items are on file at the Legislative Services Office in the State Capitol. Recordings of the meeting may be available under the committee's listing on the website.

Opening Remarks

Cochair Boyle called the meeting to order at 9:11 a.m.; a silent roll call was taken.

Good Neighbor Authority 101

Dustin Miller, Director of the Idaho Department of Lands (IDL), explained the [Good Neighbor Authority \(GNA\)](#) program in depth and how it manages forest land and prevents forest fires. The GNA program was a product of the 2014 federal Farm Bill that allows the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM) to enter into agreements with state forestry agencies to implement management strategies. Idaho's SCR 126 (2015) created a working group, which established Idaho's GNA goals. The GNA program started in 2016 with the signing of the GNA master agreement that set parameters to manage the land within the program and with funding provided through the Legislature. Currently there is an attempt to fix on an issue regarding the 2018 Farm Bill that prohibited counties and tribes from retaining the proceeds of federal timber sales administered under GNA agreements. The GNA program became self-sustaining in 2022. Additional staffing and program expansion have occurred in response to the productive efforts of the GNA program.

- Senator Lakey shared that citizens in North Idaho found it difficult to complete fire mitigation due to lawsuits that challenged efforts. He inquired whether the same issues existed with the state's GNA master contract. Mr. Miller responded that projects under the GNA were not adverse to litigation at any level. Senator Lakey requested further explanation of the agreement structure. Mr. Miller explained that the master agreement was an umbrella to supplemental project agreements created with the national forests. Craig Foss, State Forester for IDL, added that the supplemental agreements were kept in place and additional projects were added/updated each year; IDL provided the staff and contract process in order to complete each project. Senator Lakey inquired about the percentage of acreage affected by GNA projects compared to acreage that needed to be addressed. Mr. Miller reported that 6.4 million acres of national forest were initially identified; hence a triage approach was adopted to treat the worst areas first.

Additionally, a second program, the Shared Stewardship Program, was implemented in 2018 to treat hazardous fuels on land adjacent to federal land.

- Representative Horman asked whether these efforts could be proven to show a reduction in the number of fires or the severity of the fires. Mr. Miller used the 2023 Mercy Fire as an example where it was not as severe of a fire or as large of a fire. He attributed that to the amount of mitigation that had been done in that area previous to the outbreak of the fire. Representative Horman commented that the numbers seemed to support the effort in that prevention expenses were reported as less than previous firefighting expenses.
- Representative Dixon asked whether counties were able to gain receipt of the sales from timber. Mr. Miller explained that, while counties could participate in GNA projects, they currently could not retain sales; he was working with Idaho's congressional members to make that possible. Mr. Foss clarified that money from GNA projects went to counties to perform the mitigation but did not go to the county for self-improvements as a result of the efforts (roads, etc.).

Sage Grouse Update

Josh Uriarte, Species Program Manager and Policy Advisor for the Office of Species Conservation, provided his [presentation](#) on Idaho's sage-grouse to the committee. Mr. Uriarte explained that the first plan to manage sage-grouse began in 2015, was revised in 2019, and revised again in 2021. He explained how the process was organized, data was gathered, and public input was assembled. The goal was to have a final plan in place by summer.

- Senator Lakey asked whether the three-level identifiers (HMA) were the standard and how those levels impacted land owners. Mr. Uriarte explained that it was the standard for Idaho but that other states used a two-level system. He noted that the designation would not affect private land (OSC provided suggestions but not requirements), but on public land there would be certain criteria to adopt depending on the tier.

Court Reversal of 4-Year-Old Bayer Mine EIS Review

Kevin Beaton, Idaho attorney specializing in natural resources, spoke to the committee about the proposed Caldwell Canyon mine located in southeast Idaho to be operated by Bayer. He noted that he did not represent Bayer in this case. He explained that opening/operating a mine was a money- and time-intensive process; there were many permits and a lot of planing that must be performed. He reported that it took, on average, 7-10 years to get a new mine open, while litigation challenges could delay that process even longer. Permit approval was finally given in 2019 and Bayer began building basic infrastructure, which was immediately met with litigation. A court ruling in June 2023 found in favor of the plaintiff on environmental impact issues to the area and work was halted on the mine.

- Senator Lakey inquired whether Bayer had an opportunity to appeal the court's decision. Mr. Beaton responded that it could but it would be a lengthy process.
- Cochair Boyle inquired about the timeline of the suit. Mr. Beaton explained that the suit was almost two years after the permit was approved. Cochair Boyle requested the plaintiff's name. Mr. Beaton reported that it was the Center for Biological Diversity. Cochair Boyle inquired whether *any* federal permit (grazing, timber harvest, etc.) was safe from challenge until the 5-year statute of limitation expired. Mr. Beaton responded that it was mostly limited to the mining permit process.
- Senator Lakey asked whether there was any legislative attempt to limit the statute of limitations. Mr. Beaton responded that it could be fixed at many levels, including regulations.

Central Bank Digital Currency

Julie Ellsworth, Idaho State Treasurer, discussed issues on central bank digital currency (CBDC). She provided [handouts](#) documenting other states' actions on the issue.

- Cochair Boyle asked whether Idaho legislation could prevent the use of CBDC. Ms. Ellsworth felt that it could, much like the previous legislation that prohibited credit card companies from tracking certain types of purchases. She recommended that the Legislature work with Idaho's code commission.

USFS Proposed Old Growth/Mature Trees Rule

Tom Schultz, Vice President of Resource and Government Affairs for the Idaho Forest Group, provided his presentation [Mature and Old Growth Policy and Rule Making](#) to the committee. His presentation discussed federal Executive Order 14702 - Strengthening the Nation's Forests, Communities, and Local Economies. He explained the complexity of the program, shared data for healthy forests, and detailed IFG's efforts in regards to the executive order.

- Representative Mathias asked about timber designated as unhealthy but commercially viable for harvest. Mr. Schultz explained that the forest service kept data on such designations and that there were many stakeholders at the table when designing a plan to mitigate those areas. He noted that entities outside of the planning group, those that object to *any* harvesting on federal land, were often the obstacles.
- Cochair Boyle inquired about the general life expectancy of pine timber. Mr. Schultz explained that the life expectancy of pine ranged from 120-180 years. Designating forest as old growth was applied uniquely to different varieties at different stages of their true old growth designation. Cochair Boyle asked for clarification about the rate of carbon dioxide absorbency as compared to the tree's age. Mr. Schultz explained that younger trees absorb carbon dioxide better than older trees, to a certain degree, due to their exponential growth.
- Cochair Boyle inquired about timber mills in Idaho. Mr. Schultz explained that there was only one within Idaho. He noted that lack of timber mill access affected the ability to harvest, which affected communities with timber-related jobs such as mill workers, truck drivers, lumberjacks, etc.

The committee recessed for lunch as scheduled.

Broadband Challenges on Federal Land

John Foster of Kestrel West gave a presentation on [broadband expansion and deployment](#). He reported on the challenges in obtaining permits to deploy on/through federal land and how it affects a state like Idaho that has so much federal land. He also noted that a large source of federal funding existed for these projects and how these delays would affect the ability to secure those funds in a timely manner.

- Senator Carlson shared her difficult attempts to have a strong internet signal for her business and home in Riggins.
- Representative Horman inquired whether the Idaho Broadband Advisory Board was aware of these issues (had Mr. Foster made a presentation?). Mr. Foster reported that he had not, though he had spoken with Ramon Hobdey-Sanchez, Broadband Program Manager for the Department of Commerce, about the issues.
- Cochair Boyle asked for more explanation about the process of hanging the broadband on power poles and whether permission was needed from the Public Utility Commission. Mr. Foster explained that permission was needed from the power company, though the process often took 10-12 months when working with Idaho Power. Cochair Boyle wondered whether it would be quicker when cooperating with rural power companies.

Update Snake River Dams

Dan Johnson, Mayor of Lewiston, provided comments (via video conference) regarding the Snake River Dam and how its removal would affect Lewiston. He was joined by Joe Kaufman, City of Lewiston engineer. Their presentation provided visual details of how the city's infrastructure was intertwined with the river.

- Cochair Boyle inquired about repair costs to the city infrastructure when the draw down occurred in 1992. Mr. Kaufman did not know that data but he personally remembered seeing the effects.
- Senator Lakey inquired about increased costs that may occur if river transportation was limited. Mayor Johnson did not know exact numbers but pointed out how much a cargo ship could transport in comparison to a single tractor trailer.
- Senator Lakey asked about the main reasons for the challenge to the dam. Mayor Johnson explained that the reasons were varied and not limited to just survival of the fish.

Update BLM Rule on ACECs

Cochair Boyle led the discussion on an update to a recently proposed BLM rule regarding resource management plans for areas of critical environmental concern (ACEC). She provided an [article](#) about Wyoming's recent reaction to a resource management plan in the Rock Springs area.

- Representative Dixon suggested that the Legislature encourage Idaho's attorney general to join in an amicus brief with Wyoming on the issue.
- Representative Horman suggested that the committee have a discussion about the creation of a fund to pay for these types of federal lawsuits (as Wyoming was planning to do) in order to be fiscally prepared.

With no further business, the committee adjourned at 2:37 p.m.