

Commodity groups seek FOIA exemption for checkoff boards

Critics say it's contrary to the reason checkoffs were set up

By JOHN O'CONNELL
Capital Press



Courtesy Architect of the Capitol

Language included in the pending fiscal year 2017 House Agricultural Appropriations Bill exempts research and promotion boards funded by grower checkoff fees from the federal public records law.

Drug Administration and Related Agencies, 14 commodity organizations requested the change in FOIA policy on behalf of their related checkoff fee-funded boards, which are prohibited from lobbying.

Their language was included in the appropriations bill that passed the subcommittee, followed by the full House Appropriations Committee on April 19, and awaits action by the full House.

It reads: "The funding used to operate and carry out

the activities of the various research and promotion programs is provided by producers and industry stakeholders, and employees on the boards are not federal employees. Therefore, the committee urges USDA to recognize that such boards are not subject to the provisions of 5 U.S.C. Section 552 (the Freedom of Information Act)."

Organizations that signed the letter included: National Potato Council, National Milk Producers Federation,

National Cattlemen's Beef Association, National Christmas Tree Association, American Beekeeping Federation, American Hort, American Mushroom Institute, American Soybean Association, Michigan Christmas Tree Association, National Cotton Council, National Pork Producers Council, National Watermelon Association, United Dairymen of Arizona and United Egg Producers.

Their letter argues the change is needed to focus producers' resources on research and promotion, rather than record searches.

"I think the idea is we don't want to see these producer dollars wasted by pulling paperwork," said NPC President and CEO John Keeling, who hopes the language is retained to help Potatoes USA.

Keeling believes the growers who provide the funding would still have access to any necessary information through their colleagues who hold board positions. Furthermore, he believes USDA's

oversight prevents wasteful spending.

NCBA spokesman Chase Adams believes the language is a "common-sense" issue that clarifies the true intent of public records law.

"These are producer dollars that are used. These are not tax dollars," Adams said.

Staff with the subcommittee's leadership emphasized the appropriations bill would remain law for just a single year before being replaced by a new bill.

Fran Boyd, a Washington representative for the American Beekeeping Federation, noted the letter specified information for which USDA provides oversight would continue to be subject to FOIA.

He said the organizations wanted the change to cover limited operations that don't involve USDA oversight, such as whether to release details of board-funded research.

A critic of the move called it "underhanded."

"I guess they want it both ways. They defend the programs on the basis that it is government speech overseen by the secretary of agriculture, but now are claiming it is private and these are producer dollars, and the government isn't overseeing or managing the program," said Bill Bullard, CEO of R-CALF USA, a cattlemen's organization.

Bullard said everything the groups do involves USDA oversight and considers the assurance in the letter to be a "smokescreen."

His group has tangled with NCBA over several issues.

"We believe those commodity boards should welcome transparency, and the only way they can be subject to accountability is if producers who are required to pay these mandatory fees can ensure those fees are spent properly," Bullard said. "We think this is an underhanded attempt to hide the activities of these boards and remove them from public scrutiny."

Engineering firm starts designing fix for ailing Malheur Siphon

By SEAN ELLIS
Capital Press

ONTARIO, Ore. — Part of the 80-year-old Malheur Siphon, which carries irrigation water to thousands of acres in Malheur County, is starting to fail.

As a result, the Owyhee Irrigation District has hired an engineering firm to assess the integrity of the pipe and design a fix.

The siphon, a 4.3-mile-long steel pipe that is a landmark in the valley, delivers up to 325 cubic feet per second of irrigation water from the Malheur Reservoir to farmers on the northern part of the OID system.

"If that siphon went down, the whole north end wouldn't have any water. It's very important to this area," said Paul Skeen, president of the Malheur County Onion Growers Association.

About a third of the OID system is dependent on the pipe and ensuring its survival is a priority, said Bruce Corn, a farmer and member of the OID board of directors.

"It's absolutely critical," he said. "If it failed, it would totally dry up that area."

The major area of concern is east of the Malheur Butte, where the 80-inch pipe is supported by large steel legs, said OID Manager Jay Chamberlin.

"The pipe is starting to fail... and we need to go in and really figure out what's going on," he said. "It's the heartbeat of this valley. It's a critical piece of our infrastructure."

The soil in that area expands and contracts wildly depending on the temperature, and the legs and pipe can move as much as 6 inches a day, he said. "It's like it's doing this dance and it's not all staying together."

MWH Americas, a Boise engineering firm, is being paid \$45,000 to assess the problem and design a fix. Chamberlin met with MWH officials May 2 and received some good news.

"The pipe itself is worth saving. The integrity of the steel is great," he said. "Now we just have to invest in some good legs to support that pipe for many more years to come."

The new legs will be designed to allow movement from side to side as well as vertically.

Chamberlin said the goal is to design the fix in a way that OID employees can do most of the work themselves, reducing the cost.

A design fix should be ready by the end of summer and work could begin this fall.

Chamberlin said there are other issues with the siphon that need to be addressed and fixing all of them will take several years.

Nevada BLM boss urges roundup of 4,000 mustangs

By SCOTT SONNER
Associated Press

RENO, Nev. (AP) — The U.S. Bureau of Land Management's Nevada director wants to free up more federal rangeland for livestock grazing this summer by rounding up 4,000 wild horses in Elko County — more than were gathered across 10 Western states combined last year.

BLM Nevada Director John Ruhs, Gov. Brian Sandoval and state wildlife officials say removing the mustangs from four herd-management areas in Elko County near the Utah line would also benefit the greater sage grouse.

"Current horse populations hinder the multiple uses of public lands," Nevada Agriculture Director Jim Barbee said. He anticipates that without the roundups, anywhere from a 25 percent to a total reduction in grazing will be necessary in some areas, resulting in as much as \$1.8 million in damages to Elko County's economy.

Conservationists say the call for more roundups is a misguided attempt to placate ranchers at the expense of horses and grouse. Cattle do far more damage than mustangs to the drought-stricken range and the imperiled bird, they say.

Nevada is home to nearly 28,000 wild horses — more than half of the 47,000 estimated in 10 Western states, including Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah and Wyoming.

The Bureau of Land Management argues the range can sustain less than half that many — about 12,000 in Nevada and 26,000 nationally.

Ruhs estimated in an April 13 letter to the agency's headquarters that it would cost about \$4 million to remove about 4,000 animals in southeast Elko County stretching to near the Utah line. "Some of the allotments/pastures within the impacted area will need to be closed to livestock grazing in 2016 and into the future to limit further

damage to these ecosystems or until appropriate management of the wild horses has taken place," Ruhs wrote.

Sandoval warned last week that if the Interior Department refuses to adequately fund the program, "the state will pursue all legal options to protect our local producers and communities."

Sen. Dean Heller, R-Nevada, said in a letter to Secretary Sally Jewell on Friday that he's disappointed the Bureau of Land Management has not responded to a request he and others made in November for an update on herds across the West.

"Over the past few years, many ranchers have already taken reductions in their grazing allotments, yet horse populations have only increased, not decreased, over that time," Heller wrote. "It is unfair for local ranchers to be penalized for BLM's inaction."

The Bureau of Land Management gathered 7,242 horses nationally in 2012; 4,064 in 2013; 1,689 in 2014; and 3,093 last fiscal year. It removed

about 1,000 in Oregon in November, about 125 in southern Nevada in February, 54 in Utah in March, and this summer plans to remove about 535 in Wyoming and 300 in Utah.

But the agency currently plans no large-scale roundups in Nevada — or anywhere else — through the end of September because of budget shortfalls driven largely by the cost of housing more than 45,000 mustangs now in government corrals and pastures at a lifetime cost of \$48,000 per animal.

The Nevada Association of Counties, Nevada Farm Bureau and others filed a lawsuit last year to force the government to step up roundups, but a U.S. judge in Reno dismissed the case.

"Unfortunately, the removal of cattle from areas where horse populations are significantly over (appropriate management levels) does not alleviate the impacts to native species, including sage grouse," Nevada Cattlemen's Association President David Stix Jr. said last week.

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