

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 06, 2012

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Brackett, Heider, Tippetts, Werk, and Stennett

ABSENT/ EXCUSED: Senator Siddoway

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.

CALL TO ORDER: **Chairman Pearce** called the meeting to order at 1:30 P.M.

He welcomed **Mr. Jim Yost**, who has been reappointed to the **Northwest Power & Conservation Council**, to serve a term commencing January 15, 2012 and expiring January 15, 2015.

SPEAKER: **Mr. Yost** said that he appreciated the Governor reappointing him to this position and to come before this Committee. He stated that he wanted to explain a little about the Northwest Power & Conservation Council. It was created in 1980 by a federal act and provided for a coalition of the four northwest states - Oregon, Washington, Idaho, and Montana. It is not a federal agency, nor a state agency. There are two members from each state, appointed by their respective Governors, and they serve three year terms.

The Council was given three specific mission goals and they are: to provide an adequate, economical, and reliable power supply; to mitigate and enhance fish and wildlife; and to give public participation and consultation of distribution of information for all of the interest in the region. They prepare a 20 year power plan, with a five year action plan, and a fish and wildlife 20 year plan, also with a five year action plan. All of the funding for the Council and the state activities come from the Bonneville Power Administration (BPA).

Mr. Yost was born in Rupert and raised in the Magic Valley of Southern Idaho where he learned and applied knowledge of water, agriculture, and natural resources. He graduated from the College of Southern Idaho in 1968 with an Associate of Arts degree and then Boise State in 1971 with a Bachelor of Arts degree in education. In 1972, he was elected to the Idaho State Senate at the age of 24, the youngest Idaho Senator/Legislator ever elected. He served two terms.

Some of his employment included owning and operating a dairy distributorship, working for the Union Pacific Railroad, Assistant Public Affairs Director for the Idaho Farm Bureau, then promoted to Public Affairs Director. He served under four Governors as a Natural Resources Senior Policy Advisor before being named to NWPC.

Chairman Pearce thanked Mr. Yost for appearing before the Committee and said voting would take place at a later date.

RS 21031: **Senator Brackett** presented this RS. It would create, in statute, the Rangeland Center at the University of Idaho for the purpose of creating a new model for interdisciplinary research, education, and outreach to fulfill the University's land grant mission. The modern challenges of rangeland management require integrative thinking and innovative practices to maintain and restore these lands and the human communities that rely on them. The Center shall be comprised of researchers and educators from the College of Natural Resources; the College of Agricultural and Life Sciences; the University of Idaho Cooperative Extension; other colleges or units in the University of Idaho; and other agencies or academic institutions that may contribute.

They should have an interest or expertise in grazing, rangeland ecology, entomology, soil science, economics, rural sociology, fish and wildlife management, invasive plant management, forage production, animal science, fire ecology, restoration and the use of spatial technologies to understand and manage rangelands.

MOTION: **Vice Chairman Bair** made the **motion** to print RS 21031. The motion was **seconded** by **Senator Cameron**. The motion **passed** by unanimous voice vote.

PASSING OF GAVEL: **Chairman Pearce** passed the gavel to **Vice Chairman Bair** who will conduct the hearing of a Rule that has been carried over from a previous meeting.

DOCKET NO. 20-0702-1102: *Rules Governing Oil and Gas Conservation in the State of Idaho*. To refresh the Committee regarding this Rule, on January 25, **Mr. Eric Wilson, Minerals Resource Manager for the Idaho Department of Lands (IDL)**, told them the Department is the administrative agency for the Idaho Oil and Gas Conservation Commission (IOGCC). The Commission's duty under Idaho Code 47-3 is to prevent waste during the exploration and development of oil and gas resources, protect the correlative rights of mineral owners, and protect fresh waters during oil and gas development on all federal, state, and private lands in Idaho. In May, 2011, IOGCC directed IDL to enter into rulemaking to revise IDAPA 20.07.02. These rules govern the drilling, completing, and plugging of oil and gas wells. The rules had not been revised since 1989 and since that time, the technology used by the oil and gas industry has continued to advance and expectations for ground water protection and regulatory oversight have increased.

The initial reason to open this rulemaking process was to address well treatments and hydraulic fracturing. A temporary rule to cover these activities was approved by the Commission in April, 2011, but a more thorough rule was needed. The Department identified several other gaps in the existing rules that needed to be addressed in order to better implement the Oil and Gas Conservation Act.

TESTIMONY: First to address this Rule was **Mr. David Hawk, owner of Energy Analysis and Answers**. He stated that he favors these Rules after attending time-consuming meetings. He feels the State will have thorough, meaningful, and tough Rules that will protect all concerned. He stated that he is in favor of thorough, detailed Rules that cover the processes of exploration for and developing hydro carbon resources and he indicated that these Rules stand for that.

TESTIMONY: **Mr. Reed Mulkay** was next to testify. His concern is regarding his family, several of whom are senior citizens. One of the lessons he has learned throughout his life is that nothing goes perfectly. He questioned what would happen if a mistake occurred and asked for equal protection.

TESTIMONY: Vice Chairman Bair called on **Ms. Amanda Buchanan** next. She stated that she lives in Washington County and was one of the few citizens who attended the rulemaking sessions this past summer. Ms. Buchanan attended seven out of the ten sessions and the largest group attending was the industry. She felt that the State would have benefited from the presence of a non industry expert on Oil and Gas Best Practices on regulations.

Ms. Buchanan said that people in Payette and Washington Counties have justifiable concerns. They see what has gone wrong in other states and imagine those scenarios happening in their own communities. She made several suggestions to help alleviate their fears. One is to have some trailer legislation regarding fracking; surface owners should be compensated for lost property values; the Legislature needs to properly fund IDL that would mandate inspections; replace all the "may" language in the Rule with "shall"; require that all petitions, test results, and pertinent information be posted on the State's website in a timely manner and be easily accessible to the public; and to provide a way to financially assist in water well testing for private citizens within one mile of the gas/oil well.

TESTIMONY: **Ms. Claudia Lee Haynes**, representing **Canyon County Alliance**, asked that this Rule be sent back to the rulemaking process and asked for a date certain for it to be done and returned to this Committee in a timely manner. She commented that state after state has said "if we would have just written better rules to protect the water and health of our people; should have asked for mandatory baseline testing of the ground water and surface water before drilling started; asked for tracers so that it can be traced back to the source of the contamination; asked for bonding that would have protected the people better; and required the industry to use non-carcinogens in the fracking fluids." A copy of her testimony is on file.

TESTIMONY: **Mr. Eric Wilson, IDL**, said there are a few things that need to be corrected for the record. There have been several statements made that aren't quite correct between the last hearing and today's testimony. The Department will require full disclosure of all materials that are being used. (That is part of the application.) That information may not be available to the public, as it is a matter of trade secret provisions. As far as the wells, Industry has told them there are some things they need to do down in the well hole (reservoir) that require these materials to be used. Mr. Wilson said that as long as IDL addresses proper well construction and how the fluids are managed on the surface, that takes care of 99.9% of those horror stories that are in the newspapers. IDL does not have the authority to ban the use of any substances in a well treatment or hydraulic fracturing. Idaho Code, 47-319 (b) indicates there are three priorities for the Oil and Gas Conservation Commission. They are to prevent the waste of oil and gas; to protect correlative rights; and to administer and enforce this act. He stressed that there is nothing they can do (in this rule) to ban carcinogenic materials, as it would be in conflict with the statute.

TESTIMONY: Written testimony was provided by **Justin Hayes, Idaho Conservation League**. He indicated in his letter that when he testified last week, he referenced the report (Chemicals Used In Hydraulic Fracturing) that he is providing to the Committee today, to aid in the deliberations on the Oil and Gas Rules. A copy is on file.

MOTION: After much discussion, **Chairman Pearce** made the **motion** to accept Docket No. 20-0702-1102. The motion was **seconded** by **Senator Tippetts**.

Senator Werk feels there is a lot of work to be done, both in statute and rulemaking. He hopes there will be proper oversight and proper protection for human health and safety.

Vice Chairman Bair called for a vote. The motion **passed** unanimously by voice vote.

**PASSING OF
GAVEL:**

Vice Chairman Bair returned the gavel to **Chairman Pearce**.

**ANNOUNCE-
MENTS:**

The **Chairman** said the two bills left on the agenda will possibly be heard on Wednesday.

ADJOURN:

He then adjourned the meeting at 3 P.M.

Senator Pearce
Chairman

Juanita Budell
Secretary