

MINUTES

## SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Friday, February 24, 2012

**TIME:** 1:00 P.M.

**PLACE:** Room WW55

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

**ABSENT/ EXCUSED:** Senator Werk

**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 1:00 p.m.

**Chairman Pearce** stated that Juanita was out for an operation on her hand and that there was a card circulating for the committee members to sign. He introduced Linda Kambeitz as Juanita's substitute while she is gone.

**SCR 120:** **Chairman Pearce** presented this Senate Concurrent Resolution, the purpose of which is to reject the application to appropriate water for minimum lake levels relating to Cocolalla Lake in Bonner County. He reminded the Committee we have seen this three times before and we voted in committee to reject it. He stated this will be sent with a motion to the floor. He also said he had letters from the County Commissioners in regards to this subject.

**TESTIMONY:** **Brian Paxton** from the Water Resources Board, said they have no objection to rejecting this SCR and they do not want to move forward in opposition to the local community.

**MOTION:** **Senator Siddoway** made the motion that we send SCR 120 to the floor with a **do pass** recommendation. The motion was **seconded** by **Vice Chairman Bair**. The motion **passed** by unanimous voice vote.

**SCR 1321:** **Chairman Pearce** introduced this Senate bill which would direct funds in the Winter Feeding account to be used only for purchasing blocks, pellets, or hay and requires the Idaho Fish and Game Department to submit a yearly report to the Idaho Senate Resources and Environment Committee and the House Resources and Conservation Committee detailing how funds in the feeding account have been expended. He said we take two dollars and fifty cents from each antelope, elk and deer tag sold as provided and not less than seventy-five cents of each one dollar and fifty cents collected shall be placed in a separate account to be designated as a feeding account. He said in the past these monies have been used for other things because in Idaho there is not an extensive feeding program.

Accordingly, this has been discussed with the Legislature for the past 25 years. This money can only be used for blocks, pellets and hay for winter feeding purposes. **Chairman Pearce** said the balance of the monies realized from this source, which were not deposited in the feeding account, up to a maximum of two hundred thousand dollars, shall be used for the control of depredation of private property by antelope, elk and deer and control of predators affecting antelope, elk and deer. Any balance in excess of two hundred thousand dollars shall be transferred to the feeding account.

He referred to the sentence on line 13 that the department shall submit a yearly report to the Senate Resources and Conservation Committee and the House Resources and Environment Committee of the Legislature on or before the 31st day of July, detailing how funds in the feeding account have been expended during the preceding fiscal year.

**Chairman Pearce** said this was the essence of the bill and we had a hearing on winter feeding and he indicated he was open for questions.

**Senator Tippetts** asked him if he could explain using the funds for blocks, pellets and hay exclusively, which would preclude using funds for distribution costs and transportation, pick-up trucks and so on.

**Chairman Pearce** said he went to our analysts and to the Fish & Game and asked them how they used this money and they said they could not trace it and they did not know. He said he feels as though we have adequate resources, the public is willing to help, there are hundreds of Fish & Game pick-ups and because of the mild winter we have had it has not been necessary to winter feed. He said like last winter and the previous winter, it was necessary to winter feed. The manpower and resources are there to take care of what is needed.

**Senator Tippetts** said it was his perception that sometimes we have citizens who help with the feeding and it would be his guess that they are reimbursed for their transportation costs. He asked if we would run a risk of maybe reducing the number of programs or preclude some individuals due to the expense they would accrue for transportation costs.

**Chairman Pearce** said he was not aware of this and he has spoken with citizens who have been willing to help and he thought some ranchers might be paid when they have had problems.

**Senator Brackett** asked if there was a shortage of funds for winter feeding or was this a policy issue? **Chairman Pearce** said that \$400,000 has to be kept in this fund and so it has not been used that way and he said this was a policy and a public relations issue. **Senator Brackett** said this was not necessarily a shortage of funds, but more a policy issue rather than a funding issue as to when to feed and what to feed.

**Senator Heider** said that traditionally at JFAC the fund has been historically spent on traveling, snow plowing, employee travel and certain other overhead costs. He asked that what you would like to do is to stop that part of the expense and strictly provide for the hay and blocks and those kinds of things that the money has been spent on?

**Chairman Pearce** stated he could not get the exact information as to where the money was being spent and they could not account for it. He said he didn't think the money was being used for winter feeding completely.

**TESTIMONY:**

**Ms. Sharon Kiefer, Deputy Director, IDFG** said the Committee had a copy of her testimony and she has a detailed recap of the fiscal year 2011 relating to winter feeding. She said the Fish and Game Commission has discussed this bill and they do not support the bill for several reasons. Some of her testimony and handouts are attached to the minutes. She said that currently the money set aside from the sale of tags in this account shall be used for emergency feeding of antelope, deer and elk. The bill severely restricts use of funds for the use only of blocks, pellets and hay and cannot be used any longer for personnel costs, feed troughs, use of vehicles to deliver winter feed, travel reimbursement for volunteers. She also indicated the rehabilitation of the winter range would no longer be available for elk, deer, and antelope. Basically, this bill will decrease the budget by 23%.

She summarized that SB 1321 would limit their ability to offer solutions to land owner concerns while still providing benefit to the wildlife resource.

**Senator Cameron** asked **Ms. Kiefer** if she would go through the 2011 expenditure sheet with the Committee. **Ms. Kiefer** said one of the good things that came out of this was that they found a switch in the Comptroller's office code that they were unaware of that split agricultural supplies into two codes. She further stated one is the code for agricultural supplies for grain and the other is for agricultural supplies for animals and she said that may be where some of the confusion may lie. She said that now they are aware of this, they will begin tracking under two codes and that may be part of the confusion as to not to be able to track. She went over the expenditure categories and the amounts. **Senator Cameron** asked if **Ms. Kiefer** could provide that kind of detail for previous years. **Ms. Kiefer** replied she probably could.

**Senator Cameron** said that as long as he has been here, that has been a problem and that the money was used almost as a "slush fund". Previous directors have used the money in other areas due to budget constraints. He said that what continually has been a problem and has been frustrating for the Legislature is that the Department of Fish and Game has been reluctant to use the dollars that are set aside for winter feeding. He indicated there is a reluctance to use those dollars because the Department would rather use them in other areas. He said the attempt of this bill was to focus the use on what the money was intended for and that was winter feeding.

**Ms. Kiefer** said the current statutes are very explicit.

**Senator Cameron** asked her if she believed that all of the items she read previously would fall within the very specific, strict statutory guidelines? **Ms. Kiefer** said yes.

**Senator Tippets** asked that once the balance exceeds \$400,000 what can the excess money be used for? **Ms. Kiefer** said there is specific statutory guidance stating the money has to be used for the purposes of winter feeding and for the rehabilitation winter range of antelope, elk and deer.

**Senator Stennett** asked **Ms. Kiefer** when would emergency winter feeding take place. **Ms. Kiefer** referred to her prior presentation. Some of the factors will be based on snow, snow crusting, animal condition, and maximum daily temperature, depending on the region. **Senator Stennett** asked that in a light winter, if one thought the wildlife was faring well, one would not necessarily use that fund unless it was deemed an emergency? **Ms. Kiefer** said that if it is not determined an emergency and the set aside fund was below \$400,000, they would not be doing any winter feeding or any winter range rehabilitation.

**Senator Cameron** said he has trouble with the Department using the money for travel, snow plowing, repairs, and overhead costs. In his opinion, these costs should not be used out of the winter feeding account. He is okay with helping a farmer, as long as the money is being used for winter feeding and winter range rehab.

**Ms. Kiefer** said winter feeding and habitat is not just a winter feeding set-aside account and then there is a broader account and she felt it was an unfortunate naming because things are lumped together, which she said they should improve at their end.

**Senator Cameron** said they are focused on the winter feeding account and the expenditures and he thinks they are asking for justification for their expenditures. He wanted to know how snow plowing benefits our big game populations. **Ms. Kiefer** said the only way Fish and Game can get into feed is to plow.

**Ms. Kiefer** said that due to limited funding declining she was concerned that money would build in the set aside account.

**Senator Pearce** indicated he was a little bit embarrassed because he said he looked like he made something up. He said he stood with a Fish & Game accountant and no one could tell him where the money was being spent and now **Ms. Kiefer** has come in to tell them that there is a code they just discovered. He said he wanted to comment on it now and then leave it. He indicated there was a \$200,000 deprecation fund Fish & Game thought we were going to plunder and asked when was the last time that fund even made it to \$200,000. **Ms. Kiefer** said that the annual appropriation of that fund has gone as high as \$250,000, but there is not always that much money in the account. She stated she was unaware of the code split, so that is why they could not backtrack. **Chairman Pearce** asked **Ms. Kiefer** when the account actually had \$200,000 in it—not appropriation— but actual dollars. **Ms. Kiefer** said she would check and get a tracking on that and said it was part of her presentation to the Senators.

**Chairman Pearce** said he would like to close. He said he felt that \$400,000 and whatever may accumulate over time for the specific feeding of deer, elk and antelope be for their preservation. For the times of today, we know the wolves have made a big inroad into the herds. He said we have also heard that Fish & Game is not interested in the winter feeding program because if they had been, all of the equipment they have talked about would have been readily available now and accumulated over the years and it is a matter of saying it is all here and in place and it is not. This money was appropriated many years ago for the specific purpose of feeding the deer, elk and antelope and he said we were sending that message and that if this bill passes we would like to save for drastic winters. When we have a bad winter, deer become poor and die because they are not fed early enough and the money is saved to use in other areas. This bill protects the funds and we want Fish & Game to go ahead and do it.

**Senator Cameron** expressed a concern with lines 38 and 39 of the bill, which was restrictive. He asked if **Chairman Pearce** wanted to make an adjustment to the bill and take it to the amending order and the other choice would be to come back with a different part. He indicated he was a little frustrated with what he heard today and he saw value in allowing some of these funds being used to buy seed or to pay a farmer for using his field and using his hay, so he said he was looking to **Chairman Pearce** for a sign as to where he would prefer to go. Otherwise, he would make a motion.

**MOTION:**

**Senator Cameron** made the motion that S1321 be sent to the amending order. The motion was **seconded** by **Senator Stennett**. **Chairman Pearce** said he would be happy to bring forth an amendment and he said he felt this was an important issue.

**Senator Heider** said he happened to be riding with the Fish & Game officers during the fire in his area and it was amazing to him the concern they had for the deer in the winter months. He said they were arranging for hay and other supplies for feeding and fencing. He said he realizes this was a bigger deal than for providing for blocks, pellets and hay for the deer and elk. He said he thought it would be wise of the Committee to amend this to include other areas other than the winter feeding program. **Senator Tippets** said he had the same concerns. He said the current language needed more flexibility and he wanted to be able to support this bill.

**Vice Chairman Bair** said we want to be able to change the policy so that Fish & Game would provide more than they are for feeding. He said this bill doesn't address that policy though. All it does is manipulate monies in accounts. His understanding of the bill is the money will simply stack up because we have not changed the policy of winter feeding in this bill. His concern is about the deprecation account limiting the amount that can be held in reserve to \$200,000. He said he could not support the bill in the current form.

**Chairman Pearce** said he thought the problem that **Vice Chairman Bair** was addressing was there were two deprecation funds and this bill was not the fund that **Vice Chairman Bair** was alluding to, as livestock and crop management was a different thing.

**VOTE:**

**Vice Chairman Bair** said the question had been called for and he asked for all those in favor of sending S1321 to the amending order to say "aye". There was one "nay" by **Senator Siddoway** . The motion **carried** .

**PRESENTATION:  
PROPOSED  
UPPER  
LOCHSA LAND  
EXCHANGE**

**Chairman Pearce** indicated that the Committee had no right to interfere, but the Committee needed to understand what was happening in the natural resource areas in the State of Idaho and this land exchange.

**TESTIMONY:**

**Teresa Trulock**, Project Manager, Forest Service, said the Forestry Service was approached by Western Pacific Timber to do a land exchange for mostly isolated and small areas in the northern part of the State. She said this would be the second checkerboard land exchange. **Ms. Trulock** said there was an Environmental Impact Study done in November of 2010 and there were five options available. The first option was to take no action. The next option was that she identified approximately 18,000 acres of land for exchange with Western Pacific for 38,000 acres. Forestry felt this was a value-based exchange. The exchange was combined with a partial purchase and Forestry has been trying for the past several years to acquire funds from the Lending Conservation Fund. She said the next alternative was the same combination, but Forestry was hoping to spread the exchange out over the course of three years in an attempt to acquire more purchase money and reduce the federal estate. Public comment has been taken. A copy of her testimony is attached to the minutes.

**Senator Siddoway** asked why there was a land exchange being considered. **Ms. Trulock** said the management of lands in the checkerboard area was difficult and it would be much easier for Forestry not to have that pattern on the ground, not only from that perspective but also from a broader ecological reason. **Chairman Pearce** asked if there was a timeline for this plan? **Ms. Trulock** said they were hoping to finalize the Environmental Impact Statement in November or December. **Chairman Pearce** asked what the major concerns have been in the Impact Statement? **Ms. Trulock** said there was an impact to the County tax base and that the Nez Perce Tribe was concerned about the loss of exercising treaty rights on the Federal lands. There was also a concern over camping, hunting, and recreation access.

**TESTIMONY:**

**Brian Disney** of Western Pacific Timber said his company does not own any mills and they contract with locals. They are privately owned and have no forest practice violations.

**TESTIMONY:**

**Andy Hawes** of Western Pacific Timber, said he was personally motivated and excited about this land exchange. He felt that this exchange would benefit all of Idahoans and this would promote Idaho in the logging industry. There was a concern in Idaho County, that from their perspective, the County would not be whole. There was a concern about the loss of jobs. The Idaho Commissioners said they didn't like the exchange and they said they wanted to come up with their own proposal and work with local residents and the timber company. Western Pacific Timber wants to work with citizens and they agreed to extend the time process. He reiterated the Lumber Company was very mindful of the concerns of the community. Western Pacific Timber said they were willing to have no developments, no subdivisions and guaranteed public access in perpetuity to the lands. They have asked, in return, to be able to harvest the timber.

**Senator Siddoway** asked **Mr. Hawes** to identify the areas they wanted to swap. A map is attached to the minutes showing the areas. The map was explained by **Mr. Hawes** and **Teresa Trulock**. **Senator Siddoway** asked how did the checkerboard of land happen? **Mr. Hawes** said originally the land was left over from a railroad pact in the 1800s. **Senator Siddoway** asked if any of the exchanges involved tied in with the Department of Lands that are dealing with the relief of the cottage side owners. **Mr. Hawes** said there were some initial talks about how to resolve some of these issues, but those issues faded away.

**TESTIMONY:**

**Ray Peyton**, Director of Save Idaho Forests, testified that he was from a "grass roots" organization of concerned citizens that live on and use the land in question. He said he appreciated that Senators are interested and he felt they should hear an objective view from people and groups who might be opposed to this exchange. He wanted to take exception to what **Mr. Hawes** said because the Feds do not own the land. A Federal agency is in charge of managing the property. He said they don't want to swap public land for land they use for land they don't use. He said this is a huge issue. He said he wants Senators to call Washington, D. C. about the problem. The exchange is a redistribution of wealth. He said he thinks the Western Pacific Timber Company should donate the land to the Forest Service. He stated there is an abundance of public land in Idaho County, which is unique. He also said there have not been any studies done as to how this exchange will impact grazing, the economy, etc.

**Mr. Peyton** asked people who drove three or four hours to attend this hearing to stand up. He said he wanted their voices heard and they are asking for the support of their elected officials. He indicated that the land swap would exchange one checkerboard for another.

**Senator Siddoway** thanked all who came. He said there has been some mitigation that these lands would be left open to public access if he heard that correctly and that would be helpful. He asked **Ray Peyton** if that happens did he still feel there would be restrictions. **Mr. Peyton** said that opposition to this is from about 80-90% of the people he has contacted. He said they discussed the conservation easement and this became part of the debate when there was a large public outcry. He felt the biggest problem was with funding of those easements. Also, he said enforcement would be difficult because if a hunter tried to hunt on private land, land he was used to hunting on, and it was closed due to logging, and the hunter said he had a right to hunt there regardless, the hunter cannot call "911." He stated a civil agreement will not be enforced by the police. The public he has spoken to has no confidence in this land exchange.

**Chairman Pearce** welcomed **Senator Skip Brandt** back to the Committee. He thanked the Committee for listening to the land exchange presentation. He said this was a lose-lose for Idaho County. Forty-thousand acres would be traded out of Idaho County. He said the Forest Service will exchange those lands. He feels he needs to find an alternative and he said the Forest Service and West Pacific Timber agreed to do that in order to keep Idaho County whole. He said lands had to be chosen for exchange without creating any end-holdings and they had to be NIVA sufficient and that is how lands in Idaho County have been chosen. He said there were about 50,000 acres of land that had to be weaned down to an "acre-for-acre" exchange. However, **Senator Brandt** said the Forest Service cannot do an acre-for-acre exchange, but rather, they have to do a value-for-value exchange. This exchange has to be done through our congressional delegation and through Congress and we can make it a win/win. The Clearwater National Forest released their travel management plan, which locked the public out of over 200 miles of trails. Travel management plans for the Nez Perce could be even worse. This opportunity could take the Idaho County lands and put deed restrictions and conservation easements to protect and allow continued access. At the same time it puts timber

close to the few mills that we have. He said this is a huge issue and the clock is ticking. We are being threatened right now. Just across the border in Montana, the Nature Conservancy stepped up and bought most of the land and then deeded the land to the Forest Service, thus removing them from the system and taking them out of the tax base. Idaho County cannot afford this due to a loss of other funding for roads and schools in Idaho County.

**TESTIMONY:** **Commissioner Smellick** said all of the people in Idaho County agree they all love it there. Idaho County was one of the wealthiest in the State, but not any more. Nine million dollars come from the Feds. They are trying to keep the County whole. The loss of 40,000 acres of timberland would contribute to the loss of jobs and hurt the economy. He said they are looking for a win-win idea. He said they approached Western Pacific Timber and asked them if they would help with the SRS funding offset. They are currently in negotiations. This demonstrates the willingness of the private sector to work with the communities to help offset these problems that we face as communities. This is about keeping Idaho County whole.

**Chairman Pearce** asked if this would start a new Environmental Impact Statement?  
**Commissioner Smellick** said he did not think so.

**ADJOURNMENT:** **Chairman Pearce** thanked everyone for coming. The meeting adjourned at 3:00 p.m.

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Senator Pearce  
Chairman

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Linda Kambeitz  
Secretary