

MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** Tuesday, February 23, 2016

**TIME:** 1:30 P.M.

**PLACE:** Room EW40

**MEMBERS:** Chairman Raybould, Vice Chairman Gestrin, Representatives Moyle, Andrus, Shepherd, Wood, Boyle, Vander Woude, Gibbs, Miller, Bateman, Burtenshaw, Mendive, VanOrden, Youngblood, Pence, Erpelding (Lachiondo), Rubel

**ABSENT/  
EXCUSED:** None

**GUESTS:** The sign-in sheet will be retained with the minutes in the committee secretary's office until the end of the session. Following the end of the session, the sign-in sheet will be filed with the minutes in the Legislative Services Library.

**Chairman Raybould** called the meeting to order at 1:33 p.m. New page, **Sabrina Castellano**, was introduced.

**MOTION:** **Rep. Pence** made a motion to approve the minutes of the February 3, 2016 Joint meeting with the Senate Resources and Environmental Committee. **Motion carried by voice vote.**

**MOTION:** **Rep. Youngblood** made a motion to approve the minutes of the February 9, 2016 meeting. **Motion carried by voice vote.**

**SCR 136:** **Mat Weaver**, Deputy Director, Idaho Department of Water Resources (IDWR), said **SCR 136** supports the Settlement Agreement (SA) reached on the Eastern Snake River Plain between senior surface water users and groundwater users. Although the state is not a part of the SA, recharge goals of 250,000 acre feet annually have been established as a part of the SA. This resolution gives the SA participants a level of comfort that the Legislature is directing the Idaho Water Resource Board (IWRB) and the IDWR to do everything in their power to recharge the 250,000 acre feet identified in the SA. The goal of 250,000 acre feet discharge are part of the Eastern Snake Plain Aquifer Management Plan and the current state water plan which allow for acceleration of the time frame associated with achieving the 250,000 acre feet discharge.

**Jeff Raybould**, IWRB, stated it is critical that water be restored to the aquifer to be a sustainable water supply for years for agriculture, cities and people in Idaho.

**MOTION:** **Rep. Burtenshaw** made a motion to send **SCR 136** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Chairman Raybould** will sponsor the bill on the floor.

**SCR 137:** **Roger Chase**, Chairman, IWRB, stated **SCR 137** stabilizes the Snake River Plain Aquifer (ESPA) is important to the whole state because of the value of the agricultural industry which is between \$8 and \$10 billion. Finding a way to stabilize the ESPA assures Idahoans the agriculture industry is going to survive, not only in the Magic Valley but in the Treasure Valley and North Idaho. **SCR 137** approves funds for the whole state and work on models in the Big Wood Valley, Elmore County, Treasure Valley, City of Star, Weiser Basin, Rathdrum Prairie, Palouse Basin, Lewiston and Priest Lake.

**Sen. Winder** spoke in support of **SCR 137**, and said It is a first step to gather data and build models that need to be developed so recharge and water management issues can be addressed.

**MOTION:** **Rep. Wood** made a motion to send **SCR 137** to the floor with a **DO PASS** recommendation.

**Marie Kelner**, representing the Idaho Conservation League (ICL), stated that ICL represents 20,000 supporters who take no stance on **SCR 136**, **SCR 137** and **SCR 138**, but ask that the water and groundwater health remain a priority that is monitored in perpetuity. ICL asks to ensure the resources necessary for groundwater protection. Ms. Kelner provided written testimony. (See Attachment 1.)

**VOTE ON MOTION:** **Motion carried by voice vote. Chairman Raybould** will sponsor the bill on the floor.

**SCR 138:** **Brian Olmstead**, Manager, Twin Falls Canal Company, representing Idaho Surface Water Coalition, presented **SCR 138**, saying it is a monumental agreement to their company and all the farmers in the state for which all the parties worked hard. It is an equitable agreement between groundwater users and surface water users that sets definable goals. It is needed because aquifer problems are coming to the whole west.

**Dan Davidson**, representing Minidoka Irrigation District, **Dean Stevenson**, Chairman, Magic Valley District of Idaho Board of Groundwater Users; and **Ralph Eisen, Bonneville Jefferson Groundwater District** ;spoke in support of **SCR 138** stating for the first time, long-range vision is used in water management, definable goals and milestones that need to be met are set, it is adaptable, and provides a steering committee with equal representation between groundwater and surface water users.

**Chairman Raybould** clarified the 250,000 acre feet recharge would be a yearly average based upon the weather. Some years, weather would allow for a million acre feet of recharge which when stored would compensate for the years weather did not allow the 250,000 acre feet recharge. The plan is to get facilities built to store the ample water when it is received.

**MOTION:** **Rep. Miller** made a motion to send **SCR 138** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Chairman Raybould** will sponsor the bill on the floor.

**H 510:** **Rep. Paul Shepherd** introduced **Don Smith**, Rocky Mountain Mining Rights, to present **H 510**. Mr. Smith stated **H 510** amends Idaho Code Section 42-1731(4) to reflect the small-scale of dredge mining as opposed to the current definition that includes big-bucket line dredges. It also amends Idaho Code Section 43-1734A that currently prohibits not only destructive outdated dredge mining, but also small-scale suction dredge mining, which creates a dichotomy with I.C. § 42-1734A(1)(a) where it says it protects and preserves existing rights and relative priorities of water established in Article 15, Section 3 of the Constitution of the State of Idaho. The Idaho Constitution in Article 15, Section 3 says those using water for mining purposes shall have preference over those using it for manufacturing or agricultural proposes.

Small-scale suction dredge minors work in rivers and streams now a part of the State Comprehensive Water Plan and have vested rights. **Mr. Smith** stated that a protected river designation cannot interfere with vested property rights on the date a waterway is designated. Stream channel alterations are defined in Idaho Code Section 42-3802(b), and the word 'alter' is specifically defined in Idaho Code Section 42-3803, and Mr. Smith opined the words suggest that a stream channel alteration permit is for the building of permanent structures or causing permanent change to the stream channel, suggesting that small-scale dredge mining was never meant to be regulated. New section Idaho Code § 42-3813 builds on the idea that small scale dredge mining was never meant to be regulated under the Stream Channel Protection Act.

**H 510** amends Idaho Code Section 47-703A and Idaho Code Section 47-1313(e) to define motorized earth moving equipment to include suction dredges with intake diameters exceeding 8". Idaho Code Section 47-1312 is amended by **H 510** to exempt small-scale dredge suction mining from being regulated like big-bucket dredge mining, except on Idaho's wild and scenic rivers. New sections(o)(p) and (q) are added at Idaho Code Section 47-1313 to define what small-scale suction dredge mining and prospecting should be.

Those speaking **in support** of **H 510** were **Ron Miller**, President, Rocky Mountain Mining Rights; and **Gary Scott** who stated that they have the right under law to mine/dredge; and **Lisa Smith; Danny Procheska; Nicole Carlson; and Don Doreman**, Idaho Gold Prospectors Association, who expressed that small-scale dredge miners do not dirty the environment or interfere with salmon beds since they do not dredge at the time of year for spawning, as well as concurred that mining law gives the right to dredge. Ron Miller provided written testimony. (See Attachment 2.)

**Chairman Raybould** called a recess of the committee at 2:51 p.m.

**Chairman Raybould** reconvened the meeting at 3:37 p.m.

Those speaking **in opposition** to **H 510** who were of the opinion that small-scale dredge mining would negatively impact river courses or cause stream course alteration, or would disturb salmon fish beds and spawning activities, or would bring in invasive species on their dredging equipment were: **Michael Gibson**, Idaho Field Coordinator, Idaho Sportsman Project; **Burke Mandell; Kale Becker; Tyler Mallard**, Government Affairs Liaison, Risch Pisca; **Brian Brooks; and Carmen Northern**.

**Michael Gibson**, Idaho Field Coordinator, Idaho Sportsman Project; **Burke Mandell; Brian Brooks; Ed Northern; John Kaywood; Barry Brunell**, Department of Environmental Quality (DEQ); and **Forest Goodrum**, Ada County Fish and Game League, spoke **in opposition** stating that **H 510** eliminated regulatory oversight of small-scale dredge mining. Barry Brunell remarked that **H 510** prevents DEQ from issuing a license, such as to restrict mining during salmon spawning periods.

**Chairman Raybould** inquired if **Gary Spackman**, Director, Idaho Department of Water Resources, would provide input on **H 510**. Director Spackman, stated that he did not come prepared to address **H 510**, but remarked that IDWR is responsible for the administration and oversight of the Stream Channel Alteration Act, as well as administers the program overseeing recreational dredge mining. He stated that most of the comments supporting **H 510** were directed toward the federal government who is requiring NPDA permits. Director Spackman understands that **H 510** would remove the state from having a role in this activity and is an abdication of state law. He expressed concern that if the state does not have a role in small-scale suction dredge mining, that federal oversight will increase. Director Spackman also commented on some inconsistencies in **H 510**, such as language that states the IDWR Board shall prohibit mineral, gravel or sand extraction, but then says that it shall not be prohibited. Director Spackman raised the question of whether **H 510** would have a retroactive effect or not.

**Steven Strack**, Deputy Attorney General and Natural Resources Section Chief (DAG), Office of the Idaho Attorney General, was invited by **Chairman Raybould** to address **H 510**. DAG Strack stated that several aspects of **H 510** are hard to interpret. He said that one section of **H 510** exempts dredge mining from stream channel authorization permits and another section says it applies. It is hard to understand how the terms of **H 510** will apply. When looked at as a whole, there is some ambiguity and confusion.

- MOTION:** **Rep. Shepherd** made a motion to send **H 510** to General Orders.
- SUBSTITUTE MOTION:** **Rep. Gibbs** made a motion to **HOLD H 510** in committee. **Motion carried by voice vote.**
- ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 5:02 p.m.

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Representative Raybould  
Chair

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Lorrie Byerly  
Secretary