

Senate Resources & Environment Committee

Minutes
2005



MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 12, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: The meeting was called to order at 1:30 p.m. by Chairman Schroeder. As this was the first committee meeting of the Session, he welcomed the committee members and the audience of 24 people.

COMMITTEE BUSINESS: The Chairman stated that it was his duty, as the chairman, to make sure the committee has enough information to make judicious decisions. If any member feels he needs more information on a subject or issue, just let him know.

Chairman Schroeder said that the review of the Rules would be assigned to subcommittees, with the subcommittee chairmen reporting back to him with recommendations. Assignments are as follows:

DEPARTMENT OF FISH AND GAME
Senator Brandt, Chairman
Senator Little
Senator Langhorst

OUTFITTERS AND GUIDES LICENSING BOARD
Senator Burtenshaw, Chairman
Senator Brandt
Senator Langhorst

DEPARTMENT OF WATER RESOURCES
Senator Burtenshaw, Chairman
Senator Cameron
Senator Stennett

DEPARTMENT OF ENVIRONMENTAL QUALITY
Senator Pearce, Chairman
Senator Williams
Senator Stennett

The Chairman announced that there would be a briefing on the Nez Perce Settlement Agreement, Friday, January 14, by Clive Strong from the Attorney General's Office. A visit to the Department of Water Resources will be Monday, January 17 and vans will be available for transportation at 1:30 p.m.

SPEAKER: Chairman Schroeder introduced **Jim Caswell, Administrator for the Office of Species Conservation**, who will brief the committee on Wolf Management.

Mr. Caswell provided handouts (attached) from which he will be referencing his remarks. He then introduced Jeff Allen who will assist him in answering technical questions.

Handout #1 is a letter from Governor Kempthorne to Secretary Gale Norton, Department of the Interior, regarding the wolf management plan.

Handout #2 is a comparative summary on wolves {Final Rule Compared to the 1994 Experimental Population Special Rules and the 2003 4(d) Rule, pages 64-70}.

Handout #3 refers to the Pacific Coast Salmon Recovery Fund.

Handout #4 is a chronology of the Bull Trout.

Mr. Caswell said at the present time there are approximately 450 wolves in Idaho. This number does not include the 155 pups that were produced this year. There are 67 groups of wolves, made up of 51 packs, with the difference not meeting the criteria in the 10 J Rule to be called a pack. It represents an 18% growth rate. There are 84 collars out - 60 working and 24 missing. The time frame in which these collars have been reported missing has been within the last three months. Thirty wolves have been killed this year from depredation actions - 17 in Idaho and 13 in Montana.

An inquiry was made as to what area was covered and Mr. Caswell stated that it was the 10j area and that there is not sufficient documentation with regard to the area north of I 90.

Referring to Handout #2

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Geographic Area - Same as 1994 rules. This special rule applies only to wolves within the areas of two NEPs, which together include Wyoming, the southern portion of Montana, and Idaho south of Interstate 90 but only in States or on Tribal lands that have State or Tribal wolf management plans accepted by the Secretary.

Interagency Coordination (Section 7 Consultation) - Same as 1994 rules. Federal agency consultation with the Service on agency actions that may affect gray wolves is not required within the two NEPs, unless those actions are on lands of the National Park System or the National Wildlife Refuge System.

Take in Self Defense - Same as 1994 rules. Any person may take a wolf in self defense or in defense of others.

Protection of Human Life and Safety - Same as 1994 rules. The Service, or our designated agents, may promptly remove (that is, place in captivity or kill) any wolf determined by the Service or designated agent to be a threat to human life or safety.

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Opportunistic Harassment - This may be done in a non-injurious manner without Service written authorization.

Intentional Harassment - The Service (or our designated agent) can issue

a 1-year take authorization to private landowners and to Federal permittees after verified persistent wolf activity on their private land or allotment. The written take authorization would allow intentional and potentially injurious, [less-than-lethal munitions] but non-lethal, harassment of wolves.

Taking wolves “in the act” of attacking livestock on PRIVATE land by private individuals without prior written authorization - Landowners on their own private land may take a gray wolf attacking...or in the act of attacking...their livestock [includes livestock herding and guarding animals] or dogs. Such take must be reported in 24 hours and injured or dead livestock or dogs or physical evidence that would lead a reasonable person to believe that an attack would occur at any moment on livestock or dogs must be evident to verify the wolf attack.

Mr. Caswell pointed out that “private land” includes not only private land, but also state and county land. “Federal land” consists only of federal land.

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Taking persistent problem wolves “in the act” on PUBLIC land by public land permittees - “Livestock” is defined to include livestock herding or guarding animals. Public land is only Federal land. Livestock producers and some permittees with an active valid Federal grazing or outfitting/guiding permits could take wolves that were attacking or in the act of attacking livestock on their active Federal allotment or area of use—without written take authorization. Such taking must be reported within 24 hours and physical evidence of an attack or in the act of an attack by wolves on livestock must be evident.

Additional taking by private citizens on their PRIVATE LAND or an active GRAZING ALLOTMENT for chronic wolf depredation - If we or our designated agent confirm a depredation on livestock or dogs on private property or livestock on a public grazing allotment, and we have confirmed that wolves are routinely present on that property and present a significant risk to livestock or dogs, and have authorized agency lethal control—the private landowner or grazing permittee that experienced the depredation may receive written authorization from us or our designated agent to kill “shoot on sight” those problem wolves on their private land or their grazing allotment, under specified conditions.

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Government take of PROBLEM WOLVES - Same as 1994, with wording clarifications. The Service or our designated agent may take any wolves that attack livestock or dogs once on private or public land—or that twice in a calendar year attack domestic animals other than livestock or dogs on private land. Taking may include non-lethal measures such as aversive conditioning, non-lethal control, and/or translocating wolves or lethal control. There are no agency limitations based on the total numbers of wolves or the sex and age of the wolves being controlled. Criteria to determine when take will be initiated are—(1) physical evidence of the attack, (2) reason to believe that additional attacks will occur, (3) no evidence of unusual wolf attractants, and (4) any previously specified animal husbandry practices have been implemented, if on public lands.

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Government removal killing or the translocation (capture and moving) of wolves to reduce impacts on wild ungulates - Similar to the 1994 rules, but wolves may be lethally removed by State or Tribal personnel. If gray wolf predation is negatively impacting localized wild ungulate populations at an unacceptable level, as defined by the State and Tribes [on reservations] wolves may be lethally removed. Removal can only occur after the State or Tribes have identified other possible mitigative measures or remedies, and they have completed a peer-reviewed written proposal that has undergone public comment. The Service will determine if such removal will inhibit maintaining wolf recovery levels before any such removal could be authorized.

Incidental take - Same as 1994 rules with minor word changes for clarification. Any person may take a gray wolf if the take is incidental to an otherwise lawful activity, and if reasonable due care was practiced to avoid such taking, and such taking was reported within 24 hours. [We may allow additional time if access is limited.]

Permits for recovery actions that include take of gray wolves - Same as the 1994 rules. Available for scientific purposes, enhancement of propagation or survival, zoological exhibition, educational purposes, or other purposes consistent with the Act (50 CFR 17.32)

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Additional taking provisions for agency employees - Same as the 1994 rules, except provision (H) was added. Any employee or agent of the Service or appropriate Federal, State, or Tribal agency, who is designated in writing for such purposes by the Service, when acting in the course of official duties, may take a wolf from the wild, if such action is for (A) scientific purposes; (B) to avoid conflict with human activities; (C) to relocate a wolf within the NEP areas to improve its survival and recovery prospects; (D) to return wolves that have wandered outside of the NEP areas; (E) to aid or euthanize sick, injured, or orphaned wolves; (F) to salvage a dead specimen which may be used for scientific study; (G) to aid in law enforcement investigations involving wolves or (H) that allows such take of wolves to prevent wolves with abnormal physical or behavioral characteristics, as determined by the Service.

The States or Tribes can become "designated agents" to implement the 10j regulations through cooperative agreements with the Service or under an MOA with the Secretary of the Interior - The States and Tribes with approved wolf plans can implement all or select parts of this rule through "designated agent" status in cooperative agreements with the Service. Agency coordination would occur on a daily or weekly basis. The States and Tribes can implement all of this rule including all compatible portions of their approved wolf management plans under an MOA with the Secretary of the Interior. No management outside of the provisions of this rule is allowed unless additional public comment is solicited and this rule is modified. Under an MOA, State or Tribal coordination with the Service must only occur on a yearly basis. No public hunting or trapping can occur without a determination of excessive population pressure.

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Land-use restrictions on private or Federal public lands - Land-use restrictions may only be employed for wolf recovery purposes on National Parks and National Wildlife Refuges except between April 1 and June 30, when land-use restrictions may be employed to prevent lethal take of wolves at active den sites on Federal public lands.

Mr. Caswell said he would talk next about the Pacific Coast Salmon Recovery Fund (PCSRF), **Handout #3**. Inserted into the minutes is a copy of that handout.

PACIFIC COAST SALMON RECOVERY FUND

In fiscal year 2000 Congress established the Pacific Coastal Salmon Recovery Fund (PCSRF) to provide grants to Pacific Northwest States to assist salmon conservation and recovery efforts. The PCSRF has an overarching goal of contributing to the conservation, restoration, and sustainability of Pacific salmon and steelhead. Progress towards this goal is obtained through implementation of projects designed to meet five program objectives: 1) salmon habitat protection and restoration, 2) watershed and subbasin planning and assessments, 3) salmon enhancement, 4) salmon research, monitoring and evaluation, and 5) public outreach and education.

Unfortunately, Idaho was not included in the first four PCSRF disbursements. Since the inception of the PCSRF and its concurrent disregard for the Gem State's pivotal role, our congressional delegation and Governor Kempthorne had diligently lobbied for Idaho to be given a seat at the PCSRF table. Last year those industrious efforts paid off.

Idaho was included in the allocation of PCSRF funds for the first time in fiscal year 2004 and was allocated \$4,923,000. In order to provide for the orderly and effective state allocation and administration of PCSRF funds in Idaho, the Idaho Governor's Office of Species Conservation (OSC) entered into a Memorandum of Understanding (MOU) with the National Marine Fisheries Service. Under this MOU, OSC serves as the recipient and administrator of the Idaho PCSRF funds and is responsible for disbursing funds through written sub-agreements with funded applicants.

OSC established a PCSRF Board to review all project submittals and make the subsequent funding decisions. In the fall of 2004, 47 projects were submitted to the Board seeking over \$11 million dollars in funding. Ultimately the Board funded 22 projects, the majority of these projects meeting the objective of protecting and restoring salmon habitat. The Board sought out projects which would work in concert with local efforts to protect both salmon and multiple-use based rural economies. Amongst the funded projects are efforts to:

- .fence riparian corridors
- .reconnect tributaries
- .address unscreened irrigation diversions
- .replace non-functioning culverts
- .protect currently productive habitat
- .increase funding for water leasing
- .address sedimentation and nutrient loading
- .monitor the effectiveness of all restoration efforts.

For Fiscal Year 2005 Idaho was appropriated approximately \$4.5 million. OSC has contacted all interested parties and a new round of project proposals will be submitted in late March.

The PCSRF offers another resource for the state as we work in the Salmon and Clearwater basins to restore and protect our salmon and steelhead populations. Our existing locally based recovery efforts have made it possible for the state to get these new dollars on the ground quickly where they can best benefit anadromous fish and help protect property owners who contribute to our rural economies.

The last presentation by Mr. Caswell was regarding Bull Trout, **Handout #4**. Inserted into the minutes is a copy of that handout.

BULL TROUT CHRONOLOGY

- JULY 1996 Phil Batt releases his State of Idaho recovery plan to preclude listing.
- JUNE 1998 Bull trout listed as threatened under ESA.
- JANUARY 2002 USFWS under settlement agreement agrees to designate critical habitat by September 2004.
- NOVEMBER 2002 Draft recovery plan out for public comment.
- NOVEMBER 2002 Draft critical habitat out for public comment: In Idaho, 8,958 stream miles and 205,639 acres of lakes and reservoirs proposed.
- MARCH 2003 Idaho responds to draft recovery plan, lambasting it for preserving "everything, everywhere," and not focusing on recovery need.
- MA Y 2003 Idaho responds to proposed critical habitat designations, lambasting it for including every stream segment a bull trout was thought to inhabit.
- JUL Y 2003 USFWS runs out of funding for bull trout activities, suspends work on critical habitat and recovery plan for 6 months.
- AUGUST 2003 Governor / Congressional delegation request 5-year status review.
- APRIL 2004 Draft economic analysis for bull trout released.
- APRIL 2004 USFWS agrees to 5-year status review. Agrees to suspend work on recovery plan until review is completed.
- MA Y 2004 Idaho responds to economic analysis, lambasting it for considering only federal lands and not downstream water users.
- SEPTEMBER 2004 USFWS finalizes critical habitat in Idaho: 306 stream miles and 27,296 acres of lakes, roughly 3% and 13%, respectively, of the original proposal.
- JANUARY 2005 States of Idaho and Montana deliver 5-year status review to USFWS, indicating bull trout are widely abundant, well-distributed, and in no need of listing under the ESA. Specifically, the report shows that bull trout:
1. Are widely distributed and have 681 local spawning populations;
 2. Are relatively abundant with a population of approximately 1.24 million individuals;
 3. Show an increasing population trend since 1994;
 4. Show good population and Core Area connectivity, with migratory bull trout present in 29 of 36 Core Areas; and
 5. Are at low risk of extinction based of recent population viability analysis.

INTRO- DUCTIONS:

Chairman Schroeder welcomed and introduced **former Senator Judi Danielson**. She now serves on the Northwest Power Planning Council.

Also introduced were **Austyn Lewis**, Page, from Middleton, sponsored by Senator Little, and **Justin Saydell**, Legislative Intern, a Junior at the University of Idaho and is from Cleveland, Ohio.

ADJOURN:

The Chairman thanked Mr. Caswell for his presentation, then adjourned the meeting at 2:55 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 14, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: Chairman Schroeder called the meeting to order at 1:30 p.m.

COMMITTEE BUSINESS: He announced that the Idaho Rangeland Resources Commission has submitted their 2005 report and it is in the notebooks. If any committee member wishes for the Commission to make a presentation before the committee, let him know. Also in the notebook is the "Memorandum of Agreement Between the State of Idaho and the Nez Perce Tribe Concerning Coordination of Wolf Conservation and Related Activities in Idaho" which Senator Brandt requested at the last meeting.

The Chairman reminded the committee about next Monday's tour to the Water Resource office and that transportation will be provided.

SPEAKER: Briefing the committee on the Nez Perce Settlement Agreement was **Mr. Clive Strong, Division Chief of Natural Resources, Office of the Attorney General.**

Mr. Strong said his purpose is to provide background information on the agreement. (1) How we got there; (2) What's in the agreement, and (3) How we will proceed forward. A copy of the Snake River Water Rights Agreement of 2004 (black notebook) was delivered to all (35) Senators earlier in the week. A summary sheet has been provided today, Handout #1, attached.

Mr. Strong said it all goes back to the Snake River Basin Adjudication (SRBA). When the process was started, one of the concerns was to make sure that there was an adequate catalog of all water rights within the state of Idaho for the purpose of administration. Water rights, under state law, are based on a priority system. Under the United States Constitution, the federal government can create federal reserved water rights.

In the case of *Winters v. the United States*, the issue was whether the federal government had reserved water for the Fort Peck Reservation in Montana. Because the water near the reservation had been fully

appropriated under state law, there was not enough water for the Tribe to irrigate their land. *Winters* held that the setting aside of a reservation for an Indian tribe creates an implied reservation of rights to water in an amount sufficient to fulfill the purposes of the reservation. *Winters'* rights have a basis in Federal law that is separate from water rights created under a state's legal system of "prior appropriation", which is the law in Idaho.

The Nez Perce Tribe filed four types of claims: off-reservation and on-reservation instream flows; springs and fountains; and consumptive use claims. There were 1,888 springs and fountains claims filed on the Snake River Basin Adjudication and 1,263 were filed on state and private lands. Consumptive use claims include domestic, agricultural, commercial and industrial needs of the tribe on tribal lands.

These claims were filed in 1993 by the Nez Perce Tribe. There were some early efforts to resolve the claims through negotiations. Those efforts failed and litigation began. In 1998, Idaho Power and the water users upstream from Hells Canyon reopened negotiations. Efforts were made to find a more comprehensive solution to benefit all water users within the state and the tribe. The parties approached the Court for an order on mediation. The state agreed to participate in negotiations, subject to four key conditions: no recognition of any federal instream flow claims for the Tribe; must be a statewide settlement; could not injure an existing party's water rights; and no stay of litigation.

Mr. Francis McGovern, Professor of Law from Duke University, was appointed mediator for the negotiations. One of the initial considerations was concern by the parties that the negotiations be confidential to avoid prejudice to any party's litigation position. Mr. Strong said it is important to note that the order did not create secret negotiations, but rather allowed for a non-threatening environment in which to discuss sensitive issues. The State had representatives at those negotiations, including Mr. Strong, and they briefed the Governor, the Water Resource Board, and the House and Senate Resource Committees, as they moved forward in the negotiation process.

Mr. Strong said the preceding remarks explain how we got to where we are today with the proposed settlement. There are two alternatives -- move forward with the settlement or move forward with litigation.

Mr. Strong then referred his next remarks to Handout #1, which are inserted into the minutes.

SUMMARY OF NEZ PERCE TERMSHEET

1. Nez Perce Tribal Component
 - a. 50,000 acre-feet consumptive use water right for use on tribal lands. Subordinated to existing uses.
 - b. \$50 million multiple-use water and fisheries resource trust fund
 - c. \$23 million domestic water supply and sewer system fund
 - d. \$10.1 million in lieu of rental payment
 - e. \$13 million in Salmon/Clearwater Habitat Trust Fund

- f. MOA regarding release of 200,000 acre-feet from Dworshak
- g. Transfer of management control over Kooskia Hatchery to Tribe and joint management of Dworshak Hatchery
- h. Up to \$7 million in value of BLM Lands within former reservation boundaries
- i. Recognition of springs and fountain claims on federal lands
- j. \$200,000 mitigation fund for local governments for lost PILT

2. Salmon/Clearwater Component

- a. IWRB Instream Flows -subordinated to future DCMI uses and specified amount of water for other uses
- b. Section 6 Cooperative Agreement(s)
 - 1. Voluntary instream flow program for ESA protection
 - 2. Voluntary forestry program for ESA protection
 - 3. Voluntary habitat improvement program for ESA protection
- c. \$25 million habitat trust fund for Section 6 Cooperative Agreement

3. Snake River Flow Component

- a. Swan Falls Minimum Flows decreed
- b. Flow augmentation program established pursuant to state law
- c. \$2 million for mitigation of local impacts from flow augmentation
- d. Opportunity for additional water for agriculture in dry years from Boise Project
- e. United States may acquire up to 60,000 acre-feet of natural flows for flow augmentation; however, water must be rented through state water bank

4. General Provisions

- a. Dismissal with prejudice of all tribal instream flow claims
- b. Dismissal with prejudice of all springs and fountain claims on private and state lands
- c. 30-Year biological opinion for Snake and Salmon/Clearwater River Components
- d. No vacatur of Judge Wood's decision

PATH FORWARD FOR NEZ PERCE INSTREAM FLOW CLAIMS

1. Settlement Path

- A. State Legislative Approval
 - 1. Ratification Statute
 - 2. Reauthorization of Idaho Code § 42-1763B for 30 years
 - 3. Approval of A and B List Minimum Streamflows
- B. Nez Perce Tribal Approval
- C. Issuance of Upper Snake River Biological Opinions
- D. Section 6 Agreements for Idaho Forestry Program and selected streams
- E. SRBA Issuance Judgment and Decree approving settlement
- F. Above actions completed by March 31, 2005

2. Litigation Path

- A. Oral argument before the Idaho Supreme Court on Judge Woods' decision in May 2005. A decision from the Idaho Supreme Court would be expected in late 2005 or early 2006 followed by a petition for cert. to the United States Supreme Court.
- B. Reinstigate discovery in the springs and fountain subcase. A trial in this subcase would likely occur in August, 2005. The SRBA district court would likely issue an opinion during 2006, which would be followed by an appeal to the Idaho Supreme Court and potentially the United States Supreme Court.

- C. A scheduling order would be issued for discovery and trial of the Nez Perce on-reservation instream flow claims. Litigation of this subcase would take between 3 and 4 years.
- D. The Nez Perce consumptive use claims would be filed with the SRBA district court during 2005. A scheduling order for trial and discovery would be issued by the SRBA district court. Litigation of this subcase would take between 3 and 4 years.
- E. ESA litigation should be expected, however, it is difficult to predict issues and length of litigation.

ADJOURN:

Chairman Schroeder thanked Mr. Strong for his presentation, then adjourned the meeting at 2:35 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 17, 2005

TIME: 1:30 p.m.

PLACE: Idaho Department of Water Resources Conference Room

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Burtenshaw, Williams, Brandt, Little, Langhorst

MEMBERS ABSENT/ EXCUSED: Senators Cameron and Stennett

CALL TO ORDER: Chairman Schroeder called the meeting to order and stated that the purpose was to tour the facilities. He then adjourned the meeting.

Director Karl Dreher gave a brief presentation regarding their former office building, the construction of their present building, and the work of the agency.

The committee members departed at 2:50 p.m. to return to the Capitol.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** January 19, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 433
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst
- MEMBERS ABSENT/ EXCUSED:** None
- CALL TO ORDER:** Chairman Schroeder called the meeting to order at 1:30 p.m.
- ANNOUNCEMENTS:** He announced that each member was given a letter from Representative Tom Trail pertaining to the Rules (Docket No. 13-0106-0401) and suggested they read it at their leisure.
- Chairman Schroeder said that while the committee members review the RS's before them, he wished to ask **Steve Barton, Special Assistant to the Director of the Idaho Department of Fish and Game**, a question before proceeding with the RS's. The Chairman's inquiry was concerning the Rule promulgated last year on the killing of rattlesnakes. Mr. Barton said it was in the Rule packet. Chairman Schroeder asked if it could be withdrawn and Mr. Barton replied that the issue with rattlesnakes was there could be four in possession (live). When asked how many could be killed in a year, Mr. Barton said he would check on that number and report back to the Chairman.
- RS 14472** Relating to Fish and Game; amending Section 36-1402, Idaho Code, to provide that the taking of any big game animal during a closed season shall be considered a flagrant violation of the law and to make a technical correction.
- Chairman Schroeder asked Mr. Barton to briefly explain this RS. Mr. Barton said the RS was to "clean up the Code" and to close a loophole on the flagrant violation portion.
- RS 14473** Relating to Fish and Game; amending Section 36-106, Idaho Code, to authorize the director of the Idaho Department of Fish and Game to reduce the bag limit or possession limit for a species under certain circumstances.
- Mr. Barton said this RS would allow the Director to reduce the bag or possession limit, rather than close the season.
- RS 14475** Relating to Fish and Game; amending Section 36-1603, Idaho code, to prohibit the retrieval of wildlife on certain lands without the permission of the owner or person in charge of the property.
- Mr. Barton said this RS would require a hunter to receive permission from

a private landowner to retrieve wildlife.

Senator Stennett inquired as to the rights of a hunter if a landlord refused permission to retrieve. Mr. Barton said that if every reasonable attempt has been made, the hunter would not be held liable.

Senator Cameron questioned if this RS would be in conflict with the code already in place.

Chairman Schroeder suggested that Mr. Barton meet with Senators Stennett and Cameron to address their concerns and to rewrite the RS, if necessary.

MOTION: **Senator Little** made the motion to send RS 14472 and RS 14473 to print. **Senator Stennett** seconded the motion. A voice vote indicated the motion passed unanimously.

Chairman Schroeder said that **Hal Anderson, Division Administrator of Planning & Technical Services for the Idaho Department of Water Resources** would present the next two RS's.

Mr. Anderson said he has provided the committee with a handout - The Comprehensive State Water Plan, South Fork Clearwater River Basin Executive Summary (attached). He said all comprehensive plans adopted by the Board must be approved by the Legislature. There is an existing plan on the Priest River Basin and RS 14598 is an amendment, providing for an annual evaluation of the operation of Priest Lake to keep water on the Kokanee Reds as long as possible. RS 14599 is associated with the South Fork Clearwater Basin Plan. It contains water management recommendations and actions to protect waterways and to pursue minimum stream flows.

RS 14598 Relating to the comprehensive state water plan; ratifying and approving the amended comprehensive state water plan for the Priest River Basin as adopted by the Idaho Water Resource Board on August 22, 2203; and declaring an emergency.

RS 14599 Relating to the comprehensive state water plan; ratifying and approving the comprehensive state water plan for the South Fork Clearwater River Basin as adopted by the Idaho Water Resource Board on June 8, 2004, to provide for designation of State Natural Rivers, to provide for designation of State Recreational Rivers, and to provide for exceptions to apply to the designated recreational rivers; and declaring an emergency.

MOTION: After some discussion, **Senator Little** made the motion to send RS 14598 and RS 14599 to print. **Senator Stennett** seconded the motion. A voice vote indicated it passed unanimously.

SPEAKER: Chairman Schroeder welcomed **Mr. Robert Meinen, Director, Idaho Department of Parks and Recreation**, who presented a report for that department.

Mr. Meinen introduced **Dean Sangrey, Division Administrator of Operations** who will be available for questions and **Jennifer Couture**, who will assist with the slide presentation.

Several handouts were provided to the committee.

- A green folder containing a map of the Idaho State Parks and a 26 page 2004-2005 Agency Orientation booklet.
- A blue folder containing information regarding Ponderosa State Park, which included a DVD, Information & Reservations leaflet, agency projects (3 pages), future park investments (5 pages), and two maps of the area. This state park was addressed in the Governor's budget.

Mr. Meinen said the Department manages 30 state parks and recreational trail ways. They also administrate the registration program for snowmobiles, boats and off-highway vehicles. Money from registrations and other sources goes to develop and maintain trails, facilities and programs statewide for the people who use those vehicles. He said the state is divided into three districts - North, South and East and that Ms. Couture would show a slide of each state park as it is discussed.

Following are the North Region Parks, locations and recent improvements:

- Priest Lake, Coolin - developing Lionhead master plan; continuing fuels reduction grants and work at Indian Creek.
- Round Lake, Sagle - replacement of park grills; miscellaneous repairs to day-use and program areas; soliciting grants for replacement of potable water system and aging pit toilets.
- Farragut, Athol - Gilmore campground (100 units); renovation of KNR; development of six volunteers sites.
- Trail of the Coeur d'Alenes, Coeur d'Alene - grand opening; certification (pending).
- Coeur d'Alenes Old Mission, Cataldo - sacred encounters; restoration of Mission facade.
- Heyburn, Plummer - upgrade to Chatcolet water system; ponderosa pine thinning; collection of MVEF; purchase of "The Idaho", an excursion boat.
- McCroskey, Coeur d'Alene - solar powered well and water system at Mission Mountain; GIS (trails, roads, campsites, picnic areas, viewpoints and interpretive signs).
- Dworshak, Orofino - engineering study of Three Meadows Road; improvements to large boat mooring; large house boat marina feasibility project.
- Hells Gate, Lewiston - Lewis and Clark Discovery Center completed; Jack O'Conner Hunting Heritage and Education Center agreement; camping cabins.
- Winchester Lake, Winchester - initiated snowshoe rental service; park-wide trail restoration project underway.

Following are the South Region Parks, locations and recent improvements:

- Ponderosa, McCall - park entrance; RV group campsites; expanded day-use and visitor service; Kokanee Cove; Regional Administration Learning and Retreat Center.
- Lake Cascade, Cascade - marina preliminary study; implemented reservation system/MVEF; lease 55 acres of prime shoreline

(YMCA).

- Eagle Island, Eagle - implementation of master plan; new park manager.
- Lucky Peak (includes Spring Shores, Sandy Point, Discovery, Idaho City Yurts), Boise - new yurt in Idaho City area; new day-use restroom at Discovery.
- Bruneau Dunes, Mountain Home - campground improvements (48 Broken Wheel, 50 new units in group camp); irrigation upgrades; Observatory Plaza designed with construction in Fall, 2005.
- Three Island Crossing, Glenns Ferry - replacement of aging sewer lift station; repaved park roads; camping cabins.
- Thousand Springs Park District (Malad Gorge, Billingsley Creek, Niagara Springs, Thousand Springs, Box Canyon), Hagerman - ADA restroom access remodel (Malad); emergency repairs to Vardis Fish Pond; additional community access/events (Billingsley Creek).

Following are the East Region Parks, locations and recent improvements:

- Land of the Yankee Fork, Challis - new RV dump station; volunteer site. Future possibilities - Bayhorse and Lost River Recreation Trail.
- Castle Rocks, Almo - Smoky Campground project underway (80 units); deck and visitor contact improvements.
- City of Rocks, Almo - new toilets; sidewalk improvements at Visitor Center.
- Lake Walcott, Rupert - camping cabins; implementation of reservation system; new brochure.
- Massacre Rocks, American Falls - new pump house; restroom upgrades; camping cabins.
- Bear Lake, Paris - group shelter; campground improvements; North Beach improvements; development of administration site at St. Charles.
- Harriman, Island Park - premium nordic skiing; new yurt; new restroom.
- Henrys Lake, Island Park - three new volunteer sites; overlay road repair.

Other programs:

- Boating (motorized/non-motorized) - Whitewater Wisdom Campaign; law enforcement training coordinator.
- Motorized Trails - OHV education coordinator; proposed UTV Legislation in 2005.
- Non-motorized Trails - development of electronic topographic trail maps for Park N' Ski and Premium Nordic Ski areas; Trail of the Coeur d'Alene's.

The committee members asked questions throughout the presentation. Several questions revolved around ATV's and utility type vehicles.

Senator Stennett suggested there be more “teeth in the law” with greater penalties for violators. He said 98% observe the law, but 2% cause problems for everyone. Chairman Schroeder asked Mr. Meinen if he would contact the leadership of the ATV organization and work out the concerns expressed by some of the committee members.

ADJOURN:

The Chairman thanked Mr. Meinen for his presentation, then adjourned the meeting at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 21, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Cameron

CALL TO ORDER AND ANNOUNCEMENTS: Chairman Schroeder called the meeting to order at 1:30 p.m. He reminded the committee that next Monday, the committee picture will be taken at 1:10 p.m. in the Senate Chamber.

RS 14475 Relating to Fish and Game; amending Section 36-1603, Idaho code, to prohibit the retrieval of wildlife on certain lands without the permission of the owner or person in charge of the property

The Chairman said that last Friday when RS 14475 was presented, Senators Cameron and Stennett had some concerns. He asked that they meet with Mr. Steve Barton, Special Assistant to the Director of the Idaho Department of Fish and Game who presented the RS, to resolve the problem.

Chairman Schroeder then asked Mr. Barton to brief the committee on the result of that meeting.

Mr. Barton reported that in the Waste statute, it says that the carcass has to be reasonably accessible in order for waste to come into play. If the landowner will not allow you on his property, then you cannot be charged for waste. Mr. Barton said that explanation resolved the concerns of Senators Stennett and Cameron.

MOTION **Senator Little** made the motion to send RS 14475 to print. **Senator Langhorst** seconded the motion. A voice vote indicated it passed unanimously.

APPOINTMENTS The Chairman said there are two appointments to the **Idaho Fish and Game Commission** and they are **Gary Power and Wayne Wright**. He asked Mr. Power to speak first.

Mr. Power is from Salmon, Idaho and is retired from the Department of Fish and Game after 28 years. He began his career in 1966 as a bioaide on the Lochsa elk study. He has served in different capacities in Yellow Pine, Lewiston, McCall and Kamiah. In 1986 he was transferred to

Salmon as a Regional Wildlife Manager. Since retirement, he has worked as an investigator for the Outfitters and Guides Licensing Board; project coordinator for Lemhi County on the winter predation study; and as a white water and fishing guide on the Middle Fork and Main Salmon Rivers.

Mr. Power succeeds John Burns and the term is from 07/02/2004 to 06/30/2008. Senator Burtenshaw will be the sponsor of Mr. Power.

Wayne Wright is from Twin Falls, Idaho and retired last year from his medical practice. He received his M.D. degree from the University of Oregon Medical School; served an Internship at William Beaumont General Hospital; Internal Medicine Residency at William Beaumont General Hospital; Cardiology Fellowship at the University of New Mexico Medical School; Internal Medicine Residency at the University of New Mexico Medical School. He served in the U.S. Army (1970-74) and achieved the rank of Major. Dr. Wright served as Chief of Staff for two years at the Magic Valley Regional Medical Center (1981-82) and was with the Southern Idaho Cardiology Associates from 1976 to 2004. He said that he wanted to spend some time in public service and to give something back to the state of Idaho as it had been good to him.

Dr. Wright succeeds Frederick Wood and the term is from 07/02/2004 to 06/30/2008. Senators Stennett and Cameron will be the sponsors of Dr. Wright.

Chairman Schroeder announced that on Monday, January 24, consideration would be given to these Gubernatorial appointments.

SPEAKER:

The Chairman welcomed **Mr. Steven Huffaker, Director of the Department of Idaho Fish and Game**, who will present a report from his department.

Prior to Mr. Huffaker giving his report, the committee and Mr. Huffaker had a discussion regarding pheasants and their habitat (or lack of). At the conclusion of that discussion, Chairman Schroeder asked Mr. Huffaker if he would provide the committee with a 10 year harvest report.

Mr. Huffaker gave a report on the "Idaho Department of Fish and Game 2004 Significant Accomplishments". That report has been inserted in the minutes.

Idaho Department of Fish and Game 2004 Significant Accomplishments

1. Goal: Sustaining Fish, Wildlife, and Habitats upon Which They Depend

1.1 Worked with the Office of Species Conservation, other western states, and the US Fish and Wildlife Service to complete a **Biological Assessment and State Conservation Plan for Sage Grouse**, which helped support the Department of the Interior's decision not to list the species under the Endangered Species Act. The Department also worked with stakeholders to develop local area conservation plans and projects in the Southwest, Magic Valley, Southeast and Upper Snake regions to help conserve the species and reduce the potential for future listing.

1.2 Played a leadership role on the Interagency Grizzly Bear Committee in **efforts to de-list the Grizzly Bear in the Yellowstone Ecosystem** by assisting in monitoring the population and avoiding conflicts with humans in the Upper Snake Region of Idaho. The Department also continued successful efforts to conserve and restore populations in the Panhandle and Clearwater regions by reducing conflicts between humans and bears through improving sanitation in occupied and potential habitat and providing the public with basic information on how to avoid problems with bears. Field staff continued to provide technical assistance to local communities and other State agencies regarding avoiding conflicts and conserving Grizzly Bears.

1.3 Worked with the Office of Species Conservation, Nez Perce Tribe and the US Fish and Wildlife Service to amend existing rules and move towards **delisting the Gray Wolf** while gaining more flexibility to manage the species under the State's approved plan. The Department also trained staff statewide in preparation for future state management of wolves, hired temporary staff paid with Federal funds to monitor the expanding wolf population and stepped up monitoring of selected elk and deer populations to detect effects of wolves on these game animals.

1.4 Redirected staff and developed the basic elements of a **new Mule Deer Initiative** in which the Department will do all it can to improve conditions for mule deer by addressing habitat, populations, predators, hunting access as well as public awareness and outreach. This is the Department's highest priority wildlife program for 2005.

1.5 The Southwest Region worked with legislators, county commissioners, and Winter Feeding Advisory Committee members to improve communication and enhance cooperation and understanding of the key issues involved in **feeding deer and elk in the Garden Valley area**.

1.6 **Relocated 38 California Bighorn Sheep** from Oregon and Nevada to the Independence Peak area and trapped and relocated 68 Sharp-tailed Grouse in the Magic Valley Region for release in Owyhee County.

1.7 Sponsored and actively participated in **Senator Crapo's Elk Collaborative** project to gain broad-based support for restoring Clearwater elk herds.

1.8 Expanded aggressive and cost-effective efforts to **control noxious weeds** on Craig Mountain and other wildlife areas in cooperation with state and federal agencies and The Nature Conservancy.

1.9 Completed a status review and population **viability analysis for Bull Trout** that demonstrates the low risk of extinction. These products provide a foundation for Idaho's **request** to the US Fish and Wildlife Service **to de-list the species**.

1.10 Completed the **Conservation Plan for the Yellowstone Cutthroat Trout** and developed strong public support for Rainbow Trout harvest in the South Fork Snake River to protect Yellowstone Cutthroat Trout and maintain the population above the level that might warrant listing the species.

1.11 Worked closely with local irrigators and other state agencies to negotiate base flows and flushing flows for the Lower Lemhi River that benefit both fish and irrigators during critically low spring flows.

2. Goal: Meet the Demand for Fish and Wildlife Recreation

2.1 Improved and expanded fishing opportunities as promised. Examples include:

- Produced **“Take Me Fishing”** TV series with information on how to start kids fishing and where to take them for a chance to fish close to home.
- Completed and dedicated the new **Deer Creek Reservoir** in the Clearwater Region and restored **three urban fishing ponds** intended for family use in the Southwest Region.
- Controlled pikeminnow and introduced over 100,000 adult yellow perch into **Cascade Reservoir** in the Southwest Region.
- Implemented a national **award-winning sterile Rainbow Trout hatchery program** to expand fishing opportunities while avoiding conflicts with native trout in waters statewide.
- Obtained the first reliable **Lake Trout population estimate for Lake Pend Oreille** using experimental trap netting to provide important predation information needed to identify the best options to **restore the popular Kokanee fishery**.
- Justified federal permits to continue salmon and steelhead seasons and allow Idaho anglers access to surplus hatchery fish while protecting listed wild stocks.

2.2 **Expanded the “Access Yes Program”** to increase public hunting opportunities on 222,000 acres and acquired public access through private land for hunting on over 250,000 acres of public land statewide. In the Panhandle Region, a permanent easement was acquired from the Potlatch Corporation to provide hunting and fishing access to over 19,000 acres in the St Joe River drainage.

2.3 Continued the **Pheasant Initiative in the Clearwater Region** by providing technical assistance to landowners with funding from the USDA Natural Resources Conservation Service. This project is specifically intended to improve habitat, increase pheasant populations and improve hunting in the pilot project area.

2.4 **Revised the White-tailed Deer Management Plan** with input from the public to address range-wide issues and the increased interest in hunting the species.

2.5 Redirected staff effort and funding to **enhance the Hunter Education Program** by, among other things, updating the course final exam, offering an On-line Course to 200 individuals, including a field day for graduates, and purchasing 100 new .22 cal. rifles for use by students.

2.6 **Expanded the 2004 Mountain Goat population surveys**, which resulted in information supporting a significant increase in hunting permits for next year.

3. Goal: Working with Others to Improve Public Understanding of and Involvement in Fish and Wildlife Management

3.1 Hosted a successful and well attended 2004 annual conference of the **Western Association of Fish and Wildlife Agencies** in Sun Valley.

3.2 Revised and expanded the **Department's website** to make it more user friendly, easier to navigate, and more informative.

3.3 Hosted **23 local meetings with license vendors** throughout the State to provide training and communicate with them regarding the new IWILDS system and Internet and telephone license sales options to improve customer service.

3.4 Received two grants from the Recreational Boating and Fishing Foundation to assist in **developing "Best Practices" for the Aquatic Education Program**. Also received a \$20,000 grant from the Idaho Fish and Wildlife Foundation to serve as seed money for a new, free publication for hunters, anglers, and wildlife viewers to be widely distributed through license vendors and field offices.

3.5 The Communications Program and other staff in Headquarters and the regions received **five awards from the Association for Conservation Information** for outstanding video and print public education and outreach products, and the film "Fast Food: A Predator 's World" won a first place award at the International Wildlife Film Festival.

3.6 With funding from the Citizens Against Poaching (CAP) Board, the Enforcement Program acquired a **statewide violation information sharing database** to assist the officers.

3.7 Formed a partnership with State and Federal agencies for long-term **monitoring studies** of wildlife movements relative to **Highway 95 improvements** in north Idaho with funding from the Department of Transportation.

3.8 In cooperation With Ducks Unlimited, restored and assumed management for 623 acres of **Smith Creek wetlands** and restored 70 acres of **wetlands in the Panhandle Region** to benefit waterfowl and other wildlife while providing new hunting opportunities.

3.9 Continued work and made good progress with local community partners on the **Water Life Center in Sandpoint**, the **Jack O'Connor Hunting and Education and Heritage Center in Lewiston** and the **Outdoor Classroom in Salmon**.

4. Goal: Enhance the Department's Capability to Manage Fish and Wildlife and Serve the Public

4.1 Completed and moved into the new **Idaho Falls Regional and Nampa Fish Research Offices** with funding assistance from the Idaho Fish and Wildlife Foundation.

4.2 Developed plans and started construction on new, **right-sized, and efficient regional offices in Jerome, Lewiston, and Salmon** with the assistance of the Foundation.

4.3 **Modified Activity Based Costing** program resulting in a significant decrease in time spent on coding requirements and aligned codes to the strategic goals of the Department. This change provides the ability to use other State systems rather than creating/maintaining systems unique to IDFG.

4.4 **Implemented new IWILD system** on time with vendor terminal sales, internet sales, and telephone sales all operating out of one database.

4.5 **Eliminated printing approximately 40,000 pages/month** of standard accounting reports from the state system (STARS).

4.6 Created **two Regional Investigators by redirecting positions** to deal with the most serious wildlife crimes region-wide. These investigators have initiated and coordinated complex investigations that have already resulted in successful prosecution.

4.7 **Increased recruitment efforts**, sending veteran officers to their Alma Maters, resulting in an increased number of qualified candidates **for Conservation Officer positions**.

4.8 Implemented the new **Headquarters information technology backup and recovery system** to protect costly loss of data and services.

4.9 Implemented **Satellite/DSL high-speed connections to remote offices** in McCall, Caldwell, Cabinet Gorge, and Orofino.

4.10 **Developed a strategic plan**, The Compass, to provide broad direction and guide the Department's activities for the next 15 years. The Plan has been provided to the Commission for final approval.

4.11 **Developed a specific Department Lands Policy to implement the Fish and Game Commission's policy**, which provides broad guidance to the Department in acquiring land with exceptional benefits for fish and wildlife. The Department policy spells out the process the Department will follow in acquiring

land.

SPEAKER:

Following his presentation, Mr. Huffaker introduced **Mr. Jim Unsworth, Wildlife Bureau Chief**, who gave a report on the Mule Deer Initiative (Handout #1, attached).

Mr. Unsworth said the Mule Deer Initiative is the Fish and Game's number one priority at the present time. He stated that the objective is to enhance mule deer habitat, increase mule deer populations, and improve hunter satisfaction. The scope of the program is statewide, as the agency is concerned about mule deer everywhere, with the effort being in the southeast part of the state.

The agency has three goals: (1) Implement coordinated and integrated habitat, population, and predator management projects to benefit mule deer. (2) Work with local hunters to provide desired types of hunting opportunities. (3) Increase public understanding of, and support for Idaho's mule deer management program.

Some of the agency's actions they are taking are as follows:

- Working with landowners to improve private lands (interseeding CRP)
- Collaborating with state and federal land managers to improve mule deer habitat (aspen restoration and juniper management)
- Implementing targeted predator management activities (cooperative project with Wildlife Services)
- Monitoring mule deer abundance, survival, and population limiting factors (radio-collared fawn project)
- Encouraging access to private land and through private land to public land (Access Yes!)
- Enlisting sportsmen involvement in all mule deer management activities (bitterbrush planting)

**INTRO-
DUCTIONS:**

At the conclusion of Mr. Unsworth's presentation, Mr. Huffaker said he would like to introduce the members of the **Fish and Game Commission**. **In attendance were Marcus Gibbs, Nancy Hadley, Alex Irby, John Watts, and Cameron Wheeler. Wayne Wright and Gary Power had previously been introduced.**

SPEAKER:

Mr. Huffaker then introduced **Mr. Steve Nadeau**, who talked about Wolf Management.

Inserted into the minutes is Handout #2 from which Mr. Nadeau referenced his remarks.

**Idaho Wolf Fact Sheet
December 31, 2004**

2004 Idaho Wolf Status

- .Estimated minimum of 418 wolves statewide
- .43 packs documented including 27 verified breeding pairs
- .an estimated 28% of Idaho's wolves were controlled, killed illegally, or died of other causes

2004 Idaho Wildlife Services "Confirmed" and "Probable" Livestock Depredation

- .14 calves killed, 2 injured, 3 cows killed, (3 calves and 1 cow injured probable)
- .157 sheep and lambs killed, 19 injured (12 sheep killed, 1 injured probable)
- .2 dogs killed, 2 injured
- .32 Wildlife Services wolf control actions, 17 wolves killed
- .2004 compensation paid to livestock producers by Defenders of Wildlife: \$42,943

State Management of Wolves

- .In 2002, the legislature approved Idaho Wolf Plan, identifies Department as managers upon delisting
- .In 2003, the legislature passed H.B. 294 allows State to manage wolves
- .USFWS approved Idaho's Wolf Plan, and transitions into primary manager of wolves, State hired 2 temporary biologists and trained staff in all regions
- .Federal wolf monies expended by IDFG in 2004: \$266,940
- .U.S. Fish and Wildlife Service delays delisting due to unacceptable provisions of Wyoming Plan and laws
- .February 7, 2005 the new 10(j) rule increases flexibility for livestock operators on private and public land, and pet owners on private land; 10(j) increases management authority and responsibility for Idaho prior to delisting

Handout #3 - A colored map of Idaho establishing 2003-2004 Wolf Activity (documented pack, suspected pack, public observations) was given to the committee members at the conclusion of the presentation. (Attached)

ADJOURN

The Chairman thanked the speakers for their presentations and the Commission members for their attendance.

The meeting was adjourned at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** January 24, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 433
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst
- MEMBERS ABSENT/ EXCUSED:** None
- CALL TO ORDER:** Chairman Schroeder called the meeting to order at 1:30 p.m.
- ANNOUNCEMENTS:** The Chairman reminded the committee that if there were any Rules that they took exception to, they are to contact Vice Chairman Pearce with their concerns. The Rules will be considered next week.
- Chairman Schroeder said that he would entertain motions for the consideration of the appointments of Gary Power and Wayne Wright to the Idaho Fish and Game Commission.
- MOTION:** **Senator Burtenshaw** made the motion to approve and to send the appointments of Gary Power and Wayne Wright to the Floor. **Senator Williams** seconded the motion. A voice vote indicated that it was unanimous. Senator Burtenshaw will sponsor Mr. Power. Senators Stennett and Cameron will co-sponsor Dr. Wright.
- SPEAKERS:** **Jeff Youtz, Supervisor, Legislative Budget and Policy Analysis**, presented an overview of the State Budget. He provided the Natural Resources Section of the Idaho Legislative Budget Book for the committee members and is also on file in the Senate Resource and Environment office.
- The first two pages display the Governor's recommendation for each of the state agencies. It compares the Governor's recommendation to FY2005 appropriation, the dollar amount change and the percent change. The Governor's increase is 6.7% in general funds and 7.5% in total funds.
- He reviewed the **budget for the Department of Parks and Recreation**. State general funds support about 20% of this department; 70% is funded by fee-supported dedicated funds, and the balance of 10% comes from federal funds. An issue of concern that Mr. Youtz has is the backlog in repairs and maintenance.
- An inquiry was made regarding the Ponderosa State Park. Mr. Youtz said that several years ago, the Legislature authorized the State to purchase

the property adjacent to Ponderosa State Park. It was a mobile home park and most of the trailers have been removed from the property. Because of its prime location on the lake, it has been recommended that a conference center/guest lodge be constructed. There would be adequate parking for such a facility and it is adjacent to property owned by the University of Idaho.

Following are some facts and figures regarding park land and facilities:

- 25 state parks (2002) 28 state parks (2005 est.)
- 57,895 acres (2002) 59,000 acres (2005 est.)
- 500 maintained structures (2002) 560 maintained structures (2005 est.)
- \$4,183,900 Annual repair & maintenance investment (2002) \$1,673,200 Annual repair & maintenance investment (2005 est.)
- \$17 Million Backlog in repairs and maintenance (2002)
- \$32 Million Backlog in repairs and maintenance (2005 est.)

Ray Houston, Budget and Policy Analyst, reviewed the **budget for the Department of Environmental Quality**, followed by the Department of Lands budget.

Mr. Houston said the historical summary for DEQ starts on 4-3 in the budget book. Page 4-4 provides the agency profile, organizational chart. Page 4-5 provides the source of funds: General fund; Air Quality Permitting Fund; Public Water System Supervision Fund; Water Pollution Control; Environmental Remediation Bunker Hill Box Fund; Environmental Remediation Basin Fund; DEQ Receipts Fund; Bunker Hill Trust Fund; and DEQ Federal Funds. He noted the department also has four continuously appropriated funds. 1) The Drinking Water State Revolving Loan Fund is used for loans to assist public water systems to finance infrastructure costs. The Water Pollution Control Fund is used as the State's 20% contribution. 2) The Clean Water State Revolving Fund is used to finance public owned wastewater treatment facilities and pollution control projects. The Water Pollution Control Fund is used as the State's 20% contribution. 3) Moneys in the Big Payette Lake Water Quality Council Administrative Fund are from private and nongovernmental funding sources and are continuously appropriated to the Council to be used exclusively for defraying the costs of Council administration. 4) The Hazardous Waste Emergency Fund consists of moneys from compliance proceedings, court ordered judgments or settlements, and earned interest. Moneys are used to pay necessary costs of mitigating threats to public health or safety caused by the emergency. Mr. Houston then referred his remarks to pages 4-6 through 4-12.

The **Department of Lands** portion in the budget book is from page 4-37 to 4-46. Page 4-37 is the historical summary; page 4-38 is the organizational chart. Page 4-39 lists the sources of funds They are the General Fund; Department of Lands Fund; Abandoned Mine Reclamation; Reclamation Bond Fund; Fire Suppression Deficiency Fund; Indirect Cost Recovery Fund; Land Building Rental Fund; Endowment Administrative Fund; Community Forestry Fund; and Federal Grant Fund. The Department of Lands has five budgeted programs. 1) The Support

Services Program; 2) The Division of Forest Resources; 3) The Land, Range, and Mineral Resource Management Program; 4) The Forest and Range Fire Protection Program; and 5) The Board of Scaling Practices.

The committee asked questions throughout Mr. Houston's presentation.

The budget overview will continue on Wednesday.

ADJOURN: **Chairman Schroeder** adjourned the meeting at 2:50 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 26, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

ANNOUNCEMENTS: He announced that sub-committees should contact **Vice Chairman Pearce** with any concerns they might have regarding the Rules. Next Monday Vice Chairman Pearce will go over the results.

The Chairman then briefed the committee about next week's meetings. He also asked the vice chairman to represent him at the Chairmen's meeting on Thursday, due to a prior obligation.

MINUTES: Chairman Schroeder said he would entertain motions for the approval of minutes.

Vice Chairman Pearce made the motion that the minutes of January 12, 14, and 17 be accepted as written. **Senator Burtenshaw** seconded the motion. A voice vote indicated it was unanimous.

SPEAKER: Chairman Schroeder then asked **Mr. Ray Houston, Budget and Policy Analyst**, to continue the budget presentation.

Today's review includes the Department of Fish and Game, pages 4-13 through 4-26; Office of Species Conservation, pages 6-115 through 6-121; and the Department of Water Resources, pages 4-67 through 4-78. (Natural Resources Section, Idaho Legislative Budget Book.)

Mr. Houston reviewed the historical summary of the **Department of Fish and Game** for the committee. Idaho's first Territorial Legislature in 1864 passed laws to control the harvest of big game animals from February to July, although there was no enforcement provision in the Legislation. In 1899 the Fifth Idaho Legislature established the Fish and Game Department with a State Game Warden in charge, with deputy wardens in each county that were paid half of each fine for which they could get a conviction. The total department budget was \$1,500. In 1938 Idaho's first voter initiative passed which created the Idaho Fish and Game Commission, under which the modern Fish and Game agency was born

by establishing a merit system to hire competent professionals. Conservation officers also began wearing a green and gray uniform. Today there are 518 full-time equivalent employees in the Fish and Game Department which is organized into eight major programs and funded primarily by licenses, fees and federal fund sources.

The department's policy making body is a seven member Commission, who are appointed by the Governor and confirmed by the Legislature for staggered four-year terms. The Commission appoints a Director, holds public hearings, establishes regulations and management controls on fish and wildlife, and approves departmental budgets for submission to the Legislature.

The sources of funds are as follows: Fish and Game Fund (Licenses); Fish and Game Fund (Federal); Fish and Game Fund (Other); Set-aside Funds (License); Set-aside Funds (Other); Primary Depredation Fund; Secondary Depredation Fund; Expendable Trust Fund; and Non-Expendable Trust Fund.

There were questions from the committee throughout the presentation of the Fish and Game's portion of the budget.

Next to be discussed was the budget of the **Office of Species Conservation**. Following is the historical summary of that office.

It was created in the 2000 Legislative Session with the passage of Senate Bill 1490. The intent directed the agency to provide coordination and cooperation among and between various state and federal agencies with responsibilities for species management under the Endangered Species Act; develop an integrated state policy toward those species; solicit and review scientific information; negotiate and implement conservation plans and agreement; provide the resources and authority necessary to recommend an appropriate management plan for species that may be delisted under the ESA; and facilitate the development and use of federal and state programs and incentives to provide protections for non federal landowners willing to assist in the management of federally listed endangered species, threatened species and petitioned species.

Their funding comes from the general fund, miscellaneous revenue and a federal grant fund.

There are 10 endangered species and 13 threatened species.

Questions from the committee were asked throughout the presentation for OSC.

The budget for the **Department of Water Resources** was the last to be heard. An overview of the historical summary, organizational chart, and agency profile was given.

Through the years, there have been several name changes. The Office of the State Engineer was created in 1895; in 1919, it became the Department of Reclamation; in 1943, the State Reclamation Engineer;

and in 1970, the Department of Water Administration. In 1964, the Water Resource Board was created to prepare the state water plan. The current name, the Department of Water Resources resulted in 1974 from combining the Department of Water Administration with the Idaho Water Resource Board. The Department is divided into five major programs. They are: Management and Support; Planning and Technical; Energy Division; Snake River Basin Adjudication; and Water Management .

Their sources of funds comes from the general fund; indirect cost recovery fund; water pollution control fund; water administration fund; water resources adjudication fund; miscellaneous revenue fund; petroleum price violation fund and a federal grant fund.

Questions from the committee were asked throughout the presentation for the Department of Water Resources.

ADJOURN:

Chairman Schroeder thanked Mr. Houston for his review of the budgets for the various agencies, then adjourned the meeting at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 28, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams (Williams), Brandt, Little, Stennett

MEMBERS ABSENT/ EXCUSED: Senator Langhorst

CALL TO ORDER: Chairman Schroeder called the meeting to order at 1:30 p.m.

MINUTES: The Chairman said he would entertain motions regarding the minutes.

Senator Burtenshaw made the motion to accept the minutes of January 19, 2005. **Senator Brandt** seconded the motion. A voice vote indicated the motion passed unanimously.

Senator Brandt made the motion to accept the minutes of January 21, 2005. **Senator Burtenshaw** seconded the motion. A voice vote indicated the motion passed unanimously.

SPEAKER: The Chairman introduced **Mr. Jake Howard, Director of the Idaho Outfitters and Guides Licensing Board**. Mr. Howard presented an overview report of that agency.

Mr. Howard read the Mission statement of the Licensing Board to the committee and it is as follows:

It is IOGLB's responsibility to promote and encourage residents and nonresidents alike to participate in the enjoyment and use Idaho's natural resources, and the fish and game therein, and to that end to regulate and license those persons who undertake for compensation to provide equipment and personal services to such persons, for the explicit purpose of safeguarding the health, safety, welfare and freedom from injury or danger of such persons.

The organization has 6 full time staff; 2 part-time/temporary staff during the annual license renewals; 10 part-time (on call) enforcement agents; 3 "outfitter" Board members are nominated by IOGA and appointed by the Governor and are confirmed by the Senate; 1 Board member appointed as a member at large by the Governor and is confirmed by the Senate; 1 Board member appointed by the Idaho Fish and Game Commission and is confirmed by the Senate; Executive Director and Enforcement Chief are appointed by Board.

When asked where the funds come from to pay the staff, Mr. Howard replied it is through dedicated funds.

Mr. Howard then noted some "trends" of the industry. They licensed 420 outfitters in 2004 - up from 406 in 1999; licensed 320 designated agents in 2004 - up from 277 in 1999; licensed 2,108 guides in 2004 - average 2,097 for 5 previous years; processing 2,100 special requests annually - up 30% since 1999; manage nearly 2,000 individual outfitter operating areas (it is increasing due to business sales, diversification and outfitting on private lands); outfitters are financing the sale of businesses (defaults and foreclosures are common); industry has become more corporate; non-traditional activities increasing (skiing, hiking, mountain biking, fishing).

Senator Burtenshaw inquired as to the sale of outfitters licenses and if they needed Board approval. Mr. Howard said there is a process that is gone through to identify the seller and yes, the Board does need to give its approval.

With regard to the licensing process, Mr. Howard said the license processing time has been reduced from 14 to 3 days; three year outfitter and designated agent licensing implemented; simplified outfitter renewal packet; simplified guide license first aid/credit card; online license renewal implemented; improved licensing data base and reports; reducing need for temporary staff; and improving use reporting and operating area management. Mr. Howard said the point of all this is to improve the efficiency of the agency and also the effectiveness.

Senator Stennett thanked Mr. Howard for reducing the processing time to three days, as that was a complaint in his district.

In the enforcement program, 262 cases were processed in 2004, up 27% from 2003. Mr. BJ Snooks is the Enforcement Chief and he and his staff work diligently to move through the cases.

Senator Pearce inquired as to the kinds of laws broken. Mr. Howard replied that 27% regarded licensing; 23% dealt with outfitter and guide conduct; another 23% dealt with unlicensed outfitters and guides; the remaining numbers were miscellaneous activities, such as operating out of their area, illegal bookings, etc.

Mr. Howard continued his report on enforcement. They have regional coordinators; target known problem areas; expanding interagency cooperation (working closely with IDFG); addressing unlicensed activities continues to be a challenge; and restructured Board Hearings. (They now are using a hearing administrator; refocused investigation processes used as evidence; and have never had a Board decision overturned.)

Mr. Howard concluded his report by talking about "Interaction and Communication". Some areas are: State/federal MOU (memo of understanding) reauthorized and improved; handbooks available (regional training completed); cooperative IDFG/Federal GIS mapping system -

80% complete; big game tag allocation manual now available; MOU with IDFG underway; Clearwater River pilot sticker program implement; quarterly newsletters; strategic planning process to being this summer; IOGLB website - primary public information resource; expanded use of e-mail with industry.

Senator Little inquired about the Rules regarding the Outfitters and Guides. Mr. Howard said there was some confusion in the House Committee and as a result of that, he suggested that they reject them. He made the same request to this committee.

Chairman Schroeder thanked Mr. Howard for his report.

The Chairman reminded the committee to meet with Vice Chairman Pearce regarding concerns they might have with the Rules.

Chairman Schroeder asked **Mr. Steve Huffaker, Director of Idaho Fish and Game**, to explain the two bills on the agenda.

S 1032

Relating to Fish and Game; amending Section 36-1402, Idaho Code, to provide that the taking of any big game animal during a closed season shall be considered a flagrant violation of the law and to make a technical correction.

Mr. Huffaker said the purpose of this bill is to close a loophole. The intent of the original bill, about 10 years ago, was to prevent prosecution because of an honest mistake; however, some individuals have taken advantage of the loophole.

MOTION:

Senator Brandt made the motion to send **S 1032** to the floor with a do pass recommendation. **Senator Cameron** seconded the motion. A voice vote indicated the motion passed unanimously. **Senator Langhorst** will be the sponsor of the bill.

S 1033

Relating to Fish and Game; amending Section 36-106, Idaho Code, to authorize the director of the Idaho Department of Fish and Game to reduce the bag limit or possession limit for a species under certain circumstances.

Mr. Huffaker said this bill would allow the Director, in an emergency, to reduce the amount of species taken, rather than to close the season.

MOTION:

Senator Burtenshaw made the motion to send **S 1033** to the floor with a do pass recommendation. **Senator Brandt** seconded the motion. A voice vote indicated the motion passed unanimously. **Senator Williams** will be the sponsor of the bill.

ADJOURN:

Chairman Schroeder thanked the committee for their good work, then adjourned the meeting at 2:25 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

There was a request that the conversation between Mr. Jake Howard and Senator Stennett on January 28 be an addendum to the minutes.

Senator Stennett There seems to be some consternation that the licensing board may be looking at developing opportunities for bird hunting.

Mr. Howard There's been some recent discussion in your district and the Lemhi Valley in particular, regarding upland game hunting. We've have an individual who has been recently licensed as an outfitter on private land for fishing and he's very interested in expanding his operation into upland game hunting on public lands. The Board separates upland game as licensable activities. The Board only licenses upland game (pheasants, and quail) on lands where the owner has been permitted for a shooting preserve by the Idaho Department of Fish and Game. The Board also licenses chukar and forest grouse as to what the Board now refers to as a minor activity to outfitters who are doing big game hunting or a boating activity. There has been no discussion by the Board to go beyond this with these activities.

Senator Stennett Then that is the Board policy to not allow somebody to be licensed solely for chukar hunting? Has it ever been an issue or has it come to the Board that it is allowed under the permits?

Mr. Howard Only outfitters can be licensed to provide activities. Guides must work for an outfitter and can only provide the activities that the outfitter is licensed for. Typically, chukar hunting is secondary to a boating trip or to big game hunting for forest grouse. A few land-based outfitters in the back country such as along the Middle Fork, the Salmon River, the Snake River and several other remote areas also have chukar hunting. Allowing a guide to go out and provide a secondary activity without the involvement of an Outfitter is forbidden.

Senator Stennett The point is that it can't be separated out, that somebody, someday, can't buy the chukar portion of the guide's license.

Mr. Howard It is a minor activity and I don't believe the Board is going to go there. We had a discussion in our December meeting with an individual who came to the Board meeting asking about upland game. The Board's response was that they were not going to change things.

Senator Stennett Would you relay to the Board that I think that's a good idea?

Mr. Howard Yes I will.

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: January 31, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams (Williams), Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: Chairman Schroeder called the meeting to order at 1:30 p.m.

ANNOUNCEMENTS: He then announced that RS 14703C1 that was scheduled to be heard today has been postponed indefinitely. It is a memorial to Congress asking that protection be provided to hunting dogs, as well as pet dogs, from wolves.

Chairman Schroeder said another announcement is that Mr. Howard from the Outfitters and Guides Licensing Board has requested that their rules be rejected and rewritten.

He also said the House committee has rejected the rule that classifies the wolf as a big game animal. Language is being proposed by Mr. Caswell's office and others and hopefully, we can come to a resolution so that we don't jeopardize where we're at with the wolf management plan. The ultimate objective is to de-list them so that we can have hunting seasons on them. The Chairman said that negotiations are going on and it will be worked through.

Senator Stennett said the management plan has been worked on for several years. He inquired as to why it has taken so long to resolve the problem. Chairman Schroeder asked **Mr. Steve Barton** from the Department of Fish and Game to speak to this issue.

Mr. Barton said that Mr. Caswell is working with Fish and Wildlife Services and others and they are discussing various options as to how best to address wolves. They do not want to jeopardize the state's approved wolf management plan.

A four page handout regarding the Idaho Wolf Conservation and Management Plan was provided by Senator Brandt. (Attached.) Stated in the plan on page 7 of 32, it reads: "This plan will enable the transition of the management of the gray wolf back to the IDFG as either a big game animal, furbearer, or special classification of predator that provides for controlled take after delisting." Mr. Barton said the Commission wished to

treat the wolf the same as the black bear and mountain lion.

Senator Brandt said he wished to clarify a point about the classification. He said to call the wolf a “managed predator” and possibly putting cats and bears in the same realm and giving them their own classification might be an excellent PR move and also eliminate any concerns about not being able to get them when the getting is good.

Chairman Schroeder stated that he does not care what the classification is called as long as it does not jeopardize the movement towards delisting.

RULES REVIEW: The meeting was then turned over to Vice Chairman Pearce who is chair of the Rules Review.

Chairman Pearce called on Senator Brandt, sub-committee chairman for rules pertaining to Fish and Game.

Senator Brandt said he thought there had been adequate coverage on the wolf issue, with the only holdup being the classification. The docket number for the pending rule for the wolf classification is 13-0106-0401. He said that in their sub-committee meeting, one member had a concern regarding motorized vehicles, but that has been satisfied. They also discussed the issues dealing with rattlesnakes, and that was resolved.

Senator Little inquired as to where the list existed in the Rules for “species of special concern”. **Mr. Dallas Burkhalter, Deputy Attorney General for the Department of Fish and Game**, was asked to respond to the inquiry. Mr. Burkhalter said that classification was struck by the biologist that wrote the rules, so it has been done away with.

There was discussion regarding tags as to being in possession; on the game; the business processing the meat; and the taxidermist. The suggestion was made that perhaps there could be copies of the tag to satisfy all who require it. **Senator Schroeder** pointed out that a taxidermist only needs the number of the license and tag. **Mr. Steve Barton** agreed and said his department would send a letter to taxidermists to clarify the issue.

Senator Cameron inquired about the rule on page 43 regarding unclaimed permits. Mr. Barton replied that after the second controlled hunt drawing, if there is anything left - rather than go through another application drawing process - the permits would be sold on a first-come, first-served basis.

Chairman Pearce proposed that the committee approve the rules for the Department of Fish and Game, with the exception of 13-0106-0401. There was unanimous agreement.

Chairman Pearce called on Senator Burtenshaw, sub-committee chairman for rules pertaining to Outfitters and Guides Licensing Board and the Department of Water Resources.

Senator Burtenshaw said that Jake Howard, Director of the Outfitters

and Guides Licensing Board, requested that the committee reject all their rules as they are going to rewrite them. Senator Burtenshaw said he would like to recommend that the committee honor the request. He then made a motion to reject all the rules of the Outfitters and Guides Licensing Board. Senator Stennett seconded the motion. A voice vote indicated that is passed unanimously.

Senator Burtenshaw then reviewed the rule for the Department of Water Resources, Stream Channel Alteration, docket number 37-0307-0201. It deals with Section 404 Permits Recognized.

Senator Stennett said that he feels the Department of Water Resources has given up and is turning the program over to the federal government. He feels there should be more discussion before voting on the rule.

Senator Stennett made the motion to hold this rule until after hearing from Water Resources. **Senator Langhorst** seconded the motion. Senator Little suggested that the Water Users be invited to attend the meeting. Senator Schroeder asked Senator Cameron if he would contact Mr. Karl Dreher, Director of IDWR, with regards to funding. Senator Cameron agreed to do that. **Chairman Pearce** asked if all were in favor of holding until time certain. A voice vote indicated it was unanimous.

Chairman Pearce is the sub-committee chairman for the rules pertaining to the Department of Environmental Quality. Docket number 58-0102-0401, relating to the Snake River, site specific criteria for water temperature was questioned by Senator Burtenshaw.

After some discussion, **Senator Schroeder** made the motion to accept the rules, with the exception of this one, and to request DEQ to address the committee regarding this. **Senator Burtenshaw** seconded the motion. A voice vote indicated it was unanimous.

Chairman Pearce turned the meeting back to Chairman Schroeder.

ADJOURN:

Chairman Schroeder adjourned the meeting at 2:15 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: February 2, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams (Williams), Brandt, Little, Stennett

MEMBERS ABSENT/ EXCUSED: Senator Langhorst

CALL TO ORDER: Chairman Schroeder called the meeting to order at 1:40 p.m.

COMMITTEE BUSINESS: The Chairman said he had requested some information from Idaho Fish and Game and he wished to explain what it was about. (The correspondence is in each of the member's notebooks.)

Mr. Bradley Compton, State Big Game Manager, responded to the Chairman's request with a letter and two charts regarding the timing of harvest for deer and elk. One chart shows the number of bull elk harvested by date in the Lolo Zone (Units 10 and 12) in north-central Idaho. The second chart shows the same information for either-sex deer in Unit 32A between Banks and New Meadows in south-western Idaho. The data is from mandatory harvest reports submitted by hunters.

Chairman Schroeder then referred to the chart showing the elk harvest, Lolo B tag, Units 10 and 12, October 10 through November 3, 2003. The greatest harvest is the opening date, then the kill declines as the season progresses. The second chart shows the deer, general season, Unit 32A, October 5 through October 24, 2003. The greatest harvest was also on opening day, but did not decline as much. On weekends, the harvest was up on both reports.

An inquiry was made as to how many tags are issued and the Chairman said he would get that information.

SPEAKER: Chairman Schroeder introduced **Mr. Winston Wiggins, Executive Division Director for the Department of Lands.**

Mr. Wiggins presented two documents to the committee. Handout #1 is a summary booklet of the Idaho Department of Lands. Handout #2 lists the Current Significant Activities for the IDL.

A brief history of IDL: It was created in 1895 to perform the constitutional functions given the State Board of Land Commissioners concerning the management of grant lands. A total of 3,650,763 acres was granted to

Idaho. The endowment trusts are Public school, Normal school, Penitentiary, Capitol, School of Science, State Hospital South, Agriculture College, Charitable Institution and the University of Idaho. The purpose of the Department is to exercise management, protection, control, and disposition of State endowment lands and resources. It also has the same responsibility for navigable lakes, rivers, and streams. They are to perform regulatory functions in a consistent, fair and impartial fashion and also to provide technical assistance, research support and other cooperative services to the citizens of Idaho and governmental entities to enhance beneficial management and utilization of natural resources, in an equitable and impartial manner.

Mr. Wiggins stated that the public school system is the largest recipient of the trust. The biggest activity is managing 750,000 - 800,000 acres of timberland, growing and harvesting timber.

Senator Burtenshaw inquired as to who owns the easements on forest land (a discussion at a prior meeting he attended). **Mr. Wiggins** said that what was being referred to was the Forest Legacy Program, which is a federal program, with federal money provided to purchase development rights on working landscapes. (A landowner can sell the rights to subdivide, the land remains in forest production, and that is what Potlatch has done on 25,000 acres.) The IDL does not purchase the easement, but when the easement is purchased and granted, IDL is the holder of the easement for perpetuity. Their job is to confirm that the new landowner does not violate the rights of the easement. **Mr. Wiggins** reaffirmed that there is no state money involved.

Senator Little asked if there was a title or document that pertained to the easement. **Mr. Wiggins** said there is a document, filed with the County and fully documented as a legal transaction.

Senator Stennett asked if there could be a challenge to the Land Board to make money from this. **Mr. Wiggins** replied that IDL does not gain any rights. The title of the land is still in Potlatch's name, they still control the access rights, but they have confirmed that the land cannot be used for anything other than forest production purposes.

Chairman Schroeder inquired if there was a provision for public access for hunting. **Mr. Wiggins** replied in the affirmative. The Chairman also asked if this was considered an asset and could a future legislature make a decision to sell.

Senator Little responded by saying the state is the receptacle for the fact that those rights have been extinguished (the right to develop). Now the state holds the extinguished rights.

Mr. Wiggins continued his report by saying that a year ago the Legislature granted extra resources to increase timber harvest. Ten positions were made available and they have been filled and the work is progressing. The timber harvest plan for FY2006 will be reviewed in April by the State Board of Land Commissioners. This plan of 202 million

board feet is an increase of 20 million from a year ago. In 2007, it will go to 212 million for at least 10 years.

Senator Brandt asked Mr. Wiggins if he expected the numbers to increase beyond the 10 year projection. He also requested a list of the timber harvest history. **Mr. Wiggins** said he was not good at predicting the numbers; however, he would provide the timber harvest history requested by Senator Brandt.

Senator Burtenshaw inquired about a lawsuit that was filed. Mr. Wiggins said that for more than two years now, under the 60 day notice to sue under the Endangered Species Act, action was filed by several parties. In August, 2004, the Idaho Conservation League and the Selkirk Conservation Alliance did file an Endangered Species related lawsuit on Priest Lake state forest. **Mr. Wiggins** said he met with the plaintiffs twice, exchanged viewpoints, and the lawsuit was subsequently dismissed. Mr. Wiggins said his staff explained their reasons for their actions and in November, 2004, the plaintiffs dismissed the suit, but have reserved the right to re-file.

With regard to endangered species, a position was approved and funds approved in 2004. Resources assigned to that funding are devoted to the Snake River Basin Adjudication and negotiations with the Fish and Wildlife Service at Priest Lake. Other ongoing work with the endangered species are the Columbian Spotted Frog candidate conservation agreement; the Slick Spot Pepper Grass candidate conservation agreement; and the sage grouse work.

Senator Brandt asked if the state has ever had their timber sales stopped. **Mr. Wiggins** said that they have not, but have had three lawsuits filed. Senator Brandt continued his questioning by saying that we have defended our forest Practices Act for a number of years and now the State is going to impose more restrictions on endowment lands. He asked, "Why is that smart?" Mr. Wiggins said the calculations that were done indicated that the difference between the current bare minimums and the forest practices of the Nez Perce Agreement was one and one-half to two percent (1 ½ -2%). So only 1 ½ -2% of the land in a particular watershed would be impacted. There is the interior 25 feet along class 1 stream zoning that would be a no-harvest zone. He said "in the big picture", it won't make any difference in the timber harvesting.

Senator Little asked if the superintendent of the Boise School District could file suit to reduce harvest. **Mr. Wiggins** replied that he didn't know if a superintendent could do that or not. The State Constitution requires the Board to obtain the maximum financial return and as long as they are operating on a sustainable basis, it would be difficult for someone to sue. The two cases brought against the IDL in State Court basically said - this is public land, what you are doing is bad, and I want you to stop.

Mr. Wiggins then reported on the Tamarack Ski Resort. He said they are in the second year of a 49 year lease. A base rent of \$200,000 a year has been paid for five years. The base rent will increase for years six

through 10 to \$250,000. The remaining years will have the option of indexed base rent or a percentage of gross revenues.

The Boise Foothills Land Exchange is in the second phase and that is in the final stages. The state owns about 5,000 acres in that area. The first exchange was with the Fish and Game; the second exchange, Rocky Canyon, will be reviewed and will be with BLM. The final phase includes forest land in the northern part of the state. Mr. Wiggins said this is a three-cornered type of exchange, being facilitated by our Congressional delegation.

Mr. Wiggins stated that they have issued requests for proposals for two very valuable pieces of state land with development opportunities. One piece, a seven acre parcel, is adjacent to NIFC. The other parcel is the Buttercup Road property (about 109 acres) between Hailey and Ketchum.

Mr. Wiggins continued his report by talking about non-endowment activities. He first addressed fire suppression. The IDL is responsible for fire suppression throughout the state and have cooperative agreements with both the Forest Service and BLM and they provide protection on the areas that are primarily their ownership. Regardless of ownership, there is no exchange of money due to fire suppression. The past year was a very light year with regards to fire. **Senator Little** inquired if a map with the areas that the state is responsible for is available. Mr. Wiggins said he would provide it. Senator Little said with the trading of lands that has previously been done, he is concerned about the costs of fire suppression in the areas where homes have been built, such as Mores Creek. Mr. Wiggins said it is difficult to draw boundaries. He also added that it is not the job of IDL to protect houses, but to protect wildlands. All the counties have an active wildland fire litigation plan.

The last item on the list of Significant IDL Activities is the Asian Gypsy moth. **Mr. Wiggins** said one was found at Hauser, in North Idaho, last October. The European Gypsy Moth has been dealt with on several occasions, spraying in Sandpoint, Post Falls and Coeur d'Alene

The European Gypsy Moth is a defoliator of deciduous trees and is a terrible nuisance in the eastern states. The Asian Gypsy Moth is a real threat in Idaho. First, it does not distinguish between trees, so all our trees are at risk. Second, it flies - it doesn't necessarily attach itself. An inquiry was made as to other places that it has been found. Mr. Wiggins said it has been found in Oregon and Washington, near the coast. It is assumed that it comes in on ships, then is transferred to trains or trucks. The one moth found in Hauser is thought to have been on a train. Mr. Wiggins said they feel it is enough of a threat that they will do a control project.

Senator Schroeder said he wished to talk about development rights. He asked how much is a development right worth, per acre, and is there a threshold where people will not sell their development rights because it is too cheap. Mr. Wiggins said the price is based on an appraisal and yes, some people choose not to sell.

Senator Little said the Endowment Board cut the payout substantially for Hospital North, ISU, and the Ag College at the U of I because the Attorney General basically determined that the earnings reserve was not there for that pool.

Senator Burtenshaw said he had visited an area in North Idaho where the trees looked bad and he inquired if the trees had been salvaged. Mr. Wiggins said that area (near Moscow) was infected by Tussock moths, not the Gypsy Moth. Many of the trees did survive and any salvage done was based on the landowners' decisions.

There were no further questions for Mr. Wiggins. Chairman Schroeder thanked him for his report and for the time spent answering questions.

The Chairman then turned the meeting over to **Vice Chairman Pearce**, who is in charge of the Rules Review.

RULES REVIEW: **Chairman Pearce** said that Docket No. 37-0307-0201, Stream Channel Alteration, by the Department of Water Resources, would be discussed.

Senator Cameron distributed a five page handout that provided some background information on the Stream Channel Protection Program and the Department of Water Resources funding. In 2002 and 2003, there were holdbacks issued by the Executive Branch. JFAC reduced the base, making those holdbacks permanent. JFAC cut the IDWR's budget base by \$374,200 from FY 2002 to FY 2003 and by another \$285,600 from FY 2003 to FY 2004. The cuts were offset by \$492,900 in Water Pollution Control Funds for a net reduction of \$166,900 to the General Fund base. At the time of the holdbacks, there were seven positions in the Stream Channel Protection. The director removed five FTP's and one staff engineer to meet the 2003 holdback. The current budget contains funding for two positions: a state stream channel coordinator and a stream channel protection specialist.

Chairman Pearce asked **Mr. Hal Anderson, Division Administrator for the Department of Water Resources**, to address this issue. Mr. Anderson said the estimated cost to get all needed positions is approximately \$380,000.

Senator Schroeder said he understood that if the positions were not filled, the state would get "sideways" with the federal government. **Mr. Anderson** said he thought the problem was with the authorities who are associated with the 404 permitting side; that is, when you are putting fill actually into the channel itself. Sometimes, removal is the case. The department only has two people to do this and there is a backlog of approximately 1,000. Therefore, projects are being delayed. Senator Schroeder asked what the economic impact to the state is. Mr. Anderson said he did not know what it might be.

Senator Stennett asked Mr. Anderson that if by adding Section 404 Permits Recognized to the rules, would it take care of the backlog of 1,000 applicants. Mr. Anderson said it would not.

Chairman Pearce asked if this rule would take the department out of the stream protection. Mr. Anderson it would not, but what it will do is to continue the status quo since the elimination of the program. Chairman Pearce then said if the stream channel protection is funded through Water Resources, then this rule is not needed. He asked Mr. Anderson if that was correct and Mr. Anderson said yes.

After more discussion, **Senator Cameron** said that if the committee felt that the Stream Channel Protection Program remain with the Department of Water Resources, then the committee should take a pro-active stand, reject the rule, and tell JFAC that it needs to be funded, either within the department or with additional funds. If it has to be done within the department, money would have to come out of planning. If the committee does not have a position, then JFAC will do whatever has to be done.

Senator Little said that after those comments, it sounds like the question is: Do we re-fund the stream channel protection five slots or de-fund some of the planning things? If that is the question before the committee, Senator Little suggested that the rule be held and request Mr. Bianchi to speak to the committee. Following some discussion, **Senator Little** made a motion to hold this temporary rule for time certain. The motion was seconded by **Senator Brandt**. A voice vote indicated it was unanimous. Senator Schroeder said he would ask Mr. Bianchi to speak to the committee and would write a letter to the Pro Tem explaining the delay regarding the Rules, if needed. Chairman Pearce turned the meeting back to Chairman Schroeder.

MOTION:

ADJOURN:

Chairman Schroeder announced that the two bills that were on the agenda today would be postponed until Mr. Anderson indicates when he would like them rescheduled. The Chairman then adjourned the meeting at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** February 4, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 433
- MEMBERS PRESENT:** Chairman Schroeder, Senators Cameron, Williams (Williams), Little, Stennett, Langhorst
- MEMBERS ABSENT/ EXCUSED:** Vice Chairman Pearce, Senators Burtenshaw, Brandt
- CALL TO ORDER:** Chairman Schroeder called the meeting to order at 1:30 p.m.
- COMMITTEE BUSINESS:** He asked **Mr. Steve Huffaker, Director of the Idaho Fish and Game**, to clarify an issue regarding a handout in Wednesday's meeting (2/2). The question was if the hunts were open or limited. Mr. Huffaker said the deer hunt is a general hunt and has no limitations. The elk hunt is in the Lolo zone and is capped.
- SPEAKER:** **Mr. Jeff Allen, Policy Advisor for the Office of Species Conservation**, briefed the committee on the ruling by Judge Robert Jones concerning the gray wolves.
- Mr. Allen provided a handout - Wolf Management Update - to the committee (attached). It reads as follows:
- On January 31st, U.S. District Judge Robert Jones enjoined and vacated the Fish and Wildlife Services' (FWS) Final rule which created the Western Distinct Population Segment (DPS) and downlisted wolves from endangered to threatened.
 - This ruling in no way, shape or form impacts the new 10(j) rule set to take affect on February 7th.
 - FWS attorneys have yet to determine what impact Judge Jones' ruling will have on management of wolves north of I-90.
 - Worst case scenario is that wolves north of I-90 return to endangered status and the FWS reverts to the 1999 interim wolf control plan.
 - Under the 1999 interim wolf control plan agency personnel are authorized to use lethal control to address chronic problem wolves.
 - Idaho has no documented packs living north of I-90.

- As a result of Judge Jones' ruling and the promulgation of the new 10(j) rule, Idaho is in a more favorable position than Montana (large wolf population north of I-90) and Wyoming (subject to the old 10(j) rule).

Mr. Allen stated that in 2003, the Fish and Wildlife Service put together a final rule which defined three distinct population segments of the gray wolf and downlisted the wolf from endangered to threatened. As is often the case, they were sued upon this action. On Monday, Judge Robert Jones of Portland, Oregon enjoined and vacated the final rule. The impact of this ruling affects wolves north of I-90 within Idaho. The ruling does not impact the 10(j) rule which will come into effect on Monday, February 7. A pack has yet to be documented north of I-90. Fish and Wildlife Services attorneys do not know what this ruling means and they will meet Monday to decide. The worst case scenario is that wolves living north of I-90 in Idaho and Montana will go back to being endangered and control actions will be governed by the 1999 interim wolf control plan. If that is the case, the only folks authorized to use lethal control are agency personnel.

There were no questions or discussion by the committee. Chairman Schroeder thanked Mr. Allen for the update.

Chairman Schroeder asked Mr. Steve Huffaker to present S 1052.

S 1052

Relating to Fish and Game; amending Section 36-1603, Idaho code, to prohibit the retrieval of wildlife on certain lands without the permission of the owner or person in charge of the property.

Mr. Huffaker stated that this bill is to close a loophole and to give prosecutors and judges the option to cite trespassers on posted property. This bill does not change anything other than the charges that can be brought.

Testifying in opposition was **Mr. Fred Riggers**, a landowner in Nez Perce, who said that he has never had a problem with trespassers.

Testifying in favor of the bill was **Mr. Dar Olberding, representing the Idaho Grain Producers Association**, who support the bill.

MOTION

There being no further discussion or testimony, **Senator Little** made the motion to send S 1052 to the floor with a do pass recommendation. **Senator Stennett** seconded the motion. A voice vote indicated it was unanimous. **Senators Little and Stennett** will be the **co-sponsors** of the bill.

Chairman Schroeder then asked Mr. Jack Lyman to present RS 14719.

RS 14719

Amends the Surface Mining Act to transfer the responsibility for financial assurance for closure of cyanide facilities from DEQ to the Idaho Department of Lands

Mr. Lyman, representing the Idaho Mining Association, said that this RS would change two parts of Idaho Code. The first part would change the Environmental Protection and Health Act dealing with the cyanidation

of ore by eliminating the requirement in that part of the code that financial assurance be provided. Some additional changes in the definition would be made and a time limit for permit decisions would be established.

The second part of the bill changes the Surface Mining Act and imposes a financial assurance requirement. Mr. Lyman said what they are doing is leaving all the regulatory authority to DEQ to regulate these activities, but moving the financial assurance responsibility to the Department of Lands.

No one testified in regards to this RS.

MOTION

Senator Cameron made the motion to print RS 14719. The motion was seconded by **Senator Little**. A voice vote indicated it was unanimous.

**ANNOUNCE-
MENTS**

The Chairman announced that Vice Chairman Pearce, Senators Burtenshaw and Brandt requested to be excused from the meeting today. He reviewed next week's agenda, then thanked the committee for their work.

ADJOURN:

The meeting was adjourned at 1:45 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: February 7, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: Chairman Schroeder called the meeting to order at 1:30 p.m.

He then asked **Mr. Stan Boyd** to present RS 14815.

RS 14815 To provide an exception to specified license and permit requirements for certain privately owned zoos.

Mr. Boyd said he is representing Yellowstone Bear World, a privately owned zoo and a drive-through wildlife park located in eastern Idaho, north of Rexburg. The purpose of this proposed legislation is to provide that a privately owned zoo that has been in operation for five or more years, and has been continuously licensed as a private zoo by the U.S. Department of Agriculture, shall be exempt from being required to have dual licenses. At the present time, a license is required from the Idaho Department of Fish and Game and the USDA. Mr. Boyd stated that the license requirement from USDA is the most stringent of the two.

MOTION: After a brief discussion, **Senator Burtenshaw** made the motion to have RS 14815 printed. **Senator Little** seconded the motion. A voice vote indicated it was unanimous.

Chairman Schroeder said he would present RS 14828 on behalf of Mr. Loyal Fleener.

RS 14828 Relating to the sale of timber on state lands and to revise provisions relating to very small sales of timber.

The Chairman said the language of the legislation increases the board feet from one hundred thousand (100,000) to two hundred thousand (200,000). This would apply to very small sales of timber that the Idaho Department of Lands could sell without advertising.

MOTION: **Senator Brandt** made the motion to have RS 14828 printed. **Senator Williams** seconded the motion. A voice vote indicated it was unanimous.

SPEAKER: **Chairman Schroeder** welcomed and introduced **Ms. Toni Hardesty**,

Director for the Department of Environmental Quality.

Ms. Hardesty provided the committee with a handout, (attached), highlighting the department's programs. She also introduced three members of her staff: **Barry Burnell, Water Quality Administrator; Martin Bauer, Air Administrator; and Orville Green, Waste Administrator.** She invited the committee to ask questions during her presentation.

The first program Ms. Hardesty talked about was the Idaho Clean Air Zone. She said it is completely voluntary and is in place at approximately 40 schools. It is aimed at reducing school children's exposure to vehicle emissions. The program discourages idling of school buses and other vehicles and helps schools get funding for bus maintenance and retrofitting.

The next program presented was the E-85 Infrastructure Development. Ms. Hardesty said it is 85% ethanol fuel and has just been introduced in the state. There is an E-85 fuel pump in downtown Boise, open to anyone with a flexible fuel vehicle. Ethanol 10 is gasoline with 10% ethanol added to it.

Ms. Hardesty then reported on the Water Quality Division. With regards to the Surface Water Program, she said two TMDLs were completed early, several have been completed and approved in '04, and there are seven that did not meet the deadline. However, they will submit their reports this year. There are three TMDLs that are two years late.

The Wastewater and Ground Water Programs are experiencing growth issues. The workload has doubled in four years (FY 2001-FY2005) and the agency has taken steps to resolve the backlog. They have reassigned staff assignments; working on a fast track review policy; working on delegated city agreements (MOUs); a plan is underway to develop Idaho specific standards and design guidelines. A review of storm water is underway, as well as negotiated rulemaking.

Wastewater reuse was discussed next. The new rules allowing for reuse are as follows: residential irrigation; ground water recharge; surface spreading; seepage ponds; and unlined water features.

The loan program was briefly discussed. The loans are long term (30 years) with low interest. It was asked if there is coordination between the Department of Commerce and DEQ's loan program so that both agencies know what is going on with respect to a particular municipality. Ms. Hardesty replied there was coordination between the agencies.

Waste and Remediation was discussed next, with Ms. Hardesty explaining the Brownfield program.

The Brownfield is a renewal or reuse project with environmental issues; not cleanup for cleanup's sake.

- They conducted 26 site assessments (\$250,000) at the request of

- local governments;
- Helped six Idaho communities receive EPA assessments (\$125,000);
- Helped four communities obtain EPA Brownfield grant funds (\$600,000);
- Applied to EPA, together with Idaho's six Economic Development Districts, for \$3 million to capitalize a "Brownfield Cleanup Revolving Loan Fund".

Following are 26 assessments by DEQ:

- New Plymouth (county) assessment of former gasoline station;
- Parma (city) assessment of former gasoline station;
- Meridian (city) assessment of former business "the creamery";
- McCall (city) assessment of former landfill;
- Twin Falls (urban renewal) phase I and II assessments at eight industrial sites in Rock Creek project area (14);
- Cascade (county) assessment of 40 acres of former mill;
- Boise (urban renewal) assessment of former dry cleaner;
- Custer County (State parks and recreation) assessment of historic Bayhorse Mining District (5).

The 2004 EPA grant recipients were the city of Salmon for petroleum cleanup, \$100,000 (for a town square park); city of Caldwell for area-wide assessment, \$200,000 (reconstruct Indian Creek that runs through the city); CCDC - Boise Urban Renewal for area-wide assessment, \$200,000 (potential options for redevelopment of downtown Boise); and Washington County for dry cleaner assessment, \$100,000 (neighboring church may want to purchase the property).

The last item Ms. Hardesty talked about was DEQ's Remediation Site Finder. She said it is a web-based database containing all of Idaho's historic and current remediation sites. A search can be made on all contaminated properties in the State of Idaho by name, city, county, and zip code.

ADJOURN:

Chairman Schroeder thanked Ms. Hardesty and her staff for the presentation. He then adjourned the meeting at 2:45 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: February 9, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Cameron

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

He then said H 21 would be heard.

H 21 To require Magistrates to submit records of all revocations of trapping privileges to the Idaho Department of Fish and Game.

The Chairman asked **Mr. Steve Huffaker, Director, Idaho Fish & Game**, to explain this bill. Mr. Huffaker said it is a simple cleanup to close a loophole. Magistrates must mandatorily report revocations for hunting and fishing. Trapping was left out and this bill would include trapping to the revocation status.

Senator Pearce inquired if there were many trapping violations in the state. Mr. Huffaker replied there are some, especially along the Oregon/Idaho border.

MOTION: After a brief discussion, **Senator Burtenshaw** made the motion to send H 21 to the floor with a do pass recommendation. **Senator Williams** seconded the motion. A voice vote indicated it was unanimous. **Senator Williams** will be the sponsor.

SPEAKER: **Chairman Schroeder** then welcomed and introduced **Wayne Hammon, Director, USDA/FSA** who will give an update on the Idaho Conservation Reserve Enhancement Program (CREP).

Mr. Hammon provided three handouts to the committee. They are as follows: (1) Idaho CREP - Estimated Project Costs; (2) How Does CREP Benefit Idaho?; and (3) a draft of the Conservation Reserve Enhancement Program PROPOSAL. All are attached.

He then referenced his remarks to these handouts. Following is pertinent information taken from the handouts.

The CREP project aims to enroll 100,000 acres of land. The goal of the project is to reduce demand of water by 200,000 acre-feet annually. The project area overlies the Eastern Snake River Plain Aquifer (ESPA) and

extends from Ashton to King Hill, an area approximately 130 miles long and 70 miles wide. It is a voluntary program to span 15 years, with FSA paying the landowner rent (an estimated statewide average of \$118 per acre) each year over the life of the 15 year contract. The landowners pledge not to farm the land or use the water they would typically consume to produce a crop. The landowners would plant the idle land to an appropriate cover that prevents erosion, protects the topsoil and provides an enhanced wildlife habitat. FSA also helps cover the costs of installing these conservation practices (between 50 and 90 percent of cost) and provides additional payment each year to help control weeds, repair fences and other maintenance costs.

Irrigated farm land in all or a portion of 21 Idaho Counties may be eligible for CREP enrollment. These areas include the Eastern Snake River Plain Aquifer, the Mountain Home Groundwater Management Area, Big Lost River and Big Wood River drainage basins, and the Cinder Cone Butte, Raft River and Oakley Fan Critical Groundwater Areas. Additional eligibility requirements and limitations also apply.

The total estimated cost over the 15 year life of the program is \$334,779,020. USDA payments account for \$259,800,000 or over 75 percent of the total costs.

During the discussion, one of the questions asked was if once a person enrolled in the program, could they later withdraw their land. The response was yes, but they would have to repay any money they had collected.

ADJOURN:

Chairman Schroeder thanked Mr. Hammon for his presentation, then adjourned the meeting at 2:10 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: February 11, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Burtenshaw, Williams, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: Senators Cameron, Brandt

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

He then asked **Senator Stennett** to present his RS.

RS 14922C2 Senator Stennett said it is an attempt to try to develop a process that would keep the state in the driver's seat to develop an opportunity to put some water rights into the Water Supply Bank.

It would authorize the Water Resources Board to utilize water rights secured voluntarily in the Water Supply Bank for minimum stream flows. This would help to recharge the Eastern Snake Plain Aquifer. Senator Stennett also stated that if an agreement could not be reached, he would withdraw the legislation.

MOTION: After some discussion, **Senator Langhorst** made the motion to send RS 14922C2 to print. **Senator Little** seconded the motion.

DISCUSSION: **Senator Little** said that he didn't fully understand some parts of the proposed legislation, but is willing for it to be printed, then come back for further details, as he doesn't want any unintended consequences.

Senator Burtenshaw stated that he thought it had been worked out with the Water Users, but later found out that it has not been resolved. He suggested that the committee wait a week regarding this RS so that the Water Users could be contacted.

Chairman Schroeder said he felt that if this legislation was injurious to Water Users, it would probably not get voted out of committee.

Senator Burtenshaw requested a roll call vote. **Voting aye** on the motion were Senators Langhorst, Stennett, Little and Schroeder. **Voting nay** were Senators Williams and Burtenshaw. Senators Brandt, Pearce and Cameron were absent.

ACKNOWLEDGE MENT OF PAGE: Chairman Schroeder announced that today is **our page Austyn's 18th birthday**. He presented her with a card, signed by all the Senators

serving on the committee, and two gifts (candy and address book with note cards). She was also serenaded with the birthday song.

The Chairman said he would present the next RS.

RS 14703C2

Memorial to petition Congress to protect pet dogs and sporting dogs in the same manner as provided for dogs that guard or herd livestock.

Chairman Schroeder said this is a memorial to Congress to protect all dogs. He provided to the committee members a handout which was a newspaper article regarding mountain lion hunters losing some of their hounds to wolves.

MOTION:

Senator Burtenshaw made the motion to send RS 14703C2 to print. **Senator Stennett** seconded the motion. A voice vote indicated it was unanimous.

RS 14863

Amends Section 67-5251, Idaho Code, to provide that when testimony is provided by, or documentary evidence submitted by, a witness that has misrepresented their professional qualifications statutorily required by the State of Idaho, the testimony shall be disregarded.

Chairman Schroeder provided another handout to the committee. It is a letter from Paul Hunter, Vice Chairman of the Board of Registration for Professional Geologists to Phillip Clark Nisbet, a geologist who is not registered in the state of Idaho. This letter tells him to cease and desist until he has obtained the appropriate registration. The legislation that is proposed stems from this incident.

MOTION:

Senator Little made the motion to send RS 14863 to print. **Senator Williams** seconded the motion. A voice vote indicated it was unanimous.

RS 14858

This legislation allows for a governmental entity to apply for a single temporary permit for diversion of water for the exclusive use of road construction and or maintenance. Current law requires a separate permit for each point of diversion

Mr. Stuart Davis, Executive Director for the Idaho Association of Highway Districts, explained this RS. He said that the purpose is to have one permit for the diversion of water during road construction or maintenance on a job, rather than a separate permit for each point of diversion on a job.

MOTION:

After a brief discussion, **Senator Little** made the motion to send RS 14858 to print. **Senator Stennett** seconded the motion. A voice vote indicated it was unanimous.

Chairman Schroeder then asked Mr. Hal Anderson to present the next two bills, S 1034 and S 1035.

S 1034

Mr. Anderson, Administrator for the Idaho Department of Water Resources, said that this legislation is an amendment to the existing plan. It is to allow modification of the fall operation schedule for the Priest Lake outlet structure to provide lake levels more favorable to Kokanee spawning.

A question was asked if this would have any effect on the irrigation water coming from there. Mr. Anderson replied that it did not.

There were no further questions and there was no one in the audience who wished to testify.

MOTION:

Senator Langhorst made the motion to send S 1034 to the floor with a do pass recommendation. **Senator Little** seconded the motion. A voice vote indicated that it was unanimous. **Senator Langhorst** will be the sponsor.

S 1035

Mr. Anderson said this proposed legislation would give final approval to the South Fork Clearwater River Basin component of the Comprehensive State Water Plan. It was collaboratively developed by the Water Board and the U.S. Forest Service. This plan was completed last year. It protects 54 miles as state Natural Rivers and 324 miles as state Recreational Rivers. Mr. Anderson provided a map of the area involved. (Attached.)

Senator Pearce inquired as to how this legislation relates to the Nez Perce agreement. Mr. Anderson said this process was started before the Nez Perce agreement. There was discussion as to who determines construction of water diversion works. Mr. Anderson said the Board makes the evaluations.

Testifying in favor of the bill was **Bill Sedivy, Executive Director, Idaho Rivers United**. He said that the bill represents many years of very intensive citizen involvement and various interest groups. What is before the committee is a compromise of state protected river designations.

Senator Burtenshaw asked if this would change any activities in the area and the response was no. The lands and roads are managed by the Forest Service and the river designations won't limit, change or alter the access.

Chairman Schroeder asked Mr. Anderson if there were any organizations against this legislation. Mr. Anderson said the Farm Bureau originally had some concern. **Senator Burtenshaw** asked **Mr. Norm Semanko** of the Water Users what their position was. Mr. Semanko said they reviewed the plan, but have taken no position on it. Senator Burtenshaw asked **Jeff Allen** if OSC had reviewed the plan and Mr. Allen replied that they had not.

There were no more questions from the committee and no further testimony from the audience.

MOTION:

Senator Stennett made the motion to send S 1035 to the floor with a do pass recommendation. **Senator Langhorst** seconded the motion. A voice vote indicated it passed unanimously. **Senator Stennett** will be the sponsor.

Senator Little asked if a series of maps, with overlays and legislative districts could be provided. Chairman Schroeder asked Mr. Anderson if he could accommodate that request and the reply was yes.

**ANNOUNCE-
MENTS:**

The Chairman said he had received a report on pheasants from the University of Idaho and copies had been placed in the committee members' notebooks.

He also reminded the committee that next Monday is the deadline for RS's to be introduced.

ADJOURN:

The meeting was adjourned at 2:30 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: February 14, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

He announced that there were four RS's on the agenda. They are as follows:

RS 14870C2 This proposed legislation would provide voluntary donations to support activities of Idaho to the Idaho Hunters Feeding the Hungry, Inc.

RS 14988 This proposed legislation would allow OSC to coordinate state policy and efforts concerning invasive species

RS 14980 Memorial to Congress regarding an equitable reimbursement formula for the BLM to reimburse counties for local law enforcement services

RS 14981 Memorial to Congress regarding an equitable reimbursement formula for the Forest Service to reimburse counties for local law enforcement services

The Chairman said he would entertain discussion and/or motions regarding the RS's.

MOTION: **Senator Brandt** made the motion to print RS 14870C2, RS 14988, RS 14980 and RS 14981. **Senator Williams** seconded the motion. A voice vote indicated it was unanimous.

SPEAKER: Chairman Schroeder then introduced **Mr. Dennis Batie, a member of the Board of Directors for the Foundation for North American Wild Sheep (FNAWS)**, who will talk about the Foundation's activities.

Mr. Batie said he is representing the chapter for FNAWS of which there are approximately 300 members in Idaho. At a recent fundraising banquet, there were 280 in attendance and they grossed about \$50,000. The proceeds go towards projects relating to wild sheep.

One project involves Bighorn sheep in Hells Canyon and they work together with Oregon and Washington. There is ongoing work with California Bighorn's in Owyhee County and recently the Fish and Game Department reintroduced 35 more sheep in an area south of Burley.

There is a population of 62 sheep in the Lost River Range. Mr. Batie said that in 1988, their organization sought and received legislation to allow one auction tag (Bighorn sheep) and in 1992, one lottery tag. Since that time, the auction tag has taken in approximately \$1 million and the lottery tag \$500,000. This money is turned over to the Fish and Game Department and is used strictly on sheep projects.

Senator Burtenshaw inquired if one of the projects was introducing sheep in the Birch Creek drainage. **Mike Foster, Senior Biologist for the Forest Service**, was asked to respond to the question. Mr. Foster said that in the late '70's and early '80's, the Idaho Fish and Game Department did release sheep in the Birch Creek area.

Senator Burtenshaw asked what the present status of that area was. **Mr. Dale Toweill, IDFG and Trophy Species Program Leader**, replied that up until the transplant, there were approximately 100 sheep. In the Lemhi Range, there are approximately 70 sheep.

Mr. Toweill introduced **Mr. Jerry Walters, FNAWS volunteer and also on the Board of Directors**.

Mr. Walters said he had been a volunteer for about nine years. He was asked by the Fish and Game to gather data on the Lost River Range and has been there for about seven months. For five of those months, he lived out of a backpack in the hills, collecting information concerning population. He has also worked with the local farmers and ranchers in that area and has kept them informed. Over the course of the summer, he found approximately 101 wild sheep still on the range, covering about 80 miles. Sheep were found in three different areas in the Lost River Range. Sunset Peak had about 21, Pass Creek to Double Springs had about 32, and from Double Springs on north, about 41. The sheep were widely distributed along that range. Mr. Walters said he met with many, many people trying to figure out why the population of sheep is not increasing and to also keep them informed of the data gathering. Some of the contacts included representatives of the Wool Growers, local politicians, county commissioners in Butte and Custer County, representatives of the Farm Bureau, Chambers of Commerce and mayors. Support of this project was well received.

Mr. Walters said his work for Fish and Game ended November 23 and from that point, he has volunteered his time. The Department of Fish and Game learned of some available sheep from Montana that could be transplanted in the Lost River Range. Mr. Walters contacted the owners of domestic sheep around the project area, provided them with emergency response numbers (in case a wild sheep might show up in their herd), and asked them to call for the removal of the animal(s). This would be done at no expense to the owners. To date, Mr. Walters said he has visited with 17 owners in that particular area. On January 9, the sheep were released. Some of the local people assisting with opening the trailer gates for the release of the sheep were Mr. Leon Zigler, Mr. Whittier and Mr. Jack Jensen.

Senator Williams inquired about disease problems with Bighorn sheep. Mr. Toweill responded by saying that Bighorn sheep are susceptible to a variety of diseases and the IDFG were concerned, as with any transplants, that they not import problems. Because of those concerns, the IDFG has worked with the Idaho Wildlife Health Laboratory. They captured sheep existing on the range, prior to the transplant, had them tested and equipped them with radio collars. They were assured there were no diseases present and no diseases brought in. To date, there are 62 sheep and some have mixed with resident sheep. There has been no indication of any problems.

Senator Burtenshaw asked if there had been an agreement worked out with local sheep owners to not graze in the same area where the wild sheep will be placed. **Mr. Toweill** said that they had worked extensively with the Idaho Wool Growers Association as they did not want any contact with the Bighorn sheep. The IDFG determined that there would be a minimal distance of 10 miles between the domestic and wild sheep. The Lost River Range was determined to be the most secure place to transplant wild sheep.

It was asked what diseases transfer between the domestic and wild sheep. **Mr. Toweill** said that primarily, the die-offs they had in Hells Canyon were caused by pasteurilla bacteria (shipping fever in domestic sheep).

Another question asked of Mr. Toweill was what is the number one predator of Bighorn sheep and how serious is it. The reply was that the mountain lion is the number one predator; wolves and coyotes do not appear to be a significant predator; bobcats and golden eagles might take a few lambs, but they are not significant predators.

Senator Stennett inquired about the distance of range for the Bighorn sheep - if it would extend from Challis to Arco. **Mr. Toweill** said if the sheep do well, they will expand their range and they tend to stay in groups from 3 to 20. Senator Stennett then asked what could be done to keep the sheep off the valley floor. **Mr. Walters** stated that the BLM is working on conditions to improve habitat and that most owners have dogs. **Senator Little** said that guard dogs do a good job of protecting their owner's property.

Senator Burtenshaw told an interesting story about sheep and guard dogs. He said he had a flock of sheep in Wyoming and one winter they fed them beans. When they fed beans, the antelope would come down to eat the beans and the guard dogs would then chase after the antelope. While the dogs were busy, the coyotes would move in behind them and get a sheep. (Much laughter.) He said it seems all species have their tricks.

Chairman Schroeder inquired as to what happens when Bighorn sheep come in contact with domestic sheep, as far as agency response. The reply was that they do have an emergency response plan in place. If someone sees a Bighorn sheep where it shouldn't be, they contact the

Fish and Game, and the animal is removed either by lethal means or by capture and removal. The Chairman then asked, with regard to movement of wild animals that have been in contact with domesticated sheep, if the rules are more stringent or less stringent. Members of the Foundation that were in the audience said they were not qualified to answer that question.

An inquiry was made as to the population of wild sheep in Idaho. **Mr. Toweill** said he thought there were about 3,500 total. Rocky Mountain Bighorn number about 2,500 and California Big Horn number about 1,000. The California Bighorns are found south of I 84, primarily in Owyhee County, but some south of Burley and a few south of Twin Falls. The Rocky Mountain Bighorns are found in Hells Canyon, the Main Salmon River, the Middle Fork of the Salmon River and the area south of Salmon and Challis. There don't appear to be any sheep north of St. Maries.

Senator Burtenshaw asked about the population of mountain goats in Idaho and can they transfer diseases to the sheep. **Mr. Toweill** said there are about 2,500 mountain goats in Idaho and that number has remained constant for quite some time. They are found in very steep country, primarily in Central Idaho - the Sawtooths, Boulder, White Clouds, the Wilderness area and Hells Canyon. Mr. Toweill said they do not know of any transfer of disease between mountain goats and Bighorn sheep.

Senator Little asked about quarantine facilities, should they be needed. **Mr. Toweill** said animals are sent to either WSU or the Colorado Animal Holding Facilities.

Chairman Schroeder inquired about the number of animals killed. **Mr. Toweill** said that 40 Bighorn sheep were harvested last year, with 70 permits issued. Next year, 80 permits will be issued. Twenty to 30 animals were turned into the Department as pick-ups, some of which may have been taken illegally. Fifteen years ago, 200 permits were offered. Due to the die-offs in the early '90's in Hells Canyon, the number of permits were reduced. However, the sheep population is recovering.

The Chairman asked about the economic impact attributed to the Bighorn sheep. **Mr. Toweill** said that the Bighorn sheep is the most highly sought after big game animal in Idaho. The state receives about \$70,000 from application fees and one tag will be auctioned, which will go for at least \$100,000. The exact economic impact is not known.

Chairman Schroeder thanked the representatives of the Foundation for talking to the committee and also for the work they are doing through the Foundation.

ADJOURN: The meeting was adjourned at 2:25 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: February 16, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Burtenshaw, Williams, Brandt, Stennett

MEMBERS ABSENT/ EXCUSED: Senators Cameron, Little, Langhorst

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

He then welcomed Senator Keough to the meeting and asked her to introduce Mr. Steve Klatt, appointee to the Parks and Recreation Board.

INTRODUCTION OF APPOINTEE: **Senator Keough** said it was an honor to introduce Steve Klatt to the committee who is here for his confirmation hearing on his appointment to the Parks and Recreation Board. He is from Sandpoint, which is Senator Keough's hometown. She said that she has known Steve since 1980 and has found him to be honest and also a man of integrity. He cares about Idaho and its resources and also has a wealth of background, both in the business arena and as an elected official. Senator Keough said he will be a great asset to the Parks and Recreation Board and it was her pleasure to introduce him to the committee.

SPEAKER: Mr. Klatt said he is a North Idaho product, living there since he was three years old, growing up in a fishing and recreational environment and that outdoor recreation is a part of his heritage.

He then reviewed his work history and civic activities for the committee members, which has helped to qualify him for this appointment.

- BLM, survey crew 1970-71
- Klatt's Landscaping & Construction 1974-82
- Campbell Tugboat Towing 1983-85
- Bonner County Commissioner 1995-96
- Self employed; Midas Management & Better Sites Design 1985 to present

- Chambers of Commerce - Sandpoint, Priest River, Hope
- Waterways - Bonner County
- Waterlife Discovery Center - founding member
- Sandpoint Elks Lodge - trustee
- Youth football coach
- Sandpoint City Council 1975-79

Mr. Klatt was asked if he has visited all the parks in the state. He replied

that he had not, but hopes to accomplish that in the future.

He was also asked about his disposition, regarding receiving complaints and advice from the public sector. Mr. Klatt said everyone is entitled to his/her own opinion and it is incumbent (for people who take positions like this) to listen to the public's opinions. He said he feels that he will be able to talk, and listen, to both sides on issues.

Testimony **Representative Eskridge**, who lives in Dover, testified in support of the appointment of Steve Klatt to the Parks and Recreation Board

Testimony **Representative Anderson**, from Sandpoint, also testified in support of the appointment of Mr. Klatt.

Chairman Schroeder thanked Mr. Klatt for talking to the committee and announced that consideration for his appointment would be held on Friday, February 18.

The Chairman then called on Ron Litz to present H 66.

H 66 An act relating to the Board of Scaling Practices; amending Section 38-1209, Idaho Code, to decrease the minimum number of meetings the Board is required to hold in each calendar year.

Mr. Ron Litz, Assistant Director, Forestry and Fire, Idaho Department of Lands, said this bill corrects an inconsistency in the law. The law requires the State Board of Scaling Practices to meet a minimum of two times per year in one instance, and four times per year in another. The correct number should be two.

There was no one in the audience that wished to testify and no questions were asked by the committee.

MOTION: **Senator Williams** made the motion to send H 66 to the floor with a do pass recommendation. **Senator Brandt** seconded the motion. A voice vote indicated it passed unanimously. **Senator Williams** will be the sponsor of the bill.

ANNOUNCEMENTS: **Chairman Schroeder** said there is an article (in the blue folder) about arsenic in drinking water which was supplied by **Senator Pearce**. The Chairman suggested to the committee members that they read it.

Chairman Schroeder announced that on February 22 and 23, the House Resources committee will be holding hearings at the Student Union Building on the BSU campus regarding the Nez Perce/ Snake River Water Agreement bills. The meetings will be from 1:30 to 6 p.m. and transportation will be provided. Parking is available for those who wish to drive. The Chairman asked that the Senate Resource committee be in attendance, if they can. Due to these hearings, the regularly scheduled meeting for Wednesday, February 23, has been cancelled.

COMMITTEE BUSINESS: Chairman Schroeder said there was a question regarding Docket No. 58-0102-0401 of the Rules (Department of Environmental Quality). It relates to the Snake River, site-specific criteria for water temperature, which Senator Burtenshaw had some concerns. The Chairman asked DEQ to

provide clarification on this rule.

SPEAKER:

Mr. Barry Burnell, Administrator for the Water Quality Division of DEQ, addressed this issue. He provided two charts showing the Snake River temperatures (near Anatone, Washington) from 9/26/04 to 1/23/05 (attached).

Mr. Burnell said this rule was approved last year as a temporary rule and it replaces the existing criteria and is less stringent. The proposed rule revises the spawning and incubation temperature criteria to 13 degrees C as a maximum weekly maximum temperature, based on specific dates. Those dates are tied to fall chinook spawning. The temperature doesn't change otherwise. Mr. Burnell said their proposal is to remove the nine degree daily average standard, but to have the more restrictive 13 degree maximum weekly standard.

The operations at the Hells Canyon Complex (HCC) have proposed, as part of the litigation, to have temperature control structures to dams that would allow for warmer water in the spring for development of fall Chinook eggs and cooler water in the fall for inducing spawning of adult returning salmon. Mr. Burnell said the temperature control structures would have the ability to pull water from different levels in the reservoir, as surface water is warmer and the deeper you go, the cooler it gets.

Senator Burtenshaw inquired about the expense of the temperature control structures. Mr. Burnell said the temperature control structures proposed by Idaho Power does have a price tag associated with it. It is expected to take the better part of this year to come to a general agreement as there are many agencies involved in this project. Senator Burtenshaw asked if Idaho Power is in accordance with the proposed rule. He also asked if the rate-payers would have to pay these costs. Mr. Burnell said Idaho Power did not object to this rule. As far as the costs associated with this project, Mr. Burnell said Idaho Power has stated that they believe the rate-payer should not have to pay for the temperature control structures, but other agencies and other interests that would benefit by it should also be part of the equation to balance the costs.

Senator Burtenshaw asked if Idaho Power was part of the rule-making committee. Mr. Burnell deferred the question to **Don Essig, Water Quality Standards, DEQ**. Mr. Essig said that with this particular rule, Idaho Power was aware of it, but did not offer any comments.

Senator Williams asked if there was significant damage done to the spawning salmon. **Mr. Burnell** said that salmon spawn based on the temperatures they are experiencing in the rivers. Salmon will stay in areas in the river where the water is cool as they migrate upstream. The temperature being greater than 13 degrees causes the salmon to hold in the cooler waters until the water temperature comes down. The salmon, through their life cycle, know that if they spawn in higher temperatures, their likelihood of survival is reduced.

Senator Stennett asked about the temperature of the Snake River at the

confluence of the Salmon. **Mr. Burnell** said he did not have that data with him, but could provide it later. Senator Stennett asked how many fish go past this point. Mr. Burnell said he did not have those statistics either.

Chairman Schroeder asked Senator Burtenshaw if his concerns were answered. **Senator Burtenshaw** replied that his main concern was that a lot of water would have to be released to cool the river and he did not want irrigation water taken away.

Senator Brandt said he contacted Idaho Power this morning and they do not have an issue with the rule.

Chairman Schroeder said he would entertain a motion regarding this rule.

MOTION: **Senator Burtenshaw** made the motion to approve Docket No. 58-0102-0401, site-specific criteria for water temperature. **Senator Williams** seconded the motion. A voice vote indicated it was approved unanimously.

The Chairman said a letter would be sent to the Pro Tem, notifying him that the rule has been approved.

ADJOURN: The meeting was adjourned at 2:15 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** February 18, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 433
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Little, Stennett, Langhorst
- MEMBERS ABSENT/ EXCUSED:** Senator Brandt
- CALL TO ORDER:** **Chairman Schroeder** called the meeting to order at 1:30 p.m.
- RECOGNITION:** He then asked **Austyn Lewis** (Page) to come forward. He thanked her for her good work that she provided to the committee during the first half of the session. She was then presented with a letter of appreciation and recommendation, signed by all the Senators on the committee, and also a Senate watch.
- Austyn was appreciative and said she enjoyed being a Page for the committee.
- INTRODUCTION:** Chairman Schroeder then introduced **April Palmer**, who is the Page for the second half of the session. April said she is from Weiser and is looking forward to her duties here.
- MINUTES:** The Chairman said he would entertain motion(s) for approval of minutes.
- MOTION:** **Senator Burtenshaw** made the motion to approve the minutes for January 28 and 31. **Senator Williams** seconded the motion. A voice vote indicated it was unanimous.
- MOTION:** **Senator Langhorst** made the motion to approve the minutes for February 4. **Senator Burtenshaw** seconded the motion. A voice vote indicated it was unanimous.
- MOTION:** **Senator Pearce** made the motion to approve the minutes for February 9 and 11. **Senator Burtenshaw** seconded the motion. A voice vote indicated it was unanimous.
- Clarification:** **Chairman Schroeder** said that he had received a request to ask someone from the Office of Species Conservation (OSC) and the Department of Fish and Game (IDFG) to discuss the parameters surrounding the killing of wolves to protect the big game herds. He then called on Mr. Jim Caswell, Director, OSC, to review the process.
- Mr. Caswell** said there is a comparison of the rules - the old rule, the new rule and the 4(d) rule. He said these lay out the parameters by which the

process is designed to work. First of all, the state department needs to bring forward a scientifically based rationale that indicates a particular herd in a specified location is being severely impacted by a specific wolf pack. He stated that there needs to be some science behind it, and also have some credibility. In the course of developing this, it would eliminate other issues that may be in play.

Mr. Caswell said the second step would be to take the development of the proposal and have peer review. Public comment would also be taken. Then, the peer review comments and the public comments would be considered, then they would change the proposal to whatever degree they thought was appropriate. When asked how long all this might take, he said that question should be directed to Mr. Huffaker.

Mr. Steve Huffaker, Director, Idaho Department of Fish and Game, was asked to speak next.

Mr. Huffaker said the precedent is very important and it is more important to do it right, rather than quickly. He said that he has personnel flying into the back country now to check the elk. Also, five new wolf packs have been discovered. For the data, they need cow/calf ratios, historic data on elk herds, and number of wolves - all documented, so that they will know if it is specifically wolf predation that is causing the elk herds to diminish. Mr. Huffaker said they hoped to obtain the needed information this winter, put it together this spring, then make the proposal next summer.

Senator Pearce said he wanted assurance from Mr. Huffaker that there isn't a "protect the wolf" mentality tucked anywhere within the Fish and Game Department. Mr. Huffaker said he could not speak for all 522 employees of the agency, but the agency itself understands the fact that there are many more wolves than what is required under the Endangered Species Act or for the health of big game animals.

After some discussion, **Chairman Schroeder** said the "bottom line" is that the IDFG just cannot go out and shoot wolves to protect game herds. There is a lengthy process that they have to go through. The Chairman then asked the committee if they were comfortable with the clarification. The committee acknowledged they were.

Senator Pearce requested timelines of the progress, hearings, etc. Mr. Huffaker said he would provide periodic updates to the committee.

Senator Little inquired if the five new wolf packs now brings the total packs to 48. Mr. Huffaker replied in the affirmative.

Chairman Schroeder thanked Mr. Caswell and Mr. Huffaker for their information and participation in the discussion.

H 106

The Chairman said H 106 was inadvertently sent to this committee and that it should be directed to the proper committee, State Affairs.

MOTION:

Senator Pearce made the motion to re-refer H 106 to State Affairs.

Senator Stennett seconded the motion. A voice vote indicated it was unanimous.

Chairman Schroeder said Representative Wills will present his bill, H 91.

H 91

An act relating to Fish and Game conservation officers; amending Section 36-1301, Idaho Code, to provide that the director may award a conservation officer his badge, duty weapon and handcuffs upon retirement in certain circumstances, to revise descriptive language and to make technical changes.

Representative Wills said that a committee of three peers will certify that the officer has served meritoriously for at least fifteen years. It is also to show that the people of the state care about their service and dedication to the public.

There was no one signed up to testify on this bill.

MOTION:

Senator Burtenshaw made the motion to send H 91 to the floor with a do pass recommendation. **Senator Langhorst** seconded the motion. A voice vote indicated it was unanimous. **Senator Burtenshaw** will be the sponsor.

Chairman Schroeder said the next bill to be heard is HJM 1 and will be presented by **Pro Tem Geddes**.

HJM 1

A Joint Memorial to the Senate and House of Representatives of the United States in Congress assembled, and to the Congressional delegations representing the states of Idaho, Utah and Wyoming in the Congress of the United States.

Senator Geddes said that this legislation is an outgrowth of efforts by former legislator, Eulalie Lankford. He stated that this memorial merely sends a message to our Congressional delegation that we need some help in securing some additional storage in the Bear Lake system. The Bear River originally did not enter into Bear Lake. The request is that past investments in recent years by local and the three states be considered as the local match to make the requested Corps of Engineers feasibility study possible, which will provide flood control above Bear Lake. Bear River flows through three states (Utah, Wyoming, Idaho) and there is a multistate compact known as the Bear River Compact. Senator Geddes urged the committee's support on this legislation.

There was no one signed up to testify on this bill.

MOTION:

Senator Williams made the motion to send HJM 1 to the floor with a do pass recommendation. **Senator Cameron** seconded the motion. A voice vote indicated it was unanimous. **Senator Geddes** will be the sponsor.

Chairman Schroeder said once in a while there is a success story in the state and the Big Payette Lake folks have such a story. Chairman Schroeder invited **Mr. Peter Johnson, Chairman of the Council**, to present a report on the "Transition of Big Payette Lake Water Quality Council to Big Payette Lake Watershed Advisory Group".

SPEAKER: **Mr. Johnson** provided two handouts - The Sharlie Sentinel (December 2004 newsletter of Big Payette Lake) and a booklet, Big Payette Lake Management Plan. Mr. Johnson referenced some of his remarks from this literature.

Mr. Johnson said that 12 years ago, the Legislature created the Big Payette Lake Water Quality Act. From that Act, the Big Payette Lake Water Quality Council was formed and assigned three tasks that have now been accomplished.

- (1) Conduct a professional water quality assessment and prepare a Technical Report of the Lake and watershed;
- (2) Prepare a Lake Management Plan with recommendations on how to protect water quality;
- (3) Sponsor a broad, public educational and informational program.

With these tasks completed, the legislation that created the Council calls for its disbandment which will occur March 24, 2005. The legislation also indicated that the Council was to assist in the establishment of an oversight agency to succeed the Council. This has been completed also.

Ms. Toni Hardesty, Director of the Department of Environmental Quality, created the Big Payette Lake Watershed Advisory Group (WAG) which is made up of 15 members to carry on the oversight role of protecting the Lake's water quality. This group was formed on November 9, 2004. The Council furnished a list of recommendations to the Advisory Group that listed current issues and they also shifted \$24,000 to them to provide some working capital.

Mr. Johnson then introduced **Mr. Craig Shepard** from DEQ who spoke about the transition from the Council to the Watershed Advisory Group.

A question was asked regarding Eurasian watermilfoil (EMF) and can it be eradicated. Mr. Johnson said an ad hoc committee was formed to study the problem. They then contacted a scuba diver who performs the harvesting of EMF from the lake bed. He stated that EMF can be controlled, but not eradicated.

Chairman Schroeder thanked Mr. Johnson and Mr. Shepard for taking the time to talk to the committee.

Chairman Schroeder said he invited Mr. Rassier to talk to the committee about the Idaho Department of Water Resources Order regarding the delivery call by the Surface Water Coalition.

SPEAKER: **Mr. Phillip Rassier, Deputy Attorney General, IDWR**, said the Order that he was asked to talk about today is the Order that the Director issued on February 14. It is a response to the Water Delivery Call that the Surface Water Users (generally in the area from American Falls down to Minidoka), comprised of seven different canal companies and irrigation districts. They made a call for delivery of water on January 14 to the Director under the Conjunctive Management Rules.

The Call that was filed by the Surface Water Users asserts that the diversion of ground water from the Eastern Snake River Plain Aquifer (ESPA) has the effect of diminishing the amount of water that flows into the Snake River, whether it is the river itself or to the springs that feed American Falls Reservoir. The depletion of ground water is alleged to cause depletion and reduction of surface water, which means that during times of water shortage, there is inadequate water to fulfill the needs of the water rights of the surface water users of the canal. They based their calls on the amount of depletion to the surface water flows and asked for relief that the Director curtail groundwater diversions on the ESPA.

Their call is a bit complicated and there are different jurisdictional areas within the ESPA. The goal is to have the entire ESPA covered by water districts, but presently, there are only two water districts created, #120 and #130. The Director is not able to create water districts until the water rights within those areas have been adjudicated by the Snake River Basin Adjudication Court. Progress is being made on that. Once a water district is created, that allows for a water master to be elected/appointed by the director and for water to be administered in accordance with the priority doctrine. The Conjunctive Management Rules that the department promulgated in 1994, under Director Keith Higginson, provides a mechanism and lays out a process to be followed in the event there are calls by senior surface users against junior ground water users. Those are the rules that the director is required to follow in responding to this Call.

Mr. Rassier then explained what the Director did in response to the Call. The Call was made against Water District #120, the American Falls water district. It was not made against Water District #130. However, the model shows the depletion of ground water in Water District #130, in the Thousand Springs area, actually do have a depleting effect on the surface water that the surface water users are calling for. Approximately 34 percent of the depleting effect from ground water depletions in the Thousand Springs area actually show up between Neely and Milner. The Director said he could not treat this as a call against one claim. The call was taking him to #130 as well as #120. That is one significant matter that is decided in the Order.

The other important principle is the issue of surface water users is whether they are entitled to claim injury or claim that they were entitled to have ground water users curtailed, if the ground water depletions were reducing the amount of storage that were accrued to their reservoirs, even if the surface water users had an adequate supply when you take their natural flow water rights. (The natural flow is the water that flows down the river or stream during the portion of the year that they irrigate.) Even though there is an adequate supply of water between the natural flow rights and the storage rights that these senior surface users have to provide a full supply of water to get through the irrigation season, are they still being injured? The Director decided "no", as long as there is a full supply of water to satisfy the needs of the surface water users. If there is an inadequate supply, given the natural flow rights and the storage rights, then he will prevail. Mr. Rassier said the Director also said that he can't

make that determination right now because he doesn't know how much storage water will accumulate in those reservoirs before the beginning of the irrigation season. April 1 is the date that has been set to determine the amount of storage water.

Mr. Rassier said what he has addressed are the main issues of this Call.

Time was allowed for questions from the committee.

Chairman Schroeder thanked Mr. Rassier for speaking to the committee.

The committee then took under consideration the Gubernatorial appointment of **Steve Klatt to the Parks and Recreation Board**.

MOTION: **Senator Little** made the motion to approve the appointment of Steve Klatt to the Parks and Recreation Board. **Senator Williams** seconded the motion. A voice vote indicated it was unanimous. **Senator Keough** will be the sponsor.

ADJOURN: The Chairman adjourned the meeting at 3:10 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: February 21, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:40 p.m.

MINUTES: The Chairman said he would entertain motion(s) for approval of minutes.

MOTION: **Senator Brandt** made the motion for approval of the minutes of February 2nd. **Senator Burtenshaw** seconded the motion. A voice vote indicated it passed unanimously.

Chairman Schroeder called on **Mr. Stuart Davis, Executive Director, Idaho Association of Highway Districts**, to present his bill, S 1118.

S 1118 An act relating to water rights; amending Section 42-202A, Idaho Code, to provide that a single annual temporary permit may be issued by the Department of Water Resources to the State of Idaho, or any of its political subdivisions for the exclusive use of water for construction or maintenance of public facilities, regardless of the number of points of diversion, not to exceed one acre foot of water per year, per permit.

Mr. Davis said that he had met with Mr. Norm Semanko (Idaho Water Users Association, Inc.) and Ms. Gayle Batt (legislative advisor for IWUA) and it was obvious that it would be hard to amend this bill to satisfy their concerns. He also stated that the Idaho Department of Water Resources felt it would be difficult to manage the permits. **Mr. Davis then requested that the bill be held in committee** and that during the interim, he would work with the agencies to rewrite the bill.

Chairman Schroeder said that with Mr. Davis' permission and the consent of the committee, S 1118 will be held in committee.

The Chairman said that due to weather conditions (fog at the airport), Senator Goedde is unable to be here to present his two Senate Joint Memorials. Standing in for him will be Senator Brandt.

SJM 103 and SJM 104 **Senator Brandt** said the legislation is asking Congress for some monetary assistance in law enforcement. SJM 103 deals with BLM land

and SJM 104 deals with Forest Service land. Senator Brandt stated that Senator Goedde was approached by his county law enforcement and the issues weigh in on the county's responsibility to carry the law enforcement burden to get into remote locations. Senator Brandt said the "burdens" become pretty expensive. He provided two handouts that explained the need for adequate and balanced funding and a standardized formula for the distribution of that funding (attached).

There was no one in the audience that wished to testify on these bills.

MOTION: **Senator Brandt** made the motion to send SJM 103 and SJM 104 to the floor with a do pass recommendation. **Senator Little** seconded the motion. A voice vote indicated that it was unanimous. **Senator Goedde** is the **sponsor**.

SJM 102 **Chairman Schroeder** said the wolf management plan that is in place now gives protection to working dogs (stock dogs), but no protection to hunting dogs or pet dogs. This memorial is asking that all dogs be protected and also more money be made available for dog loss.

There was no one in the audience that wished to testify on this bill.

MOTION: **Senator Brandt** made the motion to send SJM 102 to the floor with a do pass recommendation. **Senator Burtenshaw** seconded the motion. A voice vote indicated that it was unanimous. **Sponsors are Senators Schroeder, Burtenshaw, Brandt and Pearce.**

ANNOUNCEMENTS: Chairman Schroeder reminded the committee about the hearings Tuesday and Wednesday at BSU regarding the Nez Perce/Snake River Water Agreement bills. Transportation will be provided at 1 p.m. and will not return until the meeting has adjourned. Due to these meetings, there will not be a committee meeting Wednesday, February 23 in Room 433.

SPEAKER: The Chairman then welcomed **Ms. Betty Munis, Director, Idaho Forest Products Commission.**

Ms. Munis had five handouts for the committee members (attached). They are:

- FY 2004 Legislative Budget Report
- FACTS About the Idaho Forest Products Commission
- Idaho Forest Products Commission 2004 Activities
- Materials about Forests
- 2004 Opinion Poll

Inserted in the minutes is a copy of Ms. Munis' report.

The Idaho Forest Products Commission was established by the Idaho Legislature in 1992 to provide information about Idaho's forest lands and forest products industry. Like other businesses, the forest products industry serves at the pleasure of the public. It is critical that the average Idahoan understands the issues facing Idaho's forests and supports responsible forest management. The need for IFPC's programs and factual information is also confirmed by our growing urban population, dynamic

forest issues, complex forest management needs and ever-changing cadre of decision-makers and resource managers.

The standard for all FPC programs and activities is to be credible, accurate, high-quality, timely and statewide in application. Each project focuses on reaching a specific audience and achieving a specific goal. All activities fall within one of seven program areas: education, industry information, research, contingency, mass media, public information and administration. IFPC uses communication tools such as television, radio, billboards, interpretive sites and publications coupled with educator training, student programs, a web site, forest tours and special events to meet its mandate. These activities are funded by annual assessments on forest product businesses.

Since 1992, IFPC has worked diligently to build a strong foundation of communication and education programs that are effective and cost-efficient. As a result, there are more coordinated forest education and information programs available to Idaho's public than at any other time. The Commission is a leader in developing innovative programs that help targeted audiences better understand forest issues. IFPC is poised to meet the challenge with a working infrastructure that provides credible and timely information about forest issues. We are committed to staying the course with programs that encourage public understanding, acceptance and support of responsible forest stewardship and recognition of the economic significance of Idaho's forest products industry. Here are highlights from our work in 2004.

Education: The Commission's role in education is to serve as a clearinghouse for information, coordinate and market programs, improve existing materials, fill voids by providing support materials and speakers and develop new programs if needed. IFPC is committed to providing a long-term statewide education program aimed at reaching Idaho teachers and students. A major component is "Project Learning Tree," based on the principle of teaching children how to think, not what to think, and preparing students to make wise decisions about resource use and conservation. IFPC enhances the PL T program with Idaho- specific materials, kits and posters. Since IFPC's involvement, over 3,800 teachers have taken PLT workshops with the potential to reach 142,500 students each year. Idaho PL T has also made available correlations between PL T activities and the state education standards through an interactive, online database.

The Commission sponsored the Fire Ecology Workshop and the Temperate Forest Foundation's Intermountain Forest Tour for educators in 2004. We also worked with members of the Society of American Foresters to provide a weekend forest tour for teachers. Forest Products Week was celebrated in the fall with hundreds of students participating in an essay

contest and writing about how trees touch their lives. This year, eighteen teachers received IFPC grants for forest-related projects. A key project for the year was education research to help us better understand the challenges facing educators and assist in developing successful future education programs.

The IFPC Log, a bi-annual update of education opportunities and information, was sent to schools, libraries, administrators and over 9,000 educators and is available online. We currently offer 51 titles in our video/CD lending library , paper making and forester lending kits, tree cookie kits and over 80 printed brochures, posters and booklets.

Mass Media: Television and radio advertisements provide the best and most cost-effective way to reach the greatest number of people with our message. The 2004 media year included a television, radio and billboard campaign. Four new television ads focusing on water, wildlife and fire aired throughout the state on network TV in the spring and on cable TV in the spring and fall. The Summer Olympics provided an excellent opportunity to reach audiences with a positive message about forest management and the people who work in forest businesses. A successful reforestation billboard campaign ran in conjunction with Arbor Day the month of April. Based on polling information, two radio advertisements aired throughout the summer about economic contributions of the industry and water issues. All advertising encouraged viewers to visit our web site for more in-depth information. The IFPC media program continues to perform at a high level with over 35 million gross impressions in Idaho! IFPC also earned nearly \$120,000 in bonus and matching commercials through effective planning and ad placement.

Public Information: IFPC's award-winning Arbor Day project focuses on reforestation and the benefits of trees. Highlights of the state-wide project included an effective billboard, print and radio campaign and giving away 20,000 seedlings at Home Depot, Kinko's and other locations throughout the state. A record 85 radio stations participated in Arbor Day 2004 by airing public service announcements featuring Governor Kempthorne and including tree trivia and Arbor Day promotion in their programming. An Arbor Day brochure and t-shirt were developed for the event and a special tree-planting ceremony was held at the statehouse honoring the winner of Idaho's Arbor Day Poster Contest, 5th grader Stori Lynne Loveland.

Forest tours are an effective way of giving key decision-makers a first hand look at our industry and issues. In September, twenty-five II decision-makers" participated in the two-day Miracle at Work Opinion Leaders Forest Tour held in north Idaho. Nearly 200 opinion leaders have participated in this special forest tour since 1995.

Our Web Site, idahoforests.org, provides a tremendous source of

information and 531 image files. The site continues to grow in size and usage as we continue to develop a creative, educational source of information. The comprehensive site includes over 960 "pages" or areas of information and attracted over 13,650 visitors per month in 2004 and attracted 5 million total hits! Moreover, 63% more information was transferred to users in 2004.

IFPC continues to work on new interpretive signs for Highway 12 for the Lewis & Clark celebrations and tourist travel. The Commission also helped Idaho Women in Timber groups participate in public events, promoted a forest driving tour, participated in Forestry Day at the Statehouse and participated in the Ag Pavilion at summer fairs and provided materials at many other events. We also completed an interactive CD Rom, "The Floodwood: Choices for a Working Forest."

Industry Information, Research and Contingency: Industry information funds keep supporters informed of the Commission's work. Research data tracks public perceptions and shapes IFPC's programs. In addition to media research, the Commission conducted a statewide poll in 2004 to track our progress, identify changes in public attitudes, perceptions and concerns and develop media messages. Findings indicate strong support for the forest industry and active forest management. The contingency fund provides reserve funds in the case of a special opportunity or critical situation.

Administration provides the necessary items to keep our doors open and information flowing including personnel, office expenses, printing and information distribution. Commission members are not paid for their service.

A question and answer period followed the report.

ADJOURN:

Chairman Schroeder thanked Ms. Munis for her report, then adjourned the meeting at 2:10 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: February 25, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Burtenshaw

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

INTRO-DUCTIONS: The Chairman then asked **Mr. Jake Howard, Director of the Idaho Outfitters and Guides Licensing Board**, to introduce the two Gubernatorial appointees.

Mr. Howard said he would like to introduce several people. First was **Mr. Bill Bernt**, who is up for reappointment; **Mr. Wayne Hunsucker**, who is also up for reappointment; two other Board members - **Mr. Scott Farr** and **Mr. Ray Lyon**; and Board attorney, **Mr. Steve Scanlin**. He then asked Mr. Bernt to speak first.

APPOINTMENTS: **Mr. Bernt** is from Salmon, Idaho and the term of his appointment is from 4/20/04 to 4/20/07. He received his BS degree in 1970 from Central Missouri State and his MS degree in 1976 from Idaho State University. He is self-employed, operating river trips since 1978. His civic and community activities include three terms on the Idaho Outfitters and Guides Licensing Board; two terms on the Board of Directors of the Idaho Outfitters and Guides Association; BLM Advisory committee; and 20 plus years as a member of the Elks.

Mr. Bernt said the river trips he conducts are on the Salmon River - Middle Fork, Main, and Lower Salmon.

A question was asked as to why the Board would get involved in the sale of a business by an outfitter and also review financial statements of a buyer. Mr. Bernt replied that the Board has an obligation to make sure that the buyer has an operation plan and is in a position to financially support the business; otherwise, they may not be able to provide good service to the public.

Speaking next was **Mr. Hunsucker**. He is from Boise and the term of his appointment is from 4/20/04 to 4/20/07. He attended Old Dominion College in Norfolk, Virginia and William and Mary College in Williamsburg, Virginia, receiving a BA in Fine Arts. He also attended the University of

Arizona, in Tucson, Arizona and received a Bachelor of Architecture, with Distinction. Mr. Hunsucker was in the U.S. Army and served a Viet Nam tour. Since that time, he has been employed as an architect. His civic and community activities include past president and current member of the Idaho State Chapter of American Institute of Architects (AIA); past president and current member of Central Section AIA, Idaho; past member of Ada County Historical Society; and past board member of the Building Owners and Managers Association.

Mr. Hunsucker said he represents the general public and it will be his fourth term on the Board. He also said that he would like to respond to the question that was asked of Mr. Bernt. On the issue of the sale of a business, one of the things that they try to determine is that the operator is not selling the license, but is selling a business. After a business is sold, then the license may be issued to the new owner upon approval of the application. He said that by law, you can't sell just the outfitting license.

Mr. Hunsucker said they continually have more people wanting to get into the outfitting business. They have a Memorandum Of Understanding to review the requests that come to the Board with the federal agencies, Fish and Game, and other state agencies that oversee the land - BLM and Forest Service. He said that as they get an outfitting request, it goes through the MOU process and is then determined if there is a legitimate capability of providing an outfitting business in that area, whether it is a consumptive or non-consumptive issue. There are a lot of new trail rides, new bike rides, hiking and all kinds of activities that are asked for and granted, but it does have to go through the MOU process. Mr. Hunsucker stated that, historically, they have never issued licenses for upland game, unless it is on a preserve that Fish and Game has licensed as such. He said turkeys were another issue that came about.

Senator Stennett asked if Mr. Hunsucker could assure the committee that the upland game prohibition on licenses will be upheld. Mr. Hunsucker said they had no intention to change it.

Senator Stennett also asked how it came about that the South Fork of the Boise has not been outfitted below Anderson Ranch. Mr. Hunsucker said there has not been any interest in outfitting that part of the Boise River. There is floating and site-seeing on the Boise River between Boise and Caldwell.

There were no further questions for the candidates. Chairman Schroeder said the appointments were for three years and the committee would vote on them Monday.

**Public Hearing
on Effects of
Proposed High-
way Route:**

The Chairman said there has been talk of GARVEE bonds and the possibility of building a road up through Indian Valley. That has generated quite a bit of discussion by the people affected in the area and in the course of the conversations that his office has received, it has become apparent that there are environmental concerns and wildlife concerns. There is not a bill that has been printed, as yet, but testimony

will be allowed today regarding the impact on the environment and the wildlife resources in that area.

Chairman Schroeder said Representative Skippen has a slide show that she wishes to present to the committee.

TESTIMONY: **Representative Skippen** said she took the pictures two summers ago. She first drove up Highway 55 and took pictures at landmarks that most everyone will recognize, and also took a GPS reading at that site. Then she drove a current route from Emmett to Indian Valley and at parallel GPS sites, she took pictures along that road. Her presentation was a side-by-side picture comparison of the two routes, preceded by a slide showing a map with the proposed route.

Chairman Schroeder thanked Representative Skippen for the presentation.

TESTIMONY: Next to testify was **Mr. David Dudley**. He, too, had a slide presentation in conjunction with his testimony.

Inserted into the minutes is a copy of his testimony.

Testimony of David J. Dudley before the Senate Resource and Environment Committee 2/25/05 about the proposed extension of S.H. 16 from Emmett, Idaho to Mesa and the connection over West Mountain to Donnelly.

My interest in this area comes from the fact that I have lived just to the east of the proposed route for the past 15 years and worked on the lookout on Squaw Butte for 13 seasons. I have hiked, fished, and watched birds and animals and bird hunted in the area since the late 1970s.

Gentleman, I want to state unequivocally at the outset that I believe that this road proposal would decimate big game herds and have serious negative impacts on other wildlife in the area as well. In the winter of 2004, the fish and game did their annual big game counts, and found 11,400 mule deer and 5,135 elk. Now 16,500 animals represent most of the big game animals in big game units 32,32a, and 22 some of the most prized and heavily hunted areas in this part of the state. In the winter these animals roam the area represented by the map in wide ranging herds. In mild winters they may stay mostly on the ridges and south facing slopes. In hard snowy and icy winters when browse is harder to get they may move far to the south and west criss-crossing the area in search of food and shelter. Picture if you will a high-speed highway through the heart of this area; icy roads, hungry animals on the move, dark nights and icy-foggy days. The destruction wrought by such a highway is obvious. We can assume that many animals would be lost to vehicle collisions and of course these accidents will also cause much damage to vehicles and people as well. A collision with an elk at 65 miles an hour is a serious impact. There are an average of 200 human deaths a year from human wildlife

collisions in the USA. This proposed road would likely increase that number. However road kills would only be a part of the problem. A four lane divided highway would eat up many thousands of acres and create vast new areas of weed beds where annual grasses and weeds would become established. This brings us to the insidious issue of man caused fires.

This proposed highway would impact the wildlife of the area in three basic ways:

- By killing animals outright in vehicle/animal collisions.
- By destroying outright thousands of acres of healthy rangeland and dividing the winter range in half.
- By degrading all the land as a result of increased man caused fires and replacement of healthy upland and riparian habitats with worthless annual grasses and weeds.

Land managers and firefighters know that paved roads through wild lands leads to an increase in man caused fires. Natural fires are certainly part of the natural history of this area, a fact I know from personal experience. Man caused fires are different not only in their frequency but in where and when they start. A cycle of annual fires in this area would destroy vital upland shrub and forb communities as well as riparian habitats. This vicious cycle has been well documented through out the west As exotic annual grasses and weeds replace native species all wildlife communities suffer. Big game winter range and the associated plant communities cannot survive this kind of onslaught. In August 1986 about 200,000 acres burned in this area. Now almost twenty years later we can still see old bitterbrush skeletons and in some places new plants have become established but some areas have not regained their former wildlife values and are still

struggling to heal. A paved road through this area will drastically shorten the interval between fires and will lead to an end to this healthy winter range as frequent fires and encroaching exotic annuals out-compete the native species that the deer, elk, pronghorn, sage-grouse, sharp-tailed grouse and countless other non game species rely on.

This proposed road would also have real and lasting negative impacts on the streams it would cross or parallel. Three streams support good fishable wild trout populations. Almost every stream in the area even some really tiny ones such as Fourmile and Indian Creeks have populations of red-band trout that seem to defy the odds and survive in a sun-scorched environment The first sizeable stream you cross coming north from Emmett is Big Willow Creek, a stream that two generations ago provided spawning for Chinook salmon. It now supports both native rainbow trout and mountain whitefish and it is a not so well kept secret for local fisherman. The road, regardless of the specific route it would follow, would have to cross this stream. The most likely spot is the site of the

present little two lane bridge where the stream is almost completely shaded by overhanging trees and the cool clear water gurgles over boulders and drops into a series of pools before dropping into a canyon. One pool over 7' deep is a wonderful swimming hole. The Little Weiser River which heads up in the West Mountains goes thru the community of Indian Valley and also supports a viable trout fishery and also must be crossed by this proposed road. The third significant stream this road would impact is the Middle Fork of the Weiser and this stream is a viable sport fishery , which supports rainbows and whitefish. The Governor's proposal would follow this delightful stream for miles and seriously degrade this fine native trout stream. Make no mistake about it, this is a mountain stream and rugged mountain habitat and as such would require extraordinary effort and extraordinary costs to build and maintain. This section of the road would be costly in many ways to both taxpayers and the environment. This is by no means the total of the aquatic environment that would be affected by this road, just a sampling. Fisheries in several other streams, ponds and reservoirs could be affected depending on the exact route chosen, which is still an unknown.

One other environmental resource that could be really damaged by this proposal is the upland and passerine bird habitats and populations. My neighbors (a retired fish and wildlife service refuge manager and his wife) have been doing monthly bird surveys between Dodson Pass and Weiser for several years. This route happens to bisect the proposed roads path and thus gives a close approximation of the species likely to be impacted by it. At present this list stands at 160 species (a complete list can be found at the roadkillcoalition.net web site.) These lesser-known species would also be harmed by a road thru this area along with the endangered Idaho ground squirrel and numerous other small and often overlooked mammal species. The upland game birds present in the area deserve some special consideration, but I think I will let the other speakers deal with that issue. There are several other issues that are worth mentioning, including increased poaching, real estate speculation and inappropriate land use. I believe others will deal with these issues. If there are no questions from the Senators, Mr. Chairman that will conclude my testimony.

TESTIMONY:

Inserted into the minutes is a copy of the testimony of **Ms. Wendy Green**. She also showed several slides throughout her presentation.

Mr. Chairman, members of the committee, my name is Wendy Green, and I live in Indian Valley. But it is not because I live there that I firmly oppose this proposed highway from Emmett to Donnelly. After growing up in Nampa and living most of my life in the Treasure Valley , I lived in Portland, in Connecticut an hour's drive from New York City, and for thirteen years I endured the explosive growth on the Front Range of Colorado between Denver and Colorado Springs. A few years ago I decided I had had enough of that and had to get home to Idaho! But living

amid the concrete and the asphalt in those cities certainly heightened my awareness and appreciation of the natural resources that we enjoy in the Gem State. Thank you for your time this afternoon and for the opportunity to talk with you about how important it is to preserve our wildlife resources and open space in southwestern Idaho.

You will hear some eloquent, passionate, and persuasive testimony today from Idahoans who want you to know just how much they value their natural surroundings. But if it's eloquent argument you want, I invite you to come up to Indian Valley and let nature do the talking.

[photo of Little Weiser River and Council Mountain]

You'll be able to see and hear and smell what it is that this highway would destroy. I wish you could have been with me last week when my neighbors and I took a break from calving and took a little four-wheeler ride up South Grays Creek Road. What little snow remains on the foothills is positively littered with deer and elk tracks. The big game are returning in droves right now from their winter range on Big Flat and Big Willow Creek north of Emmett to their summer range on Indian Mountain, Council Mountain, and West Mountain.

[photo of band of mule deer]

In a few days, we'll be able to turn the spotting scope on these hills and count mule deer and elk on every one of these ridges-hundreds and hundreds of animals. In fact, according to my journal, last April 4th, my brother Dave Green of Caldwell and I spent the day riding up South Grays and down the Little Weiser River road and saw "wahdoodles" of elk and deer. That's too many to even attempt to tally! But if you want to see them, you'd better hurry .

[Photo of Indian Valley Road sign and West Mountain]

Because wouldn't the governor's proposed divided four-lane, high-speed highway go right through here? Well, no one really knows exactly which route it will take. The Idaho Transportation Department and the governor's staff won't say whether the highway would follow the existing gravel road right through our little community, bisecting private ranches, or whether it might traverse Bureau of Land Management ground right along these foothills where the critters fatten up when grasses green up in spring and fall. But we do know that if you build it, the deer and elk will suffer. The highway will sever their migration corridor and degrade both winter and summer range. The development that will sweep up the valley along the highway will wipe out even bigger chunks of habitat. Our deer and elk herds will take a significant hit from a highway that is redundant and unnecessary. All this at a time when the Idaho Department of Fish and

Game has asked this legislature for a minuscule fee increase in part because Idaho sportsmen say they want more protection for mule deer.

(Ms. Green provided a print-out of the Fish & Game web site page regarding that fee adjustment..and the hunters' plea to "help mule deer" to the committee) The Highway 16 Extension most definitely will not help mule deer .

[photo of sage grouse]

If you come to Indian Valley in a few weeks, you can also see one of Idaho's native species that is a whole lot smaller than an bull elk but certainly no less dramatic. If you've never seen and heard sage grouse strutting and booming on the lek, you owe it to yourself to witness this springtime spectacle. I'll take you on a little tour of some half-dozen active leks that the Idaho Department of Fish and Game has been monitoring for several years. [Map]

On a morning in late March, between Crane and Ben Ross Reservoirs, we might see 19 males on one lek, 14 on another, 38 on another. ..they're actually pretty easy to spot once you know what to look for. When the males fan their tail feathers, puff up their white-feathered air sacs, and chase around the breeding grounds trying to attract females, they look like white handkerchiefs waving among the sagebrush. As they inflate and deflate their air sacs, they make a plopping noise that carries more than half-a-mile across the sage flats.

[photo of sage grouse in the morning]

Of course, booming sage grouse are no match for the roar of highway traffic. You won't be able to hear them any more if this highway goes through. Their numbers will dwindle as more and more of the sagebrush community on which they depend gives way to pavement and encroaching development. Then you can say hello to the land-use restrictions and economic costs of the Endangered Species Act, as we try to save this population, or we can simply watch our local sage grouse fade from our lives. Either way, the cost to Idahoans is simply unacceptable. We're just not willing to trade our wildlife heritage to shave a few minutes off the travel time from Boise to Donnelly.

[Map]

Please don't be misled by claims that the proposed State Highway 16 Extension is a sensible plan to connect north and south Idaho. That is a fallacy. This new highway would parallel and duplicate one of the better stretches of US 95 just a few miles to the west, a highway in which we have invested millions of dollars in the past decade, making it safer and

faster. As a graduate student at Boise State, I drive US 95 a couple of times a week, at various times of day, all seasons of the year. There are days when I can drive for miles without seeing another car on the highway. Clearly, US 95 has the capacity to carry more traffic safely and efficiently. We need to continue to invest in improvements to this existing highway, rather than destroying critical habitat and irreplaceable open space.

[Photo of Ben Ross Reservoir]

Things are pretty quiet on Ben Ross Reservoir in Indian Valley right now, except for the wintering bald eagles and the first few Canada geese beginning to look for nesting sites. But as the ice recedes in the coming weeks, Ben Ross, Crane Reservoir, and all the little ponds and potholes among these hills will come alive with migrating waterfowl.

[photo of snow geese]

The tundra swans will arrive any time now, along with hundreds of snow geese. Then their littler cousins will begin to glide in from the south: Barrow's goldeneyes and lesser scaup, ring-necked ducks, cinnamon and green-winged teal, western grebes and horned grebes, buffleheads and ruddy ducks.

[photo mallard nest]

Have you ever seen a ruddy duck? I never had, until I moved to Indian Valley. Breeding males have upturned tails and blue bills! Very cool. If you time your visit just right, we may be lucky enough to observe twenty-three different species of waterfowl in a single morning on a single body of water.

[photo of Great Blue Heron]

That's in addition to the great blue herons, phalaropes, sandhill cranes, and other wading birds. What all these critters have in common is that they require food, water, space, and cover. They need the habitat that exists in Indian Valley, from the Payette River near Emmett to the Middle Fork of the Weiser. Put this highway through Indian Valley and you will put our wildlife out of their homes.

[photo of Indian Valley Road and Yield sign with West Mountain]

Because I live in Indian Valley and go to school in Boise and have family in the Treasure Valley, you might think that I would be a proponent of this highway. After all, it would allow me to zip back and forth with ease, saving a few minutes off of every commute. My property value would

probably sky rocket. But life must be about more than commerce and transportation. We choose to live in Idaho because there are qualities that we value a whole lot more than saving a few minutes zipping from point A to point B.

TESTIMONY:

Former Senator Ric Branch testified next. He said it was good to be back within the confines of the Resources and Environment Committee.

He stated that the preceding slide presentation represents what his "back yard" looks like. Originally, the proposed road was referred to as the Council to Emmett road; now, it is being referred to as the Boise to Tamarack road. Senator Branch said the four lanes from Emmett to Donnelly does not make too much sense to him. The Forest Service has required him to fence off springs on West Mountain that they consider critical bull trout habitat and to have such a road from the Middle Fork to Donnelly is unbelievable to him.

He said as a former Senator, voting in this body, his voting record is probably zero with the Idaho Conservation League's scorecard, so that should show that he is not an extreme environmentalist. He said he understands getting people from Boise to Lewiston and Coeur d'Alene, but four lanes over the hill to Tamarack, he doesn't understand.

Senator Branch said he has a proposal, an alternative route, and it has been looked at before. It is the Goose Creek by-pass. It would go from New Meadows, avoiding Goose Creek, and end up south of the McCall airport. From there, the county road goes south to the Tamarack Falls Store. So, if people were driving to work (Tamarack Ski Resort) from Council or New Meadows, this route would by-pass McCall and stay off Highway 55.

Senator Branch said he has a lot of wildlife in his area. About 300 head of mule deer spend the evenings in his hay and grain fields. There are sharp-tailed grouse, as well as sage grouse that come in their feed yard. A reliable source regarding the number of elk in the area is the mailman. He counts between 600 and 2,000 - depending on where they're at. Senator Branch also stated that the biggest threat to the farmers and ranchers right now are the wolves.

The Senator said he understands the four lanes from Emmett to the freeway. Left out of the plan was Fort Hall hill to the Tamarack sawmill, south of New Meadows - that is where he feels the work needs to be done. He also stated that the roads in North Idaho - Moscow to Coeur d'Alene - needs to be improved.

He said that he was appreciative for the preliminary hearing which enabled him to provide information regarding the area.

TESTIMONY:

Mrs. Kathy Morris testified next. She said she and her husband have lived on Grays Creek Road in Indian Valley for 16 years and her husband grew up in Indian Valley. For 10 years, she rode for Indian Mountain Cattle Association, and seven years for the Crane Creek Cattle

Association out of Ola. Because of those riding jobs, she has been horseback over a lot of the country that this proposed road would travel on. She said that she has first-hand knowledge of how fragile these environments are and the previous slide presentation has shown that the wildlife is there.

Mrs. Morris said if the road is built, the environment won't handle a four lane highway and the animals won't have a place to go. Mrs. Morris said she agreed with Wendy with regards to chopping up the state, putting a four lane highway between two existing highways traveling the same direction, and trading off ruining this environment when supposedly we are working to enhance what we have.

TESTIMONY: Inserted into the minutes is a copy of the testimony of **Julie Burkhardt**.

Testimony before the Senate Resources and Environment Committee
By Julie M Burkhardt –Indian Valley, Idaho 208-256-4437
trulv@ctcweb.net

Mr. Chairman, committee members:

As a member of the community of Indian Valley , and like many people in small communities, I try to serve in whatever ways I can.

My education and work experience is in Natural Resources Management so I generally get involved in those kinds of issues. I chair the local Weed Management committee, sit on the Adams Soil and Water Conservation District board and am involved in other agriculture and range management issues. My husband and I run a small ranch that we have worked hard to improve both for agricultural and wildlife productivity .

You have heard about the tremendous detrimental effects this proposed new road will have on wildlife and wildlife habitat. But even more than its physical presence, other impacts of this highway will be felt. These impacts will certainly be related to wildlife and the environment, but also to rural communities, private land, local economics and our agricultural heritage.

In a state with more than 60% public land, many people don't realize the value that private lands have both to the state's economy and to our natural heritage. Private land provides the highest quality wildlife habitat in the state. Think about where the most productive rangelands, pastures and croplands are. That is where you will find the best quality habitat. Private land.

Our agricultural landowners and producers are already under siege by environmental extremism and burdensome regulations. This highway will bring an increased demand for subdivision of private ranch lands as bedroom communities for Boise spread northward and the logistics of

doing business becomes more difficult. These landowners will be forced to sell large tracts of productive land in areas like Indian Valley and other parts of Adams, Gem, Washington and Valley counties. Subdivision of ag and ranch land results in unattractive sprawl along with habitat fragmentation.

Our farms and ranches must have some value to the people of Idaho other than coveted homesites or places to speed through on the way to Tamarack.

With sprawl, other insidious environmental problems become apparent. Small acreage ranchettes become havens for noxious weeds and soil erosion. The actual construction of roads and homes causes new weed introductions and leads to decreased water quality due to soil compaction and erosion. These factors will further impact our wildlife and other natural resources.

Growth and tourism are touted as being good for our economy and for the state. But growth NEVER pays for itself. Instead, it creates more need such as the need for police, fire, weed control and many other services for which the taxpayer must pick up the tab. These would be costs on top of the borrowing against our future to pay for construction bonds.

This proposed new highway will serve to fragment some of the last unspoiled and un-peopled landscapes in southwest Idaho. It will divide and tear apart the fabric of unique small communities.

This proposed new highway is unnecessary for north-south travel. It is another gift to Tamarack. There are already north-south routes which badly need work. If GARVEE bonding is truly necessary, then those should be priorities.

Mr. Chairman, I appreciate the opportunity to make these comments to this committee. I know your jobs as a citizen legislature are not taken lightly and that you will consider this testimony in your decision.

TESTIMONY: Inserted into the minutes is a copy of the testimony of **Mr. Richard Trudeau.**

THE INDIAN VALLEY HIGHWAY

My name is Richard Trudeau and I'm from Eagle. I'm here representing the Idaho Bird Hunters organization .

I'm sure it's not surprising that our organization has to oppose the proposed highway from Emmett to Indian Valley. The route of the proposed highway takes it through prime Hungarian partridge, sage grouse, sharptail

grouse, and turkey habitat. The impact on big game herds is even greater.

From a personal point of view I feel for the people who live along the route of the proposed highway. How can we ask people who have lived in that area for generations to sell their land at eminent domain prices so the out-of-state developers of Tamarack can sell \$1.5 billion of real estate to people who also live somewhere else. Has this economic development juggernaut gained such a head of steam that we have lost sight of our obligations to our own citizens?

As a user of the highway system I would like to have the use of a highway that goes directly from my home to every place I wish to go. We all know that is an unrealistic expectation. It's equally unrealistic to ask the taxpayers of Idaho to pay hundreds of millions of dollars for a highway that duplicates two highways that run 20 miles on either side of the proposed project.

In traveling around the United States I've had people tell me how lucky I am to live in Idaho. They aren't referring to our highway system. They're of course referring to our open spaces, our wildlife, and our outdoor recreational opportunities, in short, our quality of life. We seem to be on a collision course with destroying that way of life.

It's been argued that Idahoans should not have to travel through Oregon and Washington to get to Northern Idaho. We should remember however, that this nation built an interstate highway system to minimize the complexities of the states constructing 48 separate systems. There is no need to burden ourselves with the parochial concept that it is in our state's interest that I buy my sandwich from the convenience store in Council instead of its counterpart in the Tri-Cities when I visit my son in Spokane. Idaho's resources should not be squandered based on such a frivolous reasoning. Citizens of Oregon and Washington will be traveling in our direction and things will balance out.

I would like to close by referring to the Governor's February 13th statement that "No one questions whether we should build the projects or not. They will be built". The Governor knows there has always been major opposition to the highway through Indian Valley. I find it inconsistent with the years of service he has given to the state of Idaho that his final legacy should be one of betrayal to the sportsman of Idaho and the people whose way of life would be forever changed by this unnecessary proposal.

TESTIMONY:

Inserted into the minutes is a copy of the testimony of **Helen Soulen Stevenson**.

Statement of **Helen Soulen Stevenson**

On the Proposed Emmett to Indian Valley Highway

Before the senate Resources and Environment Committee
February 25, 2005

Good afternoon, Chairman Schroeder and Members of the Committee:

My name is Helen Soulen Stevenson. I live on Bainbridge Island near Seattle, but today I am here to represent my family who has ranched in the Crane Creek area for three generations. This is the area where I grew up and where we still ranch. It is also where the proposed Indian Valley highway would be built.

My family has a range sheep and cattle operation comprised of approximately 50,000 deeded acres, most of which is in the Crane Creek area adjacent to the proposed highway route. In addition, we have extensive BLM, Forest Service and State grazing leases. Our sheep trail from the spring range in Crane Creek over the top of West Mountain using the Van Wyck stock driveway which comes out on West Mountain Road near the Tamarack Resort to our land in Valley County and then they move up to our grazing allotments on the Payette National Forest for the summer. As you can imagine, it is a colorful trip, one of the last major movements of sheep "the old way" in our state. Our herders are all Peruvians who must leave their families in small villages for at least three years. Many have been with us for over twenty years, with only the trips home every three years to reunite with their families. However, we feel good that our operation makes them prosperous and provides for their far-away families very well.

A high speed four lane highway through the heart of our country is the last thing on earth we want to see happen. We have been fortunate through the years that Crane Creek has remained relatively unchanged and undiscovered. It is a place where you feel at peace with the world. There is a solitude and subtle beauty that speaks to a person's soul. A highway would change all of that. Here are the impacts we foresee.

First, our lands are home to a wide variety of plant and animal species and our three generations of stewardship have maintained their habitats. For the last three years we have been working with US Fish and Wildlife Service and are now nearing completion of a candidate conservation agreement for the protection of 20 sensitive plant and animal species, while, at the same time, helping assure us of our ability to graze our private lands and BLM allotments. Paving over habitat doesn't fit with our long range plan.

The corridor where the road would go divides the high mountain summer range for elk and deer from the lower lands where they spend the winter. Clearly, their migration corridor would be destroyed and their age-old migration patterns disrupted. There are large numbers of sage grouse

within the area and the thought of a four-lane disruption through their habitat makes a mockery of state efforts to prevent listing of this species as threatened or endangered. While cattle may have some impact on sage grouse habitat, it pales in comparison to that which comes from paving it over and inviting human development along a wide swath of their traditional home. We also allow public hunting on our private lands through an access permit program and this is very popular. Second, we hear the argument that a highway will increase the value of our lands. Closer examination shows that to be a potential we can live without. In reality, our land would be condemned for market rates--there will be no "willing buyer, willing seller" in this instance--about \$150 per acre. However, if the highway were built, the adjoining lands would have a much greater assessed value, but only for developmental purposes. You know, "A person can only eat one steak at a time." We are quite happy ranching and have absolutely no desire to reap whatever financial gains might be made through developing our lands near the proposed highway for our Crane Creek lands. We would lose far more than we would ever gain.

Finally, we must recognize the impacts that those who would choose to develop their lands would have on our ranching operation. The combination of a four-lane highway and the inevitable mess of convenience stores and residential development that the highway would spawn would devastate our ability to move our sheep to the mountains and to maintain our numbers of cows. It is not only our livelihoods you're affecting. Quite honestly, our family will be fine, but there are twenty or so families in Peru that will be devastated.

The impacts to our family's livestock operation, one that we all want our children and grandchildren to continue, are just too great. When you multiply our situation by that of our neighbors and add the impacts to wildlife and increasingly scarce open space with the cost of the road itself, it far exceeds the value of a few minutes convenience for those who would travel the road. To us, it is ironic that this highway, which undeniably would serve the increased population of our state, would destroy much of that which has made our state and our lifestyles so attractive to so many and why they moved here in the first place. Many of those in the state will oppose it--as will we--and the divisiveness, lawsuits and bitterness that continuation of this idea will create will only get in the way of other, more constructive avenues for solving legitimate problems. GARVEE bonds do seem to represent an intriguing method of financing highway improvements. We do urge the Legislature to explore this as a way to complete needed improvements to existing highways, including Highway 95 and Highway 55. However, the legislation authorizing the state's participation in this financing scheme must be written to clearly exclude the proposal for an Emmett to Indian Valley monstrosity. For us, this is an idea whose time will never come.

Thank you for the opportunity to present my family's views and I will be happy to answer any questions.

TESTIMONY: Inserted into the minutes is a copy of the testimony of **Mr. Fred Christensen.**

Testimony on Emmett to Indian Valley Highway

I am opposed to building this stretch of new highway for two reasons.

First, this proposed highway cuts major wildlife migration routes. This highway, if built, will be a major big game killer. I predict the road kills on this highway will make the road kills around Lucky Peak seem minor by comparison.

Second, the money spent on this project could be much better spent on Highway 95.

Respectfully,
Fred Christensen
20805 Lowell Road
Caldwell, Idaho 83607

TESTIMONY: Inserted into the minutes is a copy of the testimony of **Ms. Fran Villano.**

Good morning Senator Pearce and Members of the Legislature. My name is Fran Villano and I live in Indian Valley. Now don't roll your eyes and sigh, right now I have the floor. I moved here from Florida in November 2003. In the past year I've adapted quite easily from urban to rural life because of the friendly, hard-working folks I've encountered during my transition. Of course it certainly helped that there is absolutely gorgeous views and tons of critters to observe on a daily basis too. There is something to be said for the very quiet "simple life" out there in God's country; wants have turned from purely materialistic to life-necessities.

Which leads me to this point -why would Gov. Kempthorne want to propose a four-lane, 56-mile highway through the completely idyllic setting in Indian Valley? The folks in Indian Valley are pretty set in their ways and enjoy their quiet, hard-working lives that they've built there generation after generation. So why totally ruin that way of life with a super highway? I can understand the Governor's intention of trying to alleviate the current trucking conditions on Highway 55, but to "get many of the heavy trucks and big rigs off of Highway 55" and through Indian Valley is not a good solution.

In my mind progress and change aren't necessarily a good thing when it will absolutely disrupt folks who have spent their entire lives building and working in a place they want to continue to call "home." "Home," which

includes cattle drives on Grays Creek Road up to Highway 95, livestock grazing to their heart's content without the noise of trucks, farmers haying their fields, and locals sipping coffee at the General Store, are all part of this peaceful existence and I say, "esto perpetua", and why change it for the sake of Gov. Kempthorne's last hurrah before he fades into the sunset?

We may lead what you might think is a "simple life" because it is not in the pursuit of the almighty dollar, but we are NOT simple-minded people. We may choose to live in the sticks, but our heads are not in the ground. We are very much aware of what goes on in the bustling cement jungle in Boise but choose willingly to live in Indian Valley away from that rat race. We are responsible, tax-paying citizens bent on keeping our way of life and this proposed highway feels like a punishment from folks who not only disagree with our chosen way of life, but also want to destroy it as well because they don't understand it.

We have two questions for the Governor. It is my understanding that this proposed highway through Indian Valley is, in part, based upon an environmental study originally conducted in 1979 that remains unfinished due to funding. We need to know if a new study will be done, which may take five or six years, according to the Idaho Transportation Department, or if the Governor intends to push his Indian Valley plan based upon this outdated, incomplete study. And secondly, since it is not in the jurisdiction of the Office of the State Attorney General to give written opinions to citizens, we would like the Governor to clarify to use the use of GARVEE bonds as they relate to Article VIII of the Idaho State Constitution.

On a personal note, I'd like to say that I like the fact that my nearest neighbor is a quarter-mile away, that I can look out any window of our house to see Hitt, Cuddy, Councilor Indian Mountains, that I don't hear anything from Highway 95, that bald eagles and red-tail hawks soar overhead, that elk feast on our hay, and every other little detail that God and Nature has bestowed upon our ranch in Indian Valley for our enjoyment. For my part, I strongly object to Gov. Kempthorne's proposal for this highway and invite him to take a look at, face-to-face, the lives of the people he will totally destroy before going ahead with his "Vision for Connecting Idaho." Maybe, just maybe some of us folks in Indian Valley live there because of that disconnection!

So if this sounds like a "not in my backyard" plea, YOU BETCHA!

In closing, I would like to thank Sen. Monty Pearce for his response to all the Indian Valley residents who have written him. He is the only elected official who took the time to actually respond and it is greatly appreciated. Of course, it helps that he agrees with our stance, but it would have behooved the other elected officials that we have written to, whether they agreed or not, to at least acknowledge our existence. But I'm sure they will

all remember where Indian Valley is when it comes to election time.

Thank you for the opportunity to speak to you today.

TESTIMONY: Inserted into the minutes is a copy of the testimony of **Gayle Buhrer Poorman**.

Connecting Idaho - the Contrarian's Guide

Building roads may seem to solve all of our transportation problems, but what isn't being discussed are the hidden costs and unintended consequences of the Connecting Idaho plan and its inability to truly solve Idaho's transportation problems. I'd like to discuss these issues and propose alternative solutions.

- Building more roads does not solve congestion problems. Rather, all it does is encourage people to move further out from town, contributing to urban sprawl. Studies have shown that shortly after a new road is built, it reaches capacity and traffic congestion is just as bad.
- Some people may argue that we need new roads to transport goods by truck, but trains can transport goods more efficiently and with greater safety. If the government is going to subsidize a form of transportation, it should choose one that is less harmful to the environment and is more sustainable.
- New high-speed highways won't reduce traffic fatalities. Very few people are killed due to narrow, winding roads. In some cases, they may actually be safer, because people cannot drive so fast. If the governor was really interested in saving lives, he would crack down on drunks, speeders, and inattentive drivers. He would encourage the use of seat belt restraints by increasing the penalties for not using them. Connecting Idaho with high speed, controlled access highways will just increase fatalities by putting more people in private vehicles on the roads.
- New highways do nothing to improve the inefficient, "Single Occupant Mentality", where one person drives an individual vehicle back and forth to commute to town or their workplace.
- The hidden costs of new roadways are the environmental impacts. More roads mean more air pollution, more CO2 emissions and increased global warming. More roads mean more petroleum consumption. More roads to accommodate more vehicles is short term and short-sighted. More roads mean more introduced invasive species. What we need is a vision of a future that reduces our reliance on fossil fuels.

Some unanticipated consequences of new highway projects include:

- The money spent on a new "Indian Valley" road project will channel money away from other needed improvements to resolve

current Treasure valley road corridors, such as 1-84, Chinden Blvd., and State Street. These corridors are already over burdened with traffic. Money spent on new highway projects means little, if any, money will be left for mass transport, such as high-speed commuter buses or a light rail system.

- A new Indian Valley highway would remove the attraction to the Payette River canyon and detract from businesses along Highway 55. Communities like Horseshoe Bend, Gardenia, the Smith's Ferry and Cascade would lose business, as well as Caldwell, Weiser, Cambridge, Payette and Midvale. This particular highway project seems more like a "transfer of monies project", where communities like Emmett and businesses like the Tamarack Ski Resort gain at the expense of other communities.
- A new Indian Valley highway would bring noise, pollution and disruption to the residents of the peaceful Indian Valley area who moved there to escape the congestion and snarled traffic mess of the Treasure Valley.
- If we truly wish to reduce congestion, single occupant vehicles on the roads, highway deaths and pollution, I'd like to propose this alternative vision:

---Increase state gas taxes to discourage private automobile use.

---Encourage bus transport by increasing the number of bus lines, service areas and frequency and subsidize mass transportation systems to make them a cheaper alternative to private vehicles.

---Construct bicycle lanes to encourage the use of bicycles for commuting.

---Improve existing rail lines to ship commodities northward

---Create a "Positive ticket system" where carpoolers are rewarded for carpooling. Some of the gas tax money could be placed in a special fund. Police officers could record license plate numbers of the cars they observe carpooling. These carpoolers could then "win" a positive ticket of money.

In conclusion, new highway projects are not the best long term solution to Idaho's transportation problems. With a little more thought and vision, we can "connect Idaho" more sustainable and preserve more of its wild character.

TESTIMONY: Inserted in the minutes is the testimony of **Mr. James Young**.

What justifies the Emmett to Mesa "Freeway"?

My wife and I own property that will be located under or in very close proximity to the northern freeway junction to highway 95 in Indian Valley. This would tend to cause us to have a somewhat negative view of the Freeway's construction.

We have tried to consider the Pro's and Con's to the new road. I seem to come up with several Con's and I feel the use of the word con is very appropriate in this case.

We have a dual view of the road because of having a home in Nampa, driving to and from Indian Valley, and planning on moving permanently to our place in Indian Valley.

Our Nampa view of the proposed road.

When we see the rampant and seemingly uncontrolled growth in the Treasure Valley, coupled with the increase in traffic jams, and as of late, the notable increase in fatalities on our local roads and highways, we begin to ask if the road construction is being considered for the wrong area and needs. Before we start spending large sums of money on what could well be a first class Con.

We should consider 3 important points.

1. The Treasure Valley is in dire need of new traffic planning and road construction.

Idaho 55 from US95 to US84 is a killer and will only get worse as the traffic density increases.

A four lane ID55 is needed and should be rerouted soon, before a sub division is planted on top of the best route.

US95 from Marsing to US95 to the north needs to be a four-lane road, US95 should be rerouted soon, before a sub division is planted on top of the best route. This would accommodate the heavy truck traffic from Nevada to US84, Ontario and on to northern Idaho.

A new four lane connection from Marsing running to the east, south of the Boise Airport, where it would connect to US95 between exits #57 and #64. This would serve as a bypass for interstate heavy truck traffic off of the section of "domestic" US84 in Caldwell, Nampa and Boise.

With the appropriate feeders running south from Boise, Kuna, Nampa and the Caldwell area, this road would considerably reduce commute traffic congestion in these towns (cities).

The benefits of this road construction in the near future will improve the Treasure Valley and it's rapidly growing population well into the future. A new Freeway from Emmett to Indian Valley will not do this!! The longer you wait to do this, the more it will cost, the greater the time and pain, and the increasing injury and death on our roads.

As a secondary point to consider, these new or improved roads will cause a significant increase in property values in to areas between Marsing and south east of Boise due to the ease of access.

The need for the Emmett to Indian Valley Freeway is questionable. It is claimed to save 30 minutes in the drive to Lewiston. I admit it would be a time saver for a trip to Lewiston. How much time would a Treasure Valley person save per year using this road versus the time (not considering accidents or the loss of life) saved every day if the if the above roads were constructed.

2. Indian Valley, the potential destruction of the environment, loss of wild life, loss of farm and ranch land and the urbanization of a rural environment.

The following points are the heart of this inquiry.

This freeway opens up our backwater area to rampant land speculation and development. The ease of access to this rural area will bring people who wish to have a horse ranch in the Country with a half hour commute to the city center and with the Middle Fork of the Weiser River road improvement, easy access to the Tamarack Resorts facilities. These people are not the everyday types, these will be the executive types, land developers, newspaper editors, the lawyers, doctors, bankers, the politicians who are the Movers and Shakers of our social system.

Soon to follow will be the Support Services such as supermarkets, fast food, department stores, golf courses, and later, strip malls.

This is what I feel is the "**Great Con**" which lies behind the 30 minute time savings touted by our Government and the newspapers. **It's the money that wants new land to Improve, to Develop, New Town Centers, and Profits to makeProgress.**

I was having a conversation with some people in the home building business when the topic of this new freeway came up. I was told that one

of our top politicians has land in Indian Valley and has had a new home built there. Now I can understand the need to save 30 minutes and not be concerned about other issues such as accidents and time savings on other roads.

If ease of travel, and saving of time is the true issue, then why does the planned freeway stop just short of Mesa and not continue to the bypass around Council? This seven mile portion of US 95 has four miles of narrow two lane road with curves. Now this would be a fine knothole to dump a four lane freeway into. This leads me to believe that saving time between Lewiston and Boise is not the real issue.

If you want to save 30 minutes between Boise and Lewiston, fix the road from the north edge of Council to New Meadows. This is a slow dangerous road, with many curves and grades. It has many miles that are shadowed and are often icy during the winter. The 18-wheelers don't find this stretch an easy passage either. For those who are in a hurry, it's a real killer to try passing anything on this stretch of US 95.

Spend our money on something that needs fixing, US 95 from US 84 to Council has only a few miles that need improvement, the 30 miles from Council to New Meadows needs replacement, and this will save your 30 minutes and lives.

3. Wild Life, Environment, Resources, Balance of Nature, Use of Lands and Water.

My wife and I feel we have a fine piece of land that we would like to preserve and live out our remaining years on. It isn't large or grand but it has a rather useful area, for the critters, "thicket" and swampy area on the western side. This is a habitat for lots of local wild life and a resting place during the spring and fall migrations for birds, elk, and deer. This wetland area will most likely be under or next to the northern terminus of the new highway. This proposed freeway will destroy the wildlife "passage" through the North Grays Creek road area and drive the game into more developed areas. The other wildlife that inhabits the "thicket" will also be adversely affected, if not eliminated, as well as our domestic animals, my wife and myself. This is our personal side of the road and use of road money in Indian Valley.

The road from Emmett would be a 30 minute time saver but a great destroyer of animal habitat, a great impediment to migration, and a great way for the motoring public to see elk, antelope, and deer face to face.

My closing statement to those of you who are going to decide the if, when, and where for the proposed freeway, you need to ask yourself several questions.

1. Who really benefits.

a. The current travelers, whose numbers are not large. Why a freeway when US 95 carries so little traffic.

b. The people of Indian Valley and the surrounding areas. Lots of these people are not ranch owners or land owners. Some don't own the home in which they are living and can't afford to move elsewhere.

c. The wild life that will be displaced.

d. The semi desert lands just south and west of Indian Valley which will be disturbed. Take a look at the "developed lands" (ie. ranchettes) south of Nampa, Kuna, Meridian.

e. The water balance in the area. I don't think we can support several golf courses and horse ranchettes, Estates and Upper scale subdivisions.

f. How will the wild life migrate to the lower elevations?

g. How will the freeway be routed to minimize the impact on the area. The high ground will most likely go to the largest homes. The flat farm land to the Estate subdivisions, and the slopes to golf courses and upper scale homes.

h. Put your self in the place of the people in Indian Valley and the large area that will be affected.

i. Consider the views we will have in a few years. If you think the views in Treasure Valley are Great with the inversion, just wait to see ours with the inversion and smog the development will bring.

j. Idaho is a diverse and beautiful state, it was even more beautiful in years past. Consider the future to come, we may even become as beautiful as California. (the Silicon Valley, San Fernando Valley, Los Angeles, the Coast,.... (on and on) Please, let's be very careful with our land. Once it's trashed by greedy developers, and the rich who can't see past their importance, the beauty and wild life is gone forever .

We love this land, the people who are willing to live here as we do and we want to preserve the quality of our environment.

ADJOURN:

Chairman Schroeder thanked all the people for their testimony and the committee for their good work this week. He then adjourned the meeting at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: February 28, 2005

TIME: 1:30 p.m. Postponed until 2 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Williams, Brandt, Little, Stennett,

MEMBERS ABSENT/ EXCUSED: Senators Cameron, Burtenshaw, Langhorst

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 2:20 p.m. It was delayed due to a leadership meeting.

The first order of business was the committee consideration of the Gubernatorial appointments of William Bernt and Wayne Hunsucker.

MOTION: **Senator Williams** made the motion to recommend the appointments of William Bernt and Wayne Hunsucker to the Outfitters and Guides Licensing Board. **Senator Pearce** seconded the motion. A voice vote indicated it was unanimous. **Senator Langhorst** will be the sponsor of Mr. Hunsucker. **Senator Burtenshaw** will be the sponsor of Mr. Bernt.

Next on the agenda was S 1099, presented by **Mr. Loyal Fleenor**.

S 1099 An act relating to the sale of timber on state lands; amending Section 58-406, Idaho Code, to revise provisions relating to very small sales of timber.

Mr. Fleenor is from Deary, Idaho and has a small farming and logging operation. He said some points to consider for raising the direct sale limits from 100,000 board feet to 200,000 board feet are as follows:

- Ability for purchasers to distribute fixed costs (insurance, equipment, etc.) over more volume which lowers the logging cost. Lower logging costs equal more stumpage value for the state.
- Allows the State to not just take care of the immediate blowdown, bug kill or root rot packet, but extend the sale to some of the adjacent susceptible trees as well. This can prevent the loss of 1-31 loads of logs the following year because some susceptible or bug trees were missed and now the volume is too small to get someone in for it. Allows the forester to error on the safe side.
- The smaller the volume, the harder it is to get accurate statistics in cruising unless the foresters 100% cruise. If they 100% all the time, it would take more personnel to do it. With more volume, a cruise could be done where every third or fifth tree could be cruised and it would potentially increase cruise accuracy and cut down on set-up time.
- Would allow the state to throw in a lot of pulp in the area along

with the sawlog volumes. It would not drastically change the dollars collected, but would allow for more cleanup to occur. This extra cleanup would also be beneficial in cleaning up the fire hazard risk.

- This would allow for some local companies to economically move in to chip slash piles and haul out as hog fuel. This would eliminate smoke management concerns in some of the urban interface areas.
- When salvaging or cleaning up in an area it would allow the managers to harvest some speciality products if they are available in the proximity to the direct sale. Products like a couple loads of veneer logs, house log trees cedar products and such. Maybe even one or two loads of poles. These volumes would receive a value added stumpage price on a direct sale wherein a large timber sale those veneer logs would likely sell as appraised priced ponderosa pine.

TESTIMONY: Inserted in the minutes is testimony that was submitted for S 1099.

To whom it may concern:

I am drafting this letter in support of increasing the volume limit presently required on State Department of Lands direct timber sales. The biggest reoccurring problem I and other contractors have faced on direct sales is reaching the volume limit before the forestry objective was met. The Board should also consider including ton wood thinning into their direct sale program. Increasing the volume limit would be a necessity if this was implemented. Thinning would enhance forest health, reduce death loss and fuel load buildup, and possibly increase longer, cooler water flow to streams. Impending research is being done concerning snow evaporation in forest canopies that are too dense; ref. Ron Mahoney , U of I Extension.

In closing, I feel the State would benefit from expanding their present direct sale program to long range forest health concepts, instead of short-term dead and dying salvage programs. Increasing the volume limit is a good first step.

Sincerely Yours,
J.C. Hatley, President

Hatley Logging Company
PO Box 209
Deary, Idaho 83823

TESTIMONY: Inserted in the minutes is testimony that was submitted for S 1099.

To Whom It May Concern:

The Idaho Department of Lands direct sale program is a vital tool to manage Idaho's forest for forest health and revenue for the people of

Idaho. To increase the sale limit from 100 thousand to 200 thousand board feet, would greatly benefit the Lands Department and personnel, and would also help small contractors like myself. This program has employed me and helped me stay in business in the past. Please give this consideration.

Respectfully,
Mark Harris

Mark Harris Logging Inc.
1101 Riley Road
Kendrick, Idaho 83537

TESTIMONY:

Next to testify was **Mr. Winston Wiggins, Executive Division Director for the Department of Lands**. Inserted into the minutes is a copy of his testimony.

Direct Sales

Idaho Code 58-406, SALE OF TIMBER ON STATE LANDS requires that all sales (except very small sales of timber known) be advertised in one or more newspapers and sold at public auction to the highest bidder. Depending upon the size of the sale, the length of advertisement may vary between one and four consecutive weeks.

Small sales of timber, defined as not exceeding 100,000 board feet, with a maximum value established by the Land Board of \$15,000 are commonly known as direct sales. Sales of this size may be sold without advertisement or auction. IDAPA 20.02.10- Rules for Selling of Forest Products on State Owned Endowment Lands, restricts Direct Sales to the harvest of isolated or bypassed parcels of timber of insufficient value and volume to justify an advertised sale, or where two or more potential purchasers may be interested in bidding on the forest products offered for sale.

Direct Sales are a valuable forest management tool albeit one that has lead to intense criticism when not applied judiciously and has the potential for abuse. Unlike Salvage or Timber sales where any qualified bidder may compete and the final prices are established at oral auction, Direct Sale values are negotiated between a purchaser and an IDL representative. This leads to frequent criticism of favoritism by other disgruntled Direct Sale purchasers who feel they may not be paying a commensurate price for their material, or that one purchaser is getting more than their share of the sales.

Although some Direct Sale purchasers will argue that they do not have the same risks and liabilities, and don't require the same oversight, as larger sales, this is simply not the case. The chances of a logger injuring themselves is the same regardless of the size of the sale, and Direct Sale

purchasers require the same diligent oversight and inspections as larger sales.

IDL feels the current statutory limit of 100,000 board feet is appropriate for Direct Sales, and discourages amending Idaho Code 58-406 at this time.

Mr. Wiggins provided a copy of the Administrative Rule regarding the Sale of Parcels—Advertisement of Sale and a table showing direct sales, salvage sales and timber sales (attached). He stated that direct sales are a vital management tool, but prices for direct sales are 65% less than bid sales.

Chairman Schroeder asked if there were no direct sales, would small acreage's go unused. **Mr. Wiggins** replied yes; however, he said that he isn't convinced to raise the amount.

Chairman Schroeder said the 100,000 board foot maximum was put in place in 1955. He asked Mr. Wiggins about the realities of operating today versus the realities of operating in 1955. The Chairman said he was trying to ascertain if there is a relationship where today 200,000 would be as appropriate as 100,000 was in 1955. **Mr. Wiggins** said operating expenses are higher and expectations are different than they use to be. One limiting factor in these sales is the value, and that is set by the Board, and it is currently \$15,000. That is the value that is changed periodically.

TESTIMONY:

Ms. Judy Bartlett, representing the Idaho Farm Bureau, said Mr. Fleenor is one of their members and the Farm Bureau has a policy supporting the change. She said they feel it would be a benefit to the State Land Endowment Fund for two reasons. (1) It cleans up the forest to prevent wildfires and (2) It does provide income to the endowment. She said there are numerous loggers like Mr. Fleenor looking for these kinds of sales. Ms. Bartlett said the rule did need updating and the Farm Bureau does support this legislation.

Mr. Fleenor closed the discussion by talking about the inspections and requirements of the small logging operators.

MOTION:

Senator Brandt said that on lines 8 and 9 of the bill it says "...it shall direct such sale in such parcels as it deems for the best interests of the state." He said he feels this is a useful tool and then made the motion to send S 1099 to the floor with a do pass recommendation. The motion was seconded by **Senator Williams**.

Senator Stennett said that it may be a good tool, but the state is only getting 65% of the value of the timber versus what it could get from a competitive bid. He stated that he could not support the bill.

A voice vote indicated all were in favor of the motion, except Senator Stennett, who voted nay. He asked that it be recorded as such.

Senator Brandt will be the sponsor of S 1099.

S 1138

An act relating to Fish and Game; Amending Chapter 4, Title 36, Idaho Code, by the addition of a new Section 36-417, Idaho Code, to provide that certain statutory license applicants may make voluntary donations to Idaho Hunters Feeding the Hungry, Inc., in conjunction with their license applications and to provide certain requirements for the Department of Fish and Game in relation to voluntary donations; and to provide an effective date.

Senator Brandt said that as you read the bill, you can see that it is a voluntary issue. It was brought to him by the Idaho Hunters Feeding the Hungry group, which is a non-profit entity. Senator Brandt said it wouldn't be effective until January 1, 2006.

Senator Pearce inquired what it would cost the Fish and Game Department to process the donations. Senator Brandt said that the Fish and Game informed him there would be no fiscal impact. **Mr. Huffaker**, Fish and Game Director, said the department re-programs the point-of-sales machines periodically and those updates would take care of the designations.

A question was asked what the money goes for, which raised another issue regarding poachers. Game that is poached/seized, is given to food banks. **Mr. Steve Barton** said that the fees that are imposed by the courts goes for processing of seized and unclaimed wildlife. **Chairman Schroeder** then inquired if a hunter wished to donate his game to the food bank, would the voluntary contributions then pay for the processing of the meat? The answer was yes. The Chairman said there is a growing propensity among the hunters to help out the food banks.

MOTION:

There being no more discussion, nor anyone from the audience to testify, **Senator Williams** made the motion to send S 1138 to the floor with a do pass recommendation. **Senator Brandt** seconded the motion. **Senator Brandt** will be the sponsor.

**ANNOUNCE-
MENT:**

The Chairman announced that the remaining items on the agenda, S 1139 and the briefing on county roads rights-of-way would be heard on Wednesday, March 2.

ADJOURN:

The meeting was then adjourned at 3 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** March 2, 2005
- TIME:** 1:30 p.m.
- PLACE:** Room 433
- MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst
- MEMBERS ABSENT/ EXCUSED:** None
- CALL TO ORDER:** **Chairman Schroeder** called the meeting to order at 1:30 p.m.
- He then welcomed **Mr. Craig Hill** of Priest Lake who is the **Gubernatorial appointee to the Lake Pend Oreille Basin Commission**.
- APPOINTMENT:** Mr. Hill has been reappointed to the Lake Pend Oreille Basin Commission and his term is from 7/24/04 to 7/24/07. He has attended the University of Idaho and Eastern Washington University. Since 1983, he has been the owner/manager of Hill's Resort. Some of his civic and community activities include the Chamber of Commerce; West Priest Lake Fire Department Commissioner; Cub Scout leader, Troop 612; West Bonner County Greener Committee; and West Bonner County Airport Board.
- TESTIMONY:** **Senator Keough** testified on behalf of Mr. Hill. She said the Basin Commission has worked out, as they had hoped, to bring together in that Basin, interest around water - water quality and water quantity decisions. With Mr. Hill's background on Priest Lake, he has a good knowledge based on that understanding that he lends to the Commission. Senator Keough said his continued service on the Commission would be very beneficial and she asks for the committee's support.
- TESTIMONY:** **Representative Eskridge** testified on behalf of Mr. Hill. He said he would like to express his support of Mr. Hill's renomination and confirmation to the Basin Commission. He has known him for many years and has also had the opportunity to observe him as he has been involved in the Commission's meetings. Representative Eskridge said Mr. Hill is fair and listens to the input of the participants in the meetings.
- TESTIMONY:** **Representative Anderson** also testified on behalf of Mr. Hill. He said he has known him for 45 years and that Mr. Hill has had a life-long dedication to the water quality of Priest Lake. Representative Anderson said that he has served on several water boards, waterways advisory committees and scouting with him and can testify to his good character. He feels there could not be a better man named to this commission.
- Chairman Schroeder** said the committee would vote on the nomination on Friday, as that is the custom. He then thanked Mr. Hill for speaking to

the committee.

SPEAKER:

The Chairman then welcomed **Ms. Judi Danielson, a former Senator and now the Chairperson of the Northwest Power and Conservation Council**, who will present a report.

Ms. Danielson provided two handouts for the committee - [A Guide to Major Hydropower Dams of the Columbia River Basin](#) and a Pocket Guide - [Fast Facts About the Columbia River Basin](#). (Attached.)

Much of Ms. Danielson's report was taken from the handouts. Following are some of the facts from that literature.

- The NPCC was created by congress through the 1980 Pacific Northwest Electric Power Planning and Conservation Act to give the citizens of Idaho, Montana, Oregon and Washington a stronger voice in determining the future of key resources common to all four states - namely, the electricity generated at, and fish and wildlife affected by, the Columbia River Basin hydropower dams.
- The Council is a unique organization that helps the Pacific Northwest make critical decisions that balance the multiple uses of the Columbia River and its tributaries.
- The principal duties of the Council under the Act are to develop a regional power plan to assure the Northwest an adequate, efficient, economical and reliable power supply; develop a fish and wildlife program to protect, mitigate and enhance fish and wildlife affected by hydroelectric development in the Columbia River Basin; and provide for broad public participation in these processes and inform the public about regional issues.
- The Columbia River Basin includes parts of Washington, Oregon, Idaho, Montana, Wyoming, Utah, Nevada and British Columbia. The river and its tributaries are the dominant water system in the Pacific Northwest. The Columbia River is 1,214 miles long and the largest major tributary is the Snake River, which is 1,036 miles long.
- There are five species of Pacific salmon - pink, chum, sockeye, coho and chinook; two anadromous trout - steelhead and sea-run cutthroat- are found in the Columbia River Basin. In 1988, the Council designated 44,000 miles of river reaches in the basin as "protected areas" where hydroelectric development is prohibited in order to protect fish and wildlife and their habitat.
- The regional energy system includes about 50,700 megawatts of generating capacity. About 65% (approximately 33,000 megawatts) of the region's generating capacity comes from hydroelectric dams. The Grand Coulee Dam has the greatest generating capacity of any dam on the system at 6,494 megawatts, followed by Chief Joseph Dam at 2,457 and the John Day Dam at 2,160. Windmills account for 541 megawatts of capacity, producing 175 average megawatts of energy.
- The Bonneville Power Administration owns and operates more than three-fourths of the high-voltage transmission grid in the Pacific Northwest. The total transmission system in circuit miles is 15,328.

- Idaho has the most irrigated acreage in the Northwest with over three million acres under irrigation. Oregon irrigates 1.9 million acres and Washington 1.8 million acres.

Ms. Danielson then talked about the salmon and the dams. The survival rate through the turbines is 90-95% now. There is a distance of four to six feet where the fish go through and the fish move at a slower rate now. The mortality rate at the turbines is quite low, with the highest mortality rate being the harvest. She stated that different dams have different problems. Oregon had called for deep, deep draw-downs and that would have left fish ladders dry; however, that problem is being worked out.

Senator Cameron inquired as to the Council's findings on the prospects of having enough energy and power to last into the future. Ms. Danielson replied that they had addressed that issue and it is in the Power Plan. She said for the next two years, they see about 2,000 megawatts of surplus - which means there probably won't be any blackouts or brownouts. She also stated that there will be windpower coming online, but there is a concern about the transmission issue.

Senator Cameron requested a copy of the Power Plan that was referred to by Ms. Danielson. He said that beyond the next three years, his concern was that we could be headed towards a power crisis. He inquired if that was a concern or issue with the Council. Ms. Danielson said they are concerned about that. Senator Cameron then inquired if the Council, besides conservation, is supportive of wind energy, geothermal energy, natural resource energy and coal-fired generation? Ms. Danielson said they are supportive of those energies.

Senator Burtenshaw said the Council gets a lot of power out of Canada that comes through the northwest and the transmission lines have filled up. He asked if there were plans for expansion, who would do it, and where would it go. Ms. Danielson said the lines are full at times and that is a concern.

Ms. Danielson thanked the Chairman for the time allowed for her report. She said she would provide copies of the Power Plan that was requested.

Chairman Schroeder said that there had recently been questions for **Mr. Winston Wiggins of the Land Department** regarding county roads right-of-ways. He said Mr. Wiggins is here today to address the questions.

SPEAKER:

Mr. Wiggins said they are working with the counties to ensure that they have legal rights-of-way over state endowment trust land. He provided a handout of a court case against the Arizona Highway Department, which was later reversed by the U.S. Supreme Court, stating that the full appraised price had to be paid in cash. He also provided "talking points" for the committee, which are inserted into the minutes.

COUNTY ROAD EASEMENT
ACQUISITION PROCESS
OVER STATE ENDOWMENT TRUST LANDS

The Department of Lands and Idaho counties have discussed for years the need for counties to obtain easements for roads that have been established across state endowment trust land.

The goal is to ensure that these roads, many of which have been in existence for decades, are covered by a legal right, and at the same time fulfill the Department's obligation to maximize long-term financial return to trusts.

The catalyst of this effort is the decision of the United States Supreme Court that found agencies, such as counties, must compensate the trust in money for the full appraised value of the rights-of-way over trust lands.

Idaho Association of Counties and the Department began meeting in 2002.

Met at the Annual Association meeting in 2003 and discussed using market value of the endowment land at the time the county road was first established.

Also established a joint committee to work on the matter.

Used Antelope Creek road in Bonneville County as a test case for using historical sales of similar land to determine appropriate compensation. Found it difficult to find required historical data.

Met with the committee in January 2004, and proposed a compromise using highest and best use of the property at the time the road became county-maintained road and then using recent sales to determine compensation.

On August 24, 2004, Department sent the revised drafts to committee members for review and comment. Received no adverse comments.

At annual county meeting in 2005 Perry Whittaker presented the latest proposal and asked for comments by March 10, 2005.

It appears that the use of current land values is of particular concern to the counties. IDL is examining the merits of using a retrospective valuation process as a reasonable basis for easement valuation.

Following receipt of the comments from the counties on March 31, the committee will meet again to finalize a process that meet the needs of both the Department and the counties.

GOAL: A flexible process to lessen the financial impact on counties by allowing counties to acquire the easements over time.

Mr. Wiggins said their goal is to find a way to get the county roads under easement and at the same time to ensure that the endowment trust is compensated in accordance with the law. He is sending a letter out this week to all county commissioners in the state, with all the information and extending the timeframe, to minimize the impact on the county budgets.

He said their best calculations are about 660 miles of county road on trust land in the state and 110 miles of that is already under easement. They are dealing with about 450 miles of road. Some counties have a lot of miles of road and other counties have essentially none.

Chairman Schroeder thanked Mr. Wiggins for the information that he provided to the committee.

Next on the agenda is S 1169. The Chairman said **Mr. Jack Lyman, representing the Idaho Mining Association**, would present the bill.

S 1169

(Taken from the Statement of Purpose)

Ore-processing facilities using cyanide are regulated by the Department of Environmental Quality (DEQ) under Section 39-118A, Idaho Code. That law allows DEQ to require financial assurance (usually in the form of performance bonds) to guarantee the proper closure of a facility when ore processing has ended. Under current agency rules, DEQ cannot require financial assurance in excess of \$100,000.

This legislation amends the Surface Mining Act to transfer the responsibility for financial assurance for closure of cyanide facilities from DEQ to the Idaho Department of Lands (IDL). It would require cyanide facilities to submit a closure plan for approval and would require financial assurance to cover 110 percent of the estimated cost of closure. There would be no limit on the amount of financial assurance required.

The existing authority for DEQ to regulate all aspects of a cyanide operation, including closure activities and water quality impacts, would remain the same as current law.

Mr. Lyman said before he makes his presentation, he would like to address two questions that are usually asked about this legislation. First, why are they doing it? It has been talked about for the last three or four years. The original cyanide legislation was enacted in 1987 and it was agreed that it was outdated. Gold was \$300 an ounce then; today, gold is \$433 an ounce. The second question was why would they want to move the financial assurance from DEQ to IDL? The mining industry has over a 30 year history of working with the Department of Lands on bonding for reclamation. There is a well-established law and it has been time-tested and covers all the bases that over the years has worked best in financial assurance. Mr. Lyman also stated that the mining industry does not detract DEQ's regulatory responsibility, particularly their water quality responsibility, in any way with this bill. He said they are only moving the bonding responsibility from DEQ to the Department of Lands.

Mr. Lyman provided a handout which explained the differences between S

1169 and the current law on specific topics (attached). Following are the topics covered:

- Definitions
- Permit approval time
- Application fees
- Financial assurance
- Effect of new law on existing facilities
- Rulemaking
- Purposes of Surface Mining Act
- Land Board authority
- Requirements for closure plan
- Permanent closure cost estimate
- Approval or rejection of closure plan
- Performance Bond
- Bond cap
- Duplicate bonding
- Partial bond release
- Non-compliance, forfeiture of bond
- Bond insufficiency
- Bond review
- Public hearings
- Appeals
- Reclamation bond in excess of \$2,500 per acre or closure bond in excess of \$5 million
- Cross reference of statutes
- Facility conceptual design
- Facility construction
- Facility modifications
- Water quality

At the conclusion of Mr. Lyman's presentation, he said that an agreement had been reached last Thursday under the leadership of Senator Stennett, Senator Langhorst, and Senator Little regarding a concern by the Department of Lands that this bill may involve new responsibilities for which they have no funding. He said that he has started the process to develop a trailer bill in the House of Representatives that will take a portion of the Mine License Act, paid by these new gold mines, and put it into a dedicated fund from which the Department can seek legislative appropriation to handle the responsibilities under the bill. Mr. Lyman speculated that approximately \$65,000 to \$70,000 would be generated. Between 1995 and 1997, almost 900,000 ounces of gold was produced in this state. In 1995, 300,000 ounces were produced and that broke the state gold production record that had been set in 1941. In 1996, the record was broken again by the production of 330,000 ounces of gold. In 1997, the production was down to 240,000 ounces of gold. That amount of gold in those three years would have generated one-half million dollars for the dedicated fund. Mr. Lyman said he didn't think the Department would need that level of funding to perform these functions.

A question was raised regarding public hearings. Mr. Lyman stated that the current DEQ rule specifies that 25 individuals or an organization can request a hearing. That rule will stay the same. The law, under the

Surface Mining Act, says that the Land Board will hold public hearings at their discretion. That has not been changed.

TESTIMONY: **Mr. Justin Hayes**, speaking for the **Idaho Conservation League**, said that he wanted to express gratitude to the members of the committee who were helpful to ICL while working on this bill. They had a number of concerns when it was first introduced. Since that time, there have been a number of productive meetings and some additional measures have been included in the bill. The ICL views this as a positive step in governing the cyanide process and the bonding. Overall, Mr. Hayes said they feel there were some important improvements made.

TESTIMONY: **Ms. Denise Mills, Assistant Director for Lands, Minerals and Range Management, IDL**, testified next. Inserted into the minutes is a copy of her testimony.

Testimony on Senate Bill 1169
Presented by Idaho Department of Lands
March 2, 2005

The Department of Lands has been engaged with Mr. Lyman, and other interested parties, on this proposal for a number of weeks. We appreciate the effort that the sponsor has made to address our concerns, and he has resolved many of them in the language of the latest proposal, SB 1169.

One of our concerns regarded providing the resources to carry out our responsibilities under this act. We have considerable experience with mined land reclamation, but it has been focused on gravel and phosphate and similar pit operations. Closure of cyanidation facilities is not an area we are currently equipped to address; we have neither the resources or expertise to manage monitoring and closure of these extremely complex activities. We expect to gear up to effectively implement the Surface Mining Act amendments by providing appropriate technical training to existing staff so they can fully understand the technical aspects of cyanide ore processing and facility operations, appropriate environmental protection measures, and monitoring and closure requirements. We are not currently staffed to review and approve permanent closure plans or to regulate cyanidation facilities, so will rely heavily on the Department of Environmental Quality for technical expertise and will hire qualified professional engineering firms to perform complex engineering or specialized scientific analyses. The sponsor has agreed to require a mine operator to pay reasonable costs for contracted services, provided the operator and Department agree on whom to hire. It is our understanding that the sponsor will also sponsor a trailer bill to help provide access to necessary resources and has committed to helping the Department acquire required personnel and funding for administration of the new provisions of the act. We assume that their initiatives will resolve our concerns in that area, and we appreciate the consideration of the sponsor.

Our key remaining concern related to the potential for the State Board of Land Commissioners to become exposed to an unfunded liability in the event that an operator forfeits a permanent closure bond. The proposed amendment to the Surface Mining Act, as shown on page 7 of the bill (lines 18 and 19), adds to the duties and powers of the Board "to complete closure activities with respect to a cyanidation facility for which a permanent closure bond has been forfeited." We had asked the sponsor to include language limiting the Board's obligation to the amount of the bond, and suggested revised language to that effect.

The language revision would have made it clear that the Board's obligation to complete closure was limited to the bond amount. Without this limitation if, due to unforeseen site conditions or an inability to neutralize a cyanidation facility in the timeframe on which a closure bond is based, the Board will be obligated to request a general fund appropriation to complete closure.

- We understand that we can partially address this concern by calculating a full cost bonding formula that would include:
- Costs for the Department to mobilize equipment, labor and materials in the event we were required to complete closure.
- An inflation adjustment in the estimated closure costs for the life of the operation .
- An estimate of monitoring and treatment costs over an appropriate time to neutralize the facility and meet relevant water quality standards.
- A ten percent (10%) contingency on the total amount.

In addition, the sponsor has included in the bill a provision (page 16, lines 29-37) for the Department to periodically review the bond when there is a material change in the permanent closure plan or a material change in the estimated costs to complete closure. The Department would anticipate reviewing a bond intensively every three to five years and, at a minimum, would perform an informal review at least annually.

We appreciate the flexibility this gives the Department to partially address the Land Board's liability to a certain extent. It will be critically important that an operator agree to work with the Department to ensure that a closure bond is sufficient. The technical complexities of cyanidation facilities mean there are inherent uncertainties in closure estimates, particularly the time that may be necessary to meet water quality standards and neutralize a cyanidation facility.

The **Chairman** asked Ms. Mills what the position of IDL was regarding S 1169. Ms. Mills replied that they are expressing concern for the bill, but they are not taking a position.

Senator Cameron inquired as to why IDL is so concerned that they would be held liable, assuming they have done due diligence. He said the IDL has the duty and power and responsibility to determine the amount of the bond, plus ten percent for inflation. Ms. Mills said the concern they have is the uncertainty associated with complete closure of these facilities. She then referred to page 6, starting with line 10 of the bill.

Ms. Mills was asked who is responsible now if there is a spill on public lands. She replied that there is a dedicated fund of \$120,000 a year to address hazardous spills on state land.

There being no further testimony, **Mr. Lyman** said he would like to make some closing remarks. He thanked the Department of Lands, the Department of Environmental Quality and the Idaho Conservation League for working with him on this bill. He said they showed great patience and he feels it is a better bill with their input. He also said that he wanted to clarify the liability situation. There is a provision in the bill that if an unforeseen circumstance or unexpected event happens, he is to notify the IDL within 10 days and file a supplemental plan within 30 days. That is the trigger point in which the IDL can review the bond to make sure the bond is adequate to cover the unforeseen circumstance or unexpected event. Secondly, the vast majority of gold mines that will be seen in the next ten years will be on Forest Service ground. The Forest Service goes through a technical engineering process in setting their bond. Mr. Lyman feels that he has minimized the risk to the state of Idaho.

- S 1169 MOTION:** **Senator Cameron** made the motion to send S 1169 to the floor with a do pass recommendation. **Senator Little** seconded the motion. A voice vote indicated it was unanimous. **Sponsor** of the bill is **Senator Cameron**. **Co-sponsors** are **Senators Langhorst, Little, Schroeder, and Stennett**.
- MINUTES:** **Chairman Schroeder** said there was some committee business to take care of and that is the approval of some minutes.
- MOTION:** **Senator Williams** made the motion for the approval of the minutes of February 14, 2005. **Senator Burtenshaw** seconded the motion. A voice vote indicated that it was unanimous.
- MOTION:** **Senator Langhorst** made the motion for the approval of the minutes of February 7, 2005. **Senator Williams** seconded the motion. A voice vote indicated that it was unanimous.
- MOTION:** **Senator Burtenshaw** made the motion for the approval of the minutes of February 16, 2005. **Senator Williams** seconded the motion. A voice vote indicated that it was unanimous.
- MOTION:** **Senator Pearce** made the motion for the approval of the minutes of February 18 and 21, 2005. **Senator Cameron** seconded the motion. A voice vote indicated that it was unanimous.

ADJOURN: The meeting was adjourned at 3:05 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 4, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

ANNOUNCEMENT: He said that Clive Strong had made available the report on the "Assessment of Relative Economic Consequences of Curtailment of Eastern Snake Plain Aquifer Ground Water Irrigation Rights". He suggested the committee read it over the weekend in preparation for Monday's meeting. April, the committee's Page, distributed the report.

Consideration of appointment: The Chairman said the first order of business for the committee would be to consider the Gubernatorial appointment of **Craig Hill** to the **Lake Pend Oreille Basin Commission**.

MOTION: **Senator Little** made the motion to approve the Gubernatorial appointment of Craig Hill to the Lake Pend Oreille Basin Commission. **Senator Brandt** seconded the motion. A voice vote indicated it was unanimous. **Senator Keough** will be the **sponsor** for Mr. Hill.

The **Chairman** then asked **Mr. Jim Caswell** from the **Office of Species Conservation** (OSC) to present his bill, S 1139.

S 1139 An act relating to the Governor's Office of Species Conservation; Amending Section 67-818, Idaho Code, to revise the duties of the office, to revise criteria for the development of certain state policy and management plans, to require the office to prepare and submit a report to the Legislature relating to invasive species and to provide that the report is subject to the approval, amendment or rejection by concurrent resolution of the legislature; and declaring an emergency.

Mr. Caswell said this bill would amend 67-818 of the code and revises the mission and duties of the OSC. It would clean up some inconsistencies that have come up over the course of the last four years. Mr. Caswell said they have a definitive responsibility to bring to this body a status report on rare and declining species, yet they can't coordinate them. He said that they were instrumental in negotiating the agreement on slickspot peppergrass. Technically, that plant has no status now. They had definitive responsibilities and agreements to do things, but are not suppose to be working on species that are not listed or petitioned. He

views this like the ESA issues, as a coordinating role, not an operational role.

He added that there might be some testimony regarding some water language that is proposed to be added to the bill and stated that they are not opposed to the bill going to the amending order to include that.

There was discussion regarding lines 32-35, page 2. **Senator Brandt** had concerns because it stated “....not subject to legislative approval....” **Senator Schroeder** inquired of Mr. Caswell if lines 32-35 changed any realities that currently exist. Mr. Caswell replied that they did not.

Senator Williams asked why it wouldn't be better for this to be handled in the Department of Agriculture. Mr. Caswell said the coordinator position is designed to move forward without taking away from operational programs on the ground and it raises the level of the ability for the individual to function better and it crosses jurisdictional lines between agencies. He feels that is why OSC has been successful, because they cross jurisdictional lines. It fits well because invasive and listed species and species of concern are somewhat tied together.

Senator Cameron inquired as to the funding of the position if JFAC did not appropriate funds. Mr. Caswell replied that it would be difficult, but they would prioritize and also try to obtain some federal funds.

When asked why he was bringing this bill, **Mr. Caswell** said one of the reasons was to try to be able to be more proactive in terms of their role in coordination.

TESTIMONY:

Mr. Norm Semanko, Executive Director, Idaho Water Users Association, Inc., testified. He said they are opposed to this legislation, as written. Their concerns are as follows: (1) The control of weeds. The Department of Ag does a good job now. (2) Centralized power. Not tell their people how to do their job. Appropriate role is coordination and education. (3) Language. No authority. Mr. Semanko said their proposal is to take language that is already in the code for DEQ and MTDS legislation and send it to the 14th Order. He said they are very concerned about the role of OSC. The Water Users were in favor of creating the office several years ago and the concern at that time was they didn't think the Department of Fish and Game should speak for the state, as a whole, because a lot of the issues involve other agencies. Salmon, for example, involves the Department of Water Resources, not just the Department of Fish and Game. They thought it was appropriate to have an office to work as a clearing house. Mr. Semanko said if the bill goes to the 14th Order, on page 2, lines 23 and 24, the current statute currently recognizes the Department of Water Resources as the state agency for water rights. On page 1, lines 34 through 37, he feels it should be noted there also. Mr. Semanko said they do not have an amendment prepared, as yet. However, they had a legislative meeting this morning and the Governor's Office was represented by Mr. Yost and he explained to them the relationship between the Department of Ag's weed program and OSC. Mr. Semanko said they were satisfied with that and there will be a letter

forthcoming regarding the issue of centralized authority. Mr. Semanko said they oppose the bill as currently drafted, but would support sending it to the 14th Order.

Chairman Schroeder asked Mr. Caswell if he had seen the language and was he okay with it. Mr. Caswell said he was.

TESTIMONY:

Inserted into the minutes is the testimony of **Mr. Joe Hinson**.

I thought I'd make a couple of points in support of SB 1139, which would expand the responsibilities of the Office of Species Conservation.

First, it is important to that OSC help keep species off the "threatened" or "endangered" lists. Once species are listed, most flexibility for managing them is lost and we are left with "salvaging" both the species and the portion of the economy affected by land use or other restrictions. At present, OSC can only work with species that are listed or petitioned to be listed. Our best hope for dealing with the ESA is to be able to work on candidate and rare or declining species to keep them off the list. Right now, OSC cannot address these species, including sage grouse or slickspot peppergrass.

We are nearing completion of a unique "candidate conservation agreement" for 22 animal and plant species found within Soulen Livestock's private land and BLM lands where we have grazing permits. Once completed, we will not only limit our liability on private lands should one or more of these species be listed but also be assured of our continued ability to graze on the federal lands. This is the first agreement of its kind in the nation, and we need OSC's help in completing it and, if successful, using it as a model for other ranchers with a potential liability under the ESA.

My consulting firm was privileged to draft the state's plan to prevent or control unwanted invasive species. From that work, I am convinced that invasive species pose a serious, albeit "invisible" risk to Idaho's economy and environment. New Zealand mud snails, zebra mussels, unimaginable weeds and human or animal health threats-all are potential invaders which, if they arrive and spread, will cause untold damages.

A key part of our plan is for the state to have an "invasive species coordinator" to help current managers do their jobs more effectively, largely through educational efforts and securing additional outside funds. OSC is an appropriate place to coordinate this work for two reasons. First, invasive species are often a complicating factor in managing habitat for wildlife species and a reason for listing them as "threatened" or "endangered", as in the case of cheatgrass displacing native sagebrush and limiting sage grouse habitat. Second, the work on invasive species needs to cross numerous agency and jurisdictional lines. OSC has experience and

a good track record in doing so and adding coordination of invasive species work is a logical addition to OSC ' s responsibilities.

Thanks and I hope you can support the legislation.

TESTIMONY: **Ms. Judy Bartlett**, representing the **Idaho Farm Bureau** testified next.

She said the Bureau supports OSC in their current mission as they have supported farmers and ranchers; however, they oppose this legislation because OSC would both preserve and kill species. At interim meetings, the Bureau stated that the logical place for the coordinating position was with the Department of Ag. Ms. Bartlett said they also have a problem with exempting out legislative oversight.

TESTIMONY: Next to testify was **Mr. Lloyd Knight**, representing the **Idaho Cattle Association**.

Mr. Knight said their group has had good experiences with OSC for the last two years, especially with slickspot peppergrass. With that kind of good work by OSC, they would like to see continue with an expanded range of species and be able to work on species before they are listed.

Mr. Knight had previously delivered a letter from **Mike Webster, President-Elect of the Idaho Cattle Association**, which is inserted into the minutes.

To: Senate Resources and Environment Committee Members

Subject: S. 1139, Office of Species Conservation Duties

Dear Senators:

On behalf of the Idaho Cattle Association (ICA), I would like to express our support for S1139. ICA is strongly in favor of this bill, which would expand the role of OSC to enable them to work on a greater variety of species issues impacting Idahoans.

From our perspective, the Office of Species Conservation (OSC) has proven itself to be an advocate for Idaho's citizens. In the process of conserving species and bringing common sense into the application of the Endangered Species Act, OSC is also preserving Idaho's rural communities. Their important, unprecedented work in preventing the listing of the slickspot peppergrass, in cooperation with ranchers and governmental agencies, is proof positive. No less valuable has been OSC's efforts in assisting in local and statewide sage grouse conservation efforts. There is no doubt that these efforts, in part, led to the recent U.S. Fish and Wildlife Service's decision that sage grouse listing is not warranted.

Without the passage of S1139, OSC would not be enabled to continue their proactive work on these and the many other species that are being

used as tools to force Idaho's ranchers and farmers off the land. It is ICA's strong belief that we must continue to proactively work to prevent the listing of species. As the adage goes, an ounce of prevention is worth a pound of cure.

Your approval of this bill will bring us one step closer to insuring our state and its citizens against the heavy hand of the Endangered Species Act.

Sincerely,

Mike Webster, President-Elect
Idaho Cattle Association

TESTIMONY: Mr. Will Whelan, Government Relations Director, Nature Conservancy, testified next.

He said their group is supportive of the coordinating position, and they do not have any concerns as to where it is housed - either OSC or the Department of Agriculture.

Mr. Whelan included with his talk a "show and tell" demonstration. He had a vial that contained two New Zealand musk snails from Silver Creek and a picture of a truck that had zebra mussels on the truck bed.

Mr. Whelan reiterated that the Conservancy feels the coordinator position is necessary and he is okay with the amendments. When asked if his organization would help fund the position, he replied that they would help in trying to find funds, but they themselves do not have the money.

TESTIMONY: Mr. Ted Hoffman, a veterinarian and rancher from Mountain Home testified next. He said he was chairman of the Wildlife Committee for the Cattle Association for eight years, served on the legislative Wolf Oversight Committee for three years, and currently is chairman of the Idaho Rangeland Committee. One of their main functions is dealing with the Endangered Species Act and the problems it creates.

Inserted into the minutes are some basic notes from his testimony that he submitted.

I represent myself today and the 20 ranchers who worked with OSC to create the slickspot peppergrass conservation plan.

We support SB 1139. We have no objections to the amendments regarding water rights.

I think OSC is truly a remarkable state agency. The fully intended listing of the little known slickspot peppergrass in SW Idaho threatened to cut range access in half for roughly 300 ranches. OSC effectively organized and conducted an effort to write a conservation plan for the plant that assured its future, avoided the listing, and only minimally affected about 30 ranches.

Such an effort has never been successful in the US before. OSC's authority to follow thru with the implementation of this plan, since the plant is no longer being

considered for listing as endangered, is questionable without this bill's extension of their authority to

The recent change in the federal rules for wolf management in Idaho and Montana is largely the work of OSC. The rest of the country suffered a setback when the environmentalist lawsuit overturned the Fish & Wildlife Service's decision to downlist the wolf. Our new increased ability to defend our property from wolves was not affected by this decision - A testament to the foresight and skill of OSC.

OSC has coordinated an impressive effort to remove several of the mid-Snake snails from the endangered species list. Until that occurs, they have been successful in greatly improving the Fish & Wildlife Services's treatment of economic activity along the river, ECONOMIC ACTIVITY SUCH AS FARMING, RANCHING, AND POWER PRODUCTION.

This office is also playing an integral role in efforts to reform both the Endangered Species Act and the manner in which it is being administered.

Extending OSC's authority to candidate, rare and declining species will allow them to address the needs of species and affected landowners or permittees earlier and more effectively, before the listing process begins.

Many candidate or endangered species are negatively affected by an invasive species. The invasive species most commonly has changed the habitat they now share. How these invasive species are treated will almost always impact the candidate or endangered species. Invasive species issues and law are relatively new. Good judgement, effective vision and appropriate perspective, and ability to consult with other agencies and citizens will be needed to successfully address this concern. OSC has demonstrated such traits in their endangered species efforts - they would be very effective in dealing with this new issue of invasive species.

Additionally, OSC is a small shop. Adding a person to that shop will dramatically increase their flexibility and economies of scale - or critical mass , if you will. I do not believe this will dilute their ESA effort - but rather increase their effectiveness in all areas.

Section 3c refers to the US Code regarding Section 4 and 6, 7 and 10 of the ESA. There is no place for legislative participation or required approval in these efforts. For example, the sspg agreement was a Section 4 cooperative management plan negotiated with the F&WS, developed by OSC and affected landowners and permittees. If this plan were only tentative, until approval by the legislature it would not pass the PECE policy of the FWS which is critical to making the FWS decision to not list legally defensible. There would usually not be time for the legislature to act, because the listing process is on a mandatory 1 year schedule.

Section 7 involves consultation between regulatory federal agencies - the FWS and NOAA and the management agencies, like FS and BLM. Because of the efforts of OSC, landowners and permittees are now being granted applicant status, as is their legal right, and also participating in that process. OSC, as Idaho's Ombudsman on the ESA, assists the permittees and makes recommendations to the federal agencies. None of the parties who actually have a say in this matter, are under any obligation to accept the legislature's findings.

Section 10 involves experimental populati - like the recent Section 10J rule change on wolf management. Again the FWS is not bound by the Leg's approval.

Section 6 involves cooperative actions between FWS and NOAA and states. OSC is eminently qualified to secure the best deal available. The general philosophy of the Idaho legislature is quite well known to all involved parties. Waiting for specific approval by the legislature would only weaken OSC's skillful negotiating hand.

In the extremely unlikely event that OSC failed to represent the people of Idaho and the philosophy of the legislature in Section 10 and 6 negotiations, the legislature has a host of policy and funding and statutory options available to address that problem in short order.

No other state legislature has had the wit or the will to create an office to defend its citizens and economy from the devastation associated with the Endangered Species Act. I urge you to not pull their head up now when your investment is paying great dividends and poised for ever greater success. Now is the time to give them their head, and let them spur on in their mission.

Ted Hoffman, DVM
600 NE Broken Circle Drive
Mountain Home ID 83647
208 590 2003

There was quite a discussion regarding where the funding for this position might be obtained. Chairman Schroeder stated that he had some ideas for opportunities to obtain funding.

MOTION: **Senator Langhorst** made a motion to send S 1139 to the amending order, (with the amendment written by Mr. Norm Semanko). **Senator Stennett** seconded the motion.

SUBSTITUTE MOTION: **Senator Cameron** made a substitute motion to hold S 1139 in committee. **Senator Williams** seconded the motion.

DISCUSSION: **Chairman Schroeder** said that what this bill does is to grant authority for a coordinating effort. If there is no funding for another position, it gives the office the authority within the limitations of the funds they have, or may be able to find, to do this action. Without the funding, there is still merit in the bill.

Senator Cameron said he wished to go on record that if this bill is approved, he doesn't want "beat up" on the floor because JFAC hasn't sent the funding along. That is the dilemma they are put in, as they do try to respond to legislation that is passed that requires funding.

The **Chairman** then asked Mr. Caswell that if the committee passes this bill without funding, and it still gives him authority within the context of money he may be able to find from the Feds, or wherever, can he still coordinate the activities? **Mr. Caswell** said they would do their best with what they have. Chairman Schroeder said he feels they are getting bogged down with a FTE, when the role of what they are trying to accomplish is very important with or without the FTE. If it would help, the Chairman said he would stand on the Floor and say how important it is even without the FTE and he understands it may not be funded this year.

A **roll call** vote was taken on the substitute motion which was to hold the

bill in committee. Voting aye were Senators Brandt, Williams, Pearce, and Cameron (4). Voting nay were Senators Langhorst, Stennett, and Schroeder (3). Absent at the time of voting were Senators Little and Burtenshaw.

Chairman Schroeder said S 1139 would be held in committee.

MINUTES:

Senator Williams made the motion to approve the minutes of February 25, 2005. **Senator Brandt** seconded the motion. A voice vote indicated it was unanimous.

**ANNOUNCE-
MENT AND
ADJOURN:**

The **Chairman** announced that the report on the "Economics of Salmon Recovery" would be rescheduled for next week.

He then adjourned the meeting at 3:10 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 7, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Williams

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

ANNOUNCEMENT: He then announced that there would not be a committee meeting on Wednesday, March 9. The committee is encouraged to attend the Senate State Affairs meeting to be held at the Boise City Hall, in the Council Chambers. The meeting will start at 9 a.m. and they are hearing House Bills 152, 153, and 154 (water agreement). **Senator Burtenshaw**, chairman of the State Affairs committee, said seating will be made available for the Resources and Environment committee.

Chairman Schroeder said next on the agenda would be Senator Keough, who will present S 1157.

S 1157 An act relating to Fish and Game; amending Section 36-406, Idaho Code, to revise provisions relating to licenses for disabled persons and to provide a correct code reference.

Senator Keough said she would like to explain the bill, but she also wants the committee to hold the bill this year. She said the bill strikes a section in the Fish and Game code regarding eligibility qualifications for fishermen and hunters purchasing fishing and hunting licenses. Today, if you are disabled and in order to qualify for a reduced disabled license, you need to qualify for SSI or SSDI. There are constituents in Senator Sweet's district, as well as Senator Keough's district, that don't qualify for SSI or SSDI because they are federal employees. They may meet the income eligibilities, but for some reason, may not qualify even tho they are disabled. They feel they should be able to have the disabled rates. The issue here is - at what level is a disabled license granted.

Senator Keough said she has been working on this bill with the Fish and Game Department. One of the Fish and Game Commissioner's asked that she and the sponsors table the legislation for this year and asked for the opportunity for the Commission to take a look at it. Senator Keough said she and the sponsors appreciated the Commission's efforts and are hopeful that they can come up with a solution that will work for the

disabled fishermen of Idaho.

Chairman Schroeder said if there were no objections from the committee, S 1157 would be held per Senator Keough's request.

The Chairman then introduced **Donald L. Snyder, Ph.D. from Utah State University** who will present the "Assessment of Relative Economic Consequences of Curtailment of Eastern Snake Plain Aquifer Irrigation Ground Water Rights". Co-authoring the document was Roger H. Coupal, Ph.D. from the University of Wyoming.

SPEAKER

Inserted into the minutes is the Executive Summary from the above named document which Dr. Snyder referred to while making his presentation, along with the use of slides.

Executive Summary

Conflicts between ground water and surface/spring irrigation water users diverting from hydraulically connected water supplies of the Eastern Snake River Plain have been years in the making and are attributable to many factors. One of the seeds of the conflict was sown in the 1880's when surface water irrigators began diverting large amounts of water from the Snake River to flood irrigate lands overlying in the Eastern Snake Plain Aquifer (ESPA). From the 1880s to about the 1950s, most of the excess water that was diverted soaked through the surface soils into the ESPA. As a result, ground water levels across the 10,000 square-mile area of the ESPA increased about 60 to 100 feet, and cumulative spring discharges in the Thousand Springs reach of the Snake River increased from about 4,200 cfs to around 6,800 cfs between the early 1900s and the 1950s, respectively. Beginning in the 1950s, three factors emerged that set the stage for the current crisis. First, surface water users shifted from flood to sprinkler irrigation thereby reducing the amount of incidental recharge to the ESPA by perhaps as much as a million acre feet annually. Second, with the advent of deep well pump technology and low cost power, ground water pumping from the ESPA accelerated. Finally, in the 1960s and 1970s, aquaculture facilities were developed in the Thousand Springs area and were issued water rights based upon the significantly enhanced spring flows. The combination of these three factors coupled with extended drought have now resulted in the current situation where there is insufficient water to satisfy all of the existing water rights from the connected water supplies.

Over the past nine months, the Natural Resources Interim Committee has led an effort to find a solution to the controversy. As might be expected, there is not universal agreement on the cause of the shortage, the applicable legal principles, or the economic consequences of curtailment of junior irrigation ground water rights. Because of the lack of agreement over the extent of the economic consequences of curtailment of junior irrigation ground water rights, separate economic studies were done on

behalf of the ground water users and surface water users and made available to the Committee. The ground water users' study prepared by William Hazen and Robert M. Ohlensehlen entitled "Economic Implication of Curtailing Groundwater Pumping" considered the economic impacts arising from the curtailment of ground water within a four county area. This study suggested that the economic consequences of curtailment of junior irrigation ground water rights would be enormous. The surface/spring irrigation water users commissioned an economic study by Joel R. Hamilton entitled "Economic Importance of ERSPA-Dependant Springflow to the Economy of Idaho," which focused on a larger twelve county area. This study focused primarily on the benefits from spring dependent uses and suggested that the economic effects of curtailment of junior irrigation ground water rights is not likely to be significant because "senior water rights holders are already experiencing the economic effects of a curtailed water supply." Hamilton's logic is that the consequences of curtailment of junior irrigation ground water rights will be offset by the added economic benefits of a full water supply to senior water right holders. While each economic report incrementally added to the understanding of the conflicts, the Natural Resources Interim Committee determined that it should commission an independent economic analysis to provide an assessment of the relative economic consequences to the regional and state economies arising from the curtailment of junior irrigation ground water rights versus gains to senior/spring water rights.

This study compares the likely positive economic impacts that will accrue to senior surface/spring water right holders (i.e., surface irrigated agriculture and aquaculture) as a result of curtailment with the likely negative economic impacts of curtailment for junior irrigation ground water right holders. We acknowledge that there will be other economic effects inside and outside of the geographic area of the study that might be impacted as a result of curtailment; however, it was not within the scope of this study to conduct a detailed benefit-cost analyses of all economic effects. Rather, the objective was to isolate the relative economic impacts to the region and the state based on implementation of curtailment under a delivery call by senior surface/spring irrigation water right holders.

Three groups are considered as directly impacted parties: [1] senior surface/spring irrigation water right holders, [2] senior aquaculture water right holders, and [3] junior ground water irrigators diverting from the ESPA. Impacts to tax revenues collected by local, county, and state governments are another area of impacts but are considered within each of the three groups identified above. Other interests are treated as externalities for purposes of this study.

The geographic focus for the present analyses is a 10,000 square mile area in Idaho characterized as the ESPA which includes all or parts of sixteen counties: Bannock, Blaine, Bingham, Bonneville, Butte, Cassia, Clark,

Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Power, and Twin Falls.

Two curtailment scenarios were modeled. The first curtailment scenario assumes all ground water rights junior in priority to January 1, 1949, are curtailed. The first scenario illustrates the economic effects of ground water and surface/spring water from redistribution of ESPA-connect water supplies as if ground water rights from the ESPA junior to 1949 had never been established. While there was some appropriation of ground water prior to January 1, 1949, the level of diversions under such rights is less than approximately 10 percent of the total diversions of ground water from the ESPA. Therefore, the 1949 curtailment scenario is representative of essentially total curtailment of ground water diversions.

The second scenario assumes all ground water rights junior in priority to January 1, 1961, are curtailed. The second scenario illustrates the economic impacts of redistribution of water had approximately one-half of the ground water rights within the ESPA never been established. This scenario is representative of a curtailment of all ground water rights junior to the most senior aquaculture water rights in the Thousands Springs reach area.

Total acreage under irrigation in the ESPA is approximately 2 million acres. Acreage lost to ground water right holders is estimated to be 990,000 acres under the 1949 curtailment scenarios and 660,000 under the 1961 curtailment. The balance of acreage, approximately 1,015,500 acres, will be acreage benefitting from enhanced surface/spring flows. Average per acre diversions for surface/spring water right holders would be near .8 acre feet/acre, with only a portion of that available for on-site irrigation uses. On the average, this would raised per acre deliveries (as opposed to diversions) between .25 and .5 acre feet/acre.

A widely available commercial input-output model (IMPLAN) was adopted in estimating the economic impacts from the two curtailment scenarios. IMPLAN is the most widely available and commonly used input-output model in the United States. Some adjustments were made to ensure that the model provided results consistent with actual values available from state and federal government sources.

There are two principle categories of impacts that are represented in this study. The first is that associated with value added, which represents the sum of [1] labor income, [2] other property type income, and [3] indirect business taxes. Details related to these categories are included in these analyses. The second category of interest is job numbers.

Summary of Net Effects of Curtailment Scenarios

1949 Curtailments Effects for the ESPA and State of Idaho

Figures I and II are provided to facilitate a comparison between the directly impacted parties. Each horizontal line in these figures represents a different type of user. The ESPA-wide impacts are represented by the blue bars, while the state-wide impacts are represented by red bars. The striped bars reflect the net values (adding all the positive and negative impacts together) for different parties directly impacted. The three user groups included in these analyses (reading from the bottom of the graph up) include (1) aquaculture water right holders, (2) surface/spring irrigation water right holders, and (3) junior irrigation ground water right holders. Also included in each of the subsequent graphs are the net effects corresponding to each broad impact type.

Figure I reflects the value added (lost) for each of the parties identified above. The scale is the same across the axis. Positive effects are shown to the right of zero, while negative values are shown to the left. These values are expressed in millions of dollars. The value added attributable to aquaculture is \$6 million for the ESPA and \$7 million for the state. Even though the gross value of output is estimated to be an additional \$15 million, the value added portion is less than half that number. Value added to surface/spring irrigation water right holders are in excess \$20 million for both the ESPA and state. Losses to ground irrigation water right holders are in excess of \$213 million for the ESPA and over \$234 million for the state. The net effects are highly negative at -\$186 and -\$204 million, respectively, for the ESPA and state.

Figure II represents the number of jobs gained (and lost) for all of the parties included in this assessment. The increase in jobs for aquaculture and surface/spring irrigation water right holders totaled almost 400 new job at the ESPA level, but almost 475 at the state level. However, job losses attributed to ground water right holders exceeded 3,000 for the ESPA level and 3,600 for the state level analyses. Net effects were substantial at the ESPA and state levels at -2,600 jobs and nearly -3,170 jobs, respectively.

1961 Curtailments Effects for the ESPA and State of Idaho

Figure III reflects the value added (lost) for all of the parties identified above. The value added attributable to aquaculture is \$4 million for the ESPA and state level analyses. Value added to surface/spring irrigation water right holders are in excess \$20 million for both the ESPA and state. Losses to ground water right holders were in excess of \$140 million for the ESPA and over \$158 million for the state. The net effects were still highly negative at -\$118 and -\$130 million, respectively, for the ESPA and state.

Figure IV represents the number of jobs gained (and lost) for all parties included in this assessment. The increase in jobs for aquaculture and surface/spring irrigation water right holders total almost 350 new jobs. However, job losses attributed to ground water right holders exceed 2,000 for the ESPA and almost 2,400 for the state. Net effects were sizeable at the ESPA and state at -1,700 jobs and -2,050 jobs, respectively.

These two figures show the net result of a 1961 ground water right curtailment would be negative for both the ESPA and the State of Idaho.

Summary of Relative Differences

The relative difference between those who would gain and those who would lose are provided in Table I and discussed in the following sections. The chart is separated into the 1949 and 1961 scenarios. The upper portion of Table I provides a summary listing of the various measures of value added. Finally, the number of jobs gained (or lost) is provided in the far right column. The lower portion of the table reflects the gain to surface/spring irrigation and aquaculture users in terms of a proportion of losses to junior irrigation ground water right holders for both curtailment dates. These values are discussed below.

1949 Curtailment Date

Aquaculture Water Right Holders

The gain in labor income (which is a total of employee compensation and proprietor income) for aquaculture is 5 percent of the loss for junior irrigation ground water right holders within the ESPA and 4 percent for state levels of analyses. The gain for aquaculture in other property type income is only 1 percent of the loss for ground water right holders at both the ESPA and state levels. The gain in indirect business taxes for aquaculture is 3 percent of the loss for junior irrigation ground water right holders at ESPA and state levels. For aquaculture, the gain in total value added is 3 percent of the loss for junior irrigation ground water right holders within the ESPA and for the state-level analyses. The gain in job numbers is estimated to be 6 percent of the loss for junior irrigation ground water right holders within the ESPA and state-level analyses.

Senior Surface/Spring Irrigation Water Right Holders

The gains in senior surface/spring water right holders are compared to losses in junior irrigation ground water right holders. Labor income is estimated at 10% per the ESPA and the state. Other property income for surface/spring irrigation water right holders is estimated to be 9% of the loss to junior irrigation ground water right holders. Indirect business taxes and total value added levels for senior surface water right holders are 10

percent of junior irrigation ground water right holders losses for both ESPA- and state-level analyses. Gains in job numbers for senior surface water right holders (up river within the ESPA) average 7 percent of the loss in job numbers for junior irrigation ground water right holders within ESPA and state levels of analyses. Even if the production of speciality crops to remain at 70 to 80 per of current levels, total value added and jobs numbers gains for surface/spring water right holders would be less than 50 percent of the loss to ground water right holders under a 1949 curtailment date.

Combined Surface/Spring Irrigation and Aquaculture Water Right Holders

The gains in labor income to senior surface/spring irrigation and aquaculture water right holders are 15 percent of the losses to ground water right holders. For other property income, the values are 10 percent and 11 percent, respectively, for the ESPA and state. Indirect business taxes gains to surface/spring irrigation and aquaculture water right holders average 13 percent of the loss to junior irrigation ground water right holders. Total value added and job number gains for the surface/spring irrigation water right holders average 13% for both the ESPA and state.

Losses to Junior Irrigation Ground Water Right Holders

An alternative way of viewing these data would be to couch relative differences of ground water right losses in relation to surface/spring irrigation water right holder gains. Junior irrigation ground water right holders would lose more than 6 times the gains in all other examined users in relationship to labor income. Losses in other property type income to ground water right holders would be over 8 times greater than the gains in surface/spring irrigation water right holders. Indirect business tax losses for ground water right holders is more than 7 times larger than the gains to surface/spring irrigation water right holders. With respect to value added, the losses to ground water right holders are expected to be 7 times larger than the gains to surface/spring irrigation water right holders for a 1949 curtailment date.

1961 Curtailment Date

Aquaculture Water Right Holders

The gain in labor income for aquaculture is 4 percent of the loss for junior irrigation ground water right holders within ESPA- and state-level analyses. The gain in other property type income is about 1 percent of the loss for junior irrigation ground water right holders at ESPA and state levels. The gain in indirect business taxes for aquaculture is approximately 3 percent of the loss for junior irrigation ground water right holders within the ESPA and state levels. The gain in total value added is slightly over 3

percent of the loss for junior irrigation ground water right holders within the ESPA and for the state-level analyses. The gain in job numbers is estimated to be 6 percent of the loss for ground water right holders within the ESPA and state levels of analyses.

Senior Surface/Spring Irrigation Water Right Holders

Senior surface/spring irrigation water right holders' labor income, other property type income, indirect business taxes, and total value added levels are between 14 to 16 percent of junior irrigation ground water right holders losses. Gains in job numbers for senior surface/spring irrigation water right holders averaged 11 percent of the loss in job numbers for junior irrigation ground water right holders within the ESPA and 10 percent for state-level analyses. Even if the current acreage were 50% in specialty crops, which is not likely to happen due to rotational and other constraints as noted above, the losses to ground water right holders would still exceed the gains to surface/spring water users.

Combined Surface/Spring Irrigation and Aquaculture Water Right Holders

The gains in labor income to senior surface/spring Irrigation and aquaculture water right holders are 20 percent of the losses to ground water right holders for the ESPA and state levels of analyses. For other property income, the values are 15 percent for ESPA and state level analyses. Indirect business taxes gains to surface/spring Irrigation and aquaculture water right holders average 18 percent of the loss to junior irrigation ground water right holders within ESPA and state levels of analyses. Total value added for the surface/spring water right holders average 18% for the ESPA and the state. Job number gains are 17 and 16 percent of the losses to junior irrigation ground water users within the ESPA and state, respectively.

Losses to Junior Irrigation Ground Water Right Holders

Junior irrigation ground water right holders would lose more than 5 times the combined gains from all other examined users in relationship to labor income. Losses in other property type income to ground water right holders would still be 5-6 times greater than the gains in combined surface/spring water right holders. Indirect business tax losses for ground water right holders are more than 5 times larger than the combined gains to surface/spring water right holders. With respect to value added, the losses to ground water right holders are expected to be at least 5 times larger than the combined gains to surface/spring water right holders.

Conclusions

The economic impacts of curtailment of junior irrigation ground water

rights under either of the curtailment scenarios, assuming steady state conditions, are anticipated to be 5 times larger than combined gains enjoyed by surface/spring water holders. The reality is that the positive impacts to combined surface/spring irrigation and aquaculture water rights from curtailment of junior irrigation ground water rights will occur over a relatively long period. The initial positive impacts of curtailment to the senior surface/spring water right holders will be much less than the amount predicted to occur at steady state. For example, as shown in Appendix A, the positive economic impacts in the form of gross sales to all senior surface/spring water right holders is estimated to be only \$0.9 million in the first year of curtailment. The total value of output impact on ground water right holders, however, remains constant at \$211 M. Thus, in the first year of curtailment, the relative net economic impact is estimated to be in excess of -\$210 million.

.In order to provide a perspective on the relative magnitude of curtailment, per acre crop values on the remaining acreage would have to be nearly \$1,200/acre to offset negative impacts felt by ground water right holders as a result of the 1949 curtailment. For a 1961 curtailment date, average per acre returns on the remaining acreage would have to average more than \$805/acre. For the reasons previously given, it is highly unlikely that such per acre values would occur on the remaining acreage.

Questions were asked throughout the presentation. Senator Brandt requested a copy of the slide presentation. An inquiry was made as to who paid for the study. The reply was that it was paid for by the Office of the Attorney General.

(Figures I, II, III, IV and Table I are attached.)

Chairman Schroeder thanked Dr. Snyder for his presentation and taking the time to talk to the committee.

The Chairman then welcomed **Ms. Kathleen Trever, Administrator of the Idaho National Laboratory (INL)** who will present the annual report.

SPEAKER

Inserted into the minutes is information contained in the handout, Oversight, provided by Ms. Trever from which she referenced her remarks.

New name, new contractors: positioning the site for a vibrant future

On February 1, 2005, the Idaho National Engineering and Environmental Laboratory and the Idaho portion of Argonne National Laboratory merged to become the Idaho National Laboratory (INL). With the new name, the Department of Energy (DOE) also changed the way it manages the site. Ongoing laboratory operations will be managed in a separate contract from cleanup activities. Nuclear naval activities will continue to be covered

under a third contract.

The new contractor managing INL research and development functions under a \$4.8 billion, 10-year contract is the Battelle Energy Alliance (BEA). BEA includes the Batelle Memorial Institute, BWXT Services Inc., Washington Group International, the Electric Power Research Institute and several universities from across the country.

DOE plans to announce a new contractor for cleanup activities at INL by March 15.

Issue forecast

- The State expects INL to play a key part in the national discussion of what role nuclear energy should play in our nation's energy policy.
- DOE is considering moving activities to INL related to the production of plutonium-238 (a different form of plutonium than "weapons-grade" plutonium-239). Plutonium-238 is used as a power source for generators used for space exploration and security applications, and there is a limited supply.

The INL currently assembles these generators, and is a logical option for the production activities. The State expects DOE to evaluate worker safety issues, potential emissions and waste management, and transportation impacts before making a decision. The public will have the opportunity to comment on an environmental impact statement, slated for publication this spring.

- DOE and Idaho have disagreed whether the 1995 settlement requires DOE to remove transuranic buried at INL prior to 1970 and have gone back to court to resolve that issue. Nevertheless, DOE has started retrieval of some buried transuranic waste.
- The question of how to manage tank residues at INL, Hanford and Savannah River has been the subject of lawsuits and federal legislation. During the next year, the State of Idaho, DOE, the Nuclear Regulatory Commission and EPA will discuss, with public involvement, how to ensure DOE meets standards for the safe long-term management of contamination that remains in tanks after they are cleaned.
- The INL has been taking down buildings that are no longer in use. DOE, EPA and the State will be looking at how best to manage the decommissioning of old reactors, reprocessing facilities and laboratories. The agencies will have to address "how clean is

clean" and balance the risks of moving contamination or leaving it in place.

How does the INL affect Idaho's Environment?

- State monitoring indicates off-site impacts from INL are well within environmental standards.
- The State operates an extensive monitoring network on and around the site, including real-time monitoring of air and radiation. In addition to air and radiation, the State monitors groundwater, surface water, precipitation, soil, and milk from area dairies.
- The State compares our results with those collected by DOE contractors and the US Geological Survey. Our results generally agree with other monitoring programs.
- There continue to be some places beneath the INL where groundwater does not meet drinking water standards for some contaminants because of past waste disposal practices (like injection wells). Last year, DOE monitoring detected technetium, a radioactive element from the fission process, at unexpected levels near the INL Tank Farm. There are also areas where soil does not meet environmental standards.
- DOE, EPA and the State manage INL cleanup activities to eliminate contamination or safely manage it for the long-term. Two key cleanup goals are (1) ensuring groundwater leaving the site continues to meet drinking water standards and (2) all of the water in the Aquifer under the site meets drinking water standards by 2095.

The state's role in overseeing INL

The Idaho Department of Environmental Quality regulates the management of chemical waste at the site and air emissions from site facilities. It also regulates cleanup of contamination caused by past activities at the INL under a three-way agreement with the US Environmental Protection Agency and DOE.

Since the Idaho legislature created an Oversight Program for INL in 1990, Idaho has also monitored air and groundwater on and around the site, and provided non-regulatory oversight of the site's nuclear and other activities. Now a Division of the Department of Environmental Quality, Oversight also monitors DOE's compliance with the 1995 settlement agreement.

Settlement Agreement

Idaho's guarantee that cold war waste will be treated and removed.

A 1995 court settlement between the State of Idaho, DOE and the Navy places annual and total limits on the shipments of DOE and Navy spent nuclear fuel to Idaho. It also sets deadlines for the treatment and removal from Idaho of 3 waste types that belong in deep repositories as a matter of national policy: spent fuel, high-level waste and transuranic (plutonium-contaminated) waste.

Spent nuclear fuel, or SNF, is highly radioactive fuel material that has been removed from a nuclear reactor. From 2000 to 2005, most of the spent nuclear fuel at the site was moved from wet to dry storage. DOE and the Navy are ahead of schedule for meeting the deadline to have all INL spent fuel in dry storage by 2023. The Yucca Mountain repository in Nevada, slated to receive INL's spent fuel and high-level waste, is behind schedule and faces legal challenges.

High-level waste was created when spent nuclear fuel was reprocessed to recover usable uranium. There are two forms at the INL: a granular solid called calcine, which is stored in stainless steel bins located within large concrete structures; and an acidic liquid called, "sodium-bearing waste," stored in 300,000 gallon tanks inside concrete vaults. The new INL cleanup contractor will identify a treatment technology and construct a facility for treating the waste that is removed from the tanks. DOE believes remaining liquid waste should be classified as transuranic waste and disposed at the Waste Isolation Pilot Plant after the waste is solidified.

Transuranic waste, sometimes referred to as plutonium-contaminated waste or nuclear garbage, is contaminated with transuranic elements like plutonium and americium. Most of the transuranic waste at the INL was generated at Rocky Flats, a nuclear weapons production facility in Colorado, between 1950 and 1980.

INL began shipping transuranic waste to the Waste Isolation Pilot Plant in New Mexico for permanent disposal in 1999. About 3,700 cubic meters have been shipped.

For the last two years shipments have fallen behind schedule. DOE must significantly increase its shipping rate to meet the next settlement agreement deadline, requiring an average of 2,000 cubic meters be shipped each year. 5,400 cubic meters must be shipped before December 2005 for this deadline to be met.

Cleaning up

The Subsurface Disposal Area poses one of the site's most difficult cleanup challenges. Thirty-six of the SDA's 97 acres have been used for

waste disposal. Waste from nuclear weapons production at the Rocky Flats plant in Colorado was dumped in several of the pits and trenches between 1954 and 1970.

In 2004, DOE dug up and analyzed waste from a small area of one of the disposal pits, Pit 9, using a conservative design. 454 drums' worth of waste and contaminated soil were removed at a cost of around \$67 million. Of those drums, 60 contained enough plutonium to qualify for disposal at WIPP. The lessons the DOE, EPA, State, and the cleanup contractor learned from the project were used to design the "Accelerated Retrieval Project," or "ARP."

The ARP process is a more economical and practical way to retrieve the contaminants we are most concerned about-transuranics, uranium, and mobile chemicals found in industrial solvents. ARP 1, the first phase of the process targets a half acre of Pit 4 expected to contain a high concentration of transuranic waste Plans are being made for ARP 2, in an adjacent area of Pit 4 and neighboring Pit 6.

The removal takes place inside a huge tent, a structure engineered to protect workers and the environment. Inside, wastes are removed from the ground and sorted, and the materials most likely to contain the targeted contaminants repackaged for permanent disposal. The rest is returned to the pit.

The process is not without its critics. People have expressed concern about returning any potentially contaminated materials to the pit and the risks contamination may pose. Changes were made to sampling procedures in response to public comment on the ARP 1 plan. DOE, EPA and the State will continue to evaluate how to improve retrieval operations as the ARP project proceeds.

The committee asked questions throughout the presentation.

ADJOURN:

Chairman Schroeder thanked Ms. Trever for the INL report. He then adjourned the meeting at 2:55 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 11, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

He then called on Senator Cameron to present his bill, S 1171.

S 1171 (Taken from the Statement of Purpose)

The legislation combines the big game primary and big game secondary depredation accounts and creates the non-expendable big game depredation fund to generate revenues and an expendable fund from which depredation payments are made. Furthermore, the bill directs unexpended and unencumbered revenue from the expendable account to sportsmen access programs in the Fish and Game set aside account and the animal damage control account.

Senator Cameron provided a handout (attached), "Depredation Funding Flow Chart" that compared the current law with the proposed legislation, S 1171. It was prepared for Senator Cameron by Legislative Services.

Senator Cameron said he wanted to tell the committee what the bill isn't about. It does not tell the Department how to manage their department, nor does it try to take money away from the Department. It is a financial bill.

Senator Cameron said it became aware to him and the budget staff that perhaps the method in which the big game depredation fund and the secondary big game depredation fund was probably not the most efficient manner in how to handle the money. He said that under the current law, F&G deposits \$200,000 into the primary depredation fund. Claims are then subtracted from that account, as well as administrative expenses. Any balance is then returned to the F&G fund. Over time, a significant portion of the \$200,000 has been returned. The secondary depredation fund earns interest on a set-aside amount of \$1,250,000, together with a \$1 million general fund appropriation. The big game secondary fund pays farmers who have claims above \$10,000 and ranchers whose livestock is damaged by bears or cougars. Any balance, after \$3 million, is transferred to habitat improvement and land acquisition. The current

balance is over \$3 million.

Senator Cameron said S 1171 proposes a slight change in how they do business and he believes that change is designed to benefit sportsmen, to help with access, and to protect and improve big game herds. Fish and Game would transfer the \$200,000 into what would be called the expendable big game depredation fund. That would pay depredation to farmers and ranchers for livestock and/or property. The non expendable big game trust fund would have a beginning balance of \$2,250,000. Any balances above \$3 million, the first \$75,000 would be transferred to sportsmen's access programs. Anything above that amount of money would be transferred to animal damage control.

Senator Cameron stated that he understands the issue of depredation on big game herds by wolves, which will require funding from the state and from Fish and Game to control that species. He said the proposal is conceptual in nature. After reviewing it further with other sportsmen's groups, it was thought that sportsmen's access dollars should be higher. Senator Cameron said he has an amendment to adjust the figure of \$75,000 to \$100,000 for sportsmen's access programs. If it is the wishes of the committee, the bill would be sent to the 14th Order.

Senator Cameron then discussed the second page of the handout which covered the current law, the proposal, assumption: sources of funds; and assumptions: claims and administration history from FY 1992 to FY 2004.

Chairman Schroeder asked Senator Cameron if Fish and Game was involved in this legislation. Senator Cameron said that he didn't personally visit with them, but understood that others had. He said he visited this morning with three of the Fish and Game Commissioners. Senator Cameron said this legislation was brought to him by sportsmen in his area and then was approached early in the session by the organized group. Representative Moyle was working on a similar project and they combined their efforts and involved the budgetary staff to obtain some of the information.

Senator Schroeder read part of the letter from the **Food Producers of Idaho**. It was provided to all committee members and is also inserted into the minutes.

TO: Senate Resources & Environment Committee Members

FR: Rick Waitley, Executive Director

Ty Iverson, Lobbyist

Food Producers of Idaho, representing numerous agricultural organizations throughout the state, is asking for your support of Senate Bill 1171, related to big game depredation.

S1171 would benefit Idahoans by combining the big game primary and big game secondary accounts to create the non-expendable big game depredation fund. This fund would generate revenues and an expendable

fund from which depredation payments are made.

This legislation would also maintain a minimum balance of \$750,000 in the depredation account, and would help secure additional dollars for predator control for the livestock industry in Idaho.

On the back of this letter you will find a current list of Food Producer membership. On March 9, 2005, Food Producers voted to support and track Senate Bill 1171.

We appreciate your consideration on this important matter, and we urge you to support Senate Bill 1171. If you have any questions on this legislation, please do not hesitate to contact the Food Producers office at (208) 888-0988 or by email at rwaitlev@spro.net or tiverson@spro.net.

TESTIMONY

Marv Hagedorn was the first to testify. He said he is from Meridian and represents himself. He said he has talked to a vast number of sportsmen who support the bill. The main reason is that it streamlines the current structure that is in place. As the fund grew, the excess goes into the general fund and gets used at the department's discretion. Mr. Hagedorn stated that sportsmen want to see those funds used for sportsmen's gain.

TESTIMONY

Inserted into the minutes is the testimony of **J. Kent Marlor, PH.D., Co-chair, Idaho Fish and Game Advisory Committee.**

History and Development of the Idaho Wildlife Depredation Program with Special Reference to Senate Bill 1171

Mr. Chairman: My congratulations on your appointment as Chairman of the Committee. I am appreciating or you giving me this opportunity to give some of the critical background of the Idaho Wildlife Depredation Program and address our concerns with Senate Bill 1171. My name is J. Kent Marlor and I serve as the Co-Chair of the Idaho Fish and Game Advisory Committee.

During the waning hours of the 1989 Centennial legislature, an appropriation bill taking \$500,000 from the Fish and Game Account was enacted to compensate farmers and ranchers for big game depredation losses to crops, fences and equipment for the period July 1, 1988 through June 30, 1989. Wildlife depredation losses to agriculture during that period were staggering. They related to the extensive and severe drought experienced over a multiple-year period. Big game by the hundreds had found forage only in cultivated fields. The disaster was wide spread, affecting farmers and ranchers in many areas of the state.

The statute provided that claims would be submitted to the State Board of Examiners, which is comprised of the governor, secretary of state and attorney general. The auditor (now controller), secretary of the board, was

charged by the law to audit all claims submitted for Board review. He supervised the claim process.

At the close of the filing period in June 1990, there were 111 depredation claims filed for 1988. They totaled \$1,309,317.27. In addition, for the 1989 period there were 93 additional claims filed. These claims amounted to \$454,198.68. The combined claims amounted to \$1,760,283.85. Claimants for 1988 were given Board priority. However, since the appropriation for depredation losses was only \$500,000, it was necessary for the claimants to take a prorated reduction and each claim was treated equally.

The attempted solution by The Board of Examiners was less than successful. No long term or short term solution to wildlife depredation had been developed. Everyone was angry: farmers and ranchers, sportsmen, and the public. In response, HCR 30 and HCR 31 were passed by the legislature in 1989. A Wildlife Depredation Committee was created to come up with potential solutions to the problems and recommend them to the 1990 legislature for action.

Legislative Council Appointees from the Senate were: Herb Carlson, Chairman, Ron Beitelspacher, Jim Christiansen, Laird Noh, John Peavey, and Jerry Twiggs. Legislative Council Appointees from the House were: Dean Haagenson, Chairman, Al Johnson, Golden Linford, Ken Robison, Wayne Sutton and JoAn Wood.

The Depredation Negotiating Committee was composed of the following people. Dave Bivens, Stan Boyd, Frank Higgins, Vangie Ingram, Bill Jungert and Dave Nelson represented Agriculture. Steve McGrath, Eric Krasa, Ed Mitchell, Don Clower, Kent Henderson and J. Kent Marlor represented Sportsmen-Wildlife.

The initial activity of the Negotiating Committee was limited to fact finding. Meetings were held throughout the state to receive public input as to the scope and nature of the depredation problem. Following the public meetings, it became apparent that only through protracted negotiation sessions could the Committee arrive at an agreement.

Conflict among the Committee was deep and frequent. So far apart were the two groups in the Committee, that it became necessary to hire a mediation organization. Facilitator, the late Frank Gaffney, was brought in to keep the Committee from disintegrating. His efforts were successful and the Committee produced a final agreement (copy attached) but only after days and nights of conflict. Early on, because of the complexity and interrelated nature of the depredation issues, it became necessary for the Committee to specify that once the total agreement package was complete, removal of any element would result in voiding the entire agreement. The

group determined that any substantive decision reached required unanimity. This rule complicated the decision-making process but given the nature and complexity of issues considered, there was no other alternative.

The Committee's recommendations came to the 1990 Legislature and became law with the passage of Senate Bill 1515. The funding mechanism took an additional year before fruition because of disagreement over program funding and a gubernatorial veto. Once the funding mechanism was added, the program was finalized.

Selected Critical Elements of the Idaho Wildlife Depredation Statute

1. The statute featured a two-tier depredation fund, including a \$2.25 million trust fund. The program included an IDFG comprehensive depredation prevention program with a quick response component. All elements of the statute were predicated upon the prevention program.
2. The funding component was based on an annual \$200,000 Fish and Game Fund transfer to a Primary Depredation Fund. Unexpended monies were to return to the Fish and Game Account, but this feature of the agreement only became reality with the funding of a Secondary Depredation Fund with a \$1 million general fund contribution. To complete the trust fund, IDFG would contribute \$1.25 million dollars. All of these elements were tied together and none could be excluded for the formula to work. In addition, once the fund reached the \$3 million level, wildlife habitat restoration would be the focus of additional interest money expenditures.
3. For the agriculture members, all of the elements were to also be tied to the quick response prevention element. Claims procedure was developed through extensive compromise. The Department was required to develop a field officer, "Landowner-Sportsmen Relations Field Officer" who would provide leadership to the Depredation Prevention Program. Today, these field officers cost the Department approximately \$500,000 annually. Again, the program was not considered viable by the Agricultural representatives without the guarantee of the added staff.
4. Other examples of compromises included eligibility for claims being contingent upon reasonable access to hunters on lands involved in claims. The Sportsmen delegation insisted upon this provision, although left ill-defined, the provision was seen as being required in order to allow IDFG to use harvest as a tool for reducing animal depredation. Bill Jungert of the Agricultural side agreed. He noted that "when a landowner will not allow hunting on his property to reduce or prevent damage, he has bought his own depredation problem." Disagreement over livestock losses on public lands led to a compromise of a \$5,000 deductible and \$25,000 limit

on such losses, such claims to be paid from the Secondary Fund.

5. A myriad of compromises were required on the arbitration procedure. Not minute was the conflict over whether arbitrators would be empowered to compromise to middle ground damage figures supplied by a landowner and the IDFG. Sportsmen representatives feared inflated claim payments would result from such an allowance. They insisted the monetary settlement be an either or proposition. Which of the two claim figures, either the farmer's or IDFG's, was closer to the arbitrators' determined figure for loss would be the basis for awarding the claim?

There were so many compromises developed, all elements of a check and balance type of system, and all contingent upon each other. It is difficult to bring all of these to mind after the many years that have passed. The agreement has served both the Agricultural and Wildlife communities. As a Committee, we all realized that the statute would require fine-tuning. Over the last decade, your committee has been most kind to us. You have allowed us to thrash out the advantageous changes to the Depredation Statute and following the development of unanimous consent, bring them to you with our recommendation. Changes have been enacted which now feature goats as livestock. Honeybee hive losses are covered. The deductible for livestock depredation has been reduced from \$5,000 to \$1,000. The \$25,000 annual limit on bear-cougar claims has been eliminated. Last year the initial payment to claims recipients was increased to fifty percent of the total claim.

Because there have been no changes in the Secondary Depredation Fund, for the first time there is an interest balance that can be used for habitat restoration-which has included partial funding of our newly approved "Access Yes" Program.

We believe there can always be "tweaking" and improvement to the depredation program and we welcome input from all groups. That has not been the case with Senate Bill 1171. Our Committee has not been asked to consider this bill in any stage of its development this year or last.

The basic question which needs to be asked and answered is does the depredation program work. It does work! From FY 1995 through 2004, farmer and ranchers have been paid \$777,123 from the Primary Depredation Account for claims. The incentive program for the Department has worked. Where they have effectively focused on prevention-not allowing depredation to occur and resulting in claims, Department programs have benefitted to the tune of \$1.2 million. In Senator Burtenshaw's and my area, Teton Valley, can be seen a perfect example of this program feature. Where depredation to alfalfa stacks occurred previously, during the last four years there has not been one claim application. During that same period, 11 stack yards have been

fenced at a cost of \$42,875 of sportsmen's license monies. That, senators is what the program is all about.

The present depredation program preserves the integrity of wildlife policy determination process. While the legislature retains control of the fish and game funding, monies spent on Access Yes, predator control, or any other wildlife program, are decided by the Fish and Game Commission, nominated by the Governor and approved by you. That would certainly not be the case with the provisions in Senate Bill 1171. The Advisory Committee is concerned about coyotes. The IDFG now contributes \$100,000 for control of these and other animals. But to use monies designed for wildlife depredation or Departmental programs, in addition to funds already dedicated for animal control, appear to us to have no legitimacy.

Mr. Chairman, thank you for the opportunity to speak to this critical issue today.

TESTIMONY

Mr. Stan Boyd said he represents the Idaho Cattle Association and the Idaho Wool Growers. He stated that the ADC program (Animal Damage Control) is run by the USDA Wildlife Services. The Cattlemen assess themselves, as do the Wool Growers. There are other funds from several sources and it all goes in the pot. The money collected is dispersed by ADC following Fish and Game Commission's direction. August 1st, a letter is sent stating where the money is to be spent. Last year, \$50,000 was distributed to the five ADC districts and the other \$50,000 was put in a mule deer research study. He said he wanted to make it clear that Fish and Game does have direction over the money.

TESTIMONY

Mr. Steve Huffaker, Director of Fish and Game, said the Department opposes the legislation for three basic reasons. (1) Changes the basic nature of a process that has been in place for over 15 years that started out to be a depredation prevention program, not a depredation payment program. (2) There is an advisory committee in place to deal with these kinds of issues. He asked that the Advisory Committee be given the opportunity to discuss and consider the legislation. (3) This legislation removes a lot of flexibility from the Commission. This legislation would also direct the money to two programs, both of which are popular with some sportsmen, but they are in competition with other programs. He feels the Commission process and Advisory Committee process is a better form for making these kinds of decisions than what this legislation suggests.

TESTIMONY

Inserted into the minutes is a copy of the testimony of **Mr. Rod Davidson**.

Chairman Schroeder and committee members,

The Big Game Depredation fund, Bill No. 1171 is a sham and a farce. It is a blatant attempt by Sportsmen for fish and Wildlife to take over the Idaho

Department of Fish and Game. Bill 1171 isn't about sound game management practices, it isn't about thoughtful co-operation between farmers, ranchers and land owners and the Idaho Department of Fish and Game. Bill S1171 is not about 15 years of success in meeting the needs of Idaho's farmers and ranchers in being paid for crop losses and property damage.

What Bill S 1171 is about is a bunch of amateurs pretending to be experts, amateurs who if they achieve their goals will wreck hunting and fishing and outdoor enjoyment for the rest of us. If this committee lets this wreck out; we, the people of Idaho will be paying the price for a very long time.

Early this morning the Idaho Fish and Game Department presented RS 15125 in the Senate State Affairs Committee. It is a bill which when printed will show the handiwork of SFW. It is a bill that the Idaho Fish and Game Commission accepted as the best they could get out of SFW and the legislature, the bill will have bonus or preference points for controlled hunt permits. These bonus point systems have failed to increase any ones odds on draw hunts in other states, they look nice on paper and are a nice touch for the political sophisticates at SFW.

This fee increase bill will face close scrutiny from sportsmen's groups across the state and the jury will be out on that until we can ascertain the scope and intent of it. There are more irons in the fire for the SFW club; we may see an attempt to use monies stolen from the depredation fund to stage an amateur predator eradication experiment. They want to spend Idaho license fees to kill predators, not US fish and Wildlife dollars, but yours and my dollars that we spend every time we buy a license or tag or permit.

Why should the people of Idaho have to pay for predator control on animals that should be controlled by the US Fish and Wildlife Service.

The last thing SFW will bring with their grandiose plans for Idaho is the Sportsmen for fish and Wildlife Hunting Club. This club will be similar to the arrangement they have in Utah where only SFW members need apply, join the club or spend thousands of dollars on premium controlled hunt tags. Wild game isn't wild game in Utah anymore it's a commodity just like a gun or rifle you buy at Sportsmen's Warehouse.

In conclusion S 1171 isn't about depredation, it isn't about the Idaho Department of Fish and Game's 67 years of efforts, it isn't about proven game and predator management, it isn't about taking care of Idaho sportsmen, Idaho farmers and ranchers its about Sportsmen for Wildlife taking care of themselves.

Senate Bill 1171

.This bill brings up the policy question of whether or not the Fish and Game Commission should continue to administer the wildlife policy of the state as enumerated in section 36-103, Idaho Code. The Fish and Game Commission was established ". ..because it is inconvenient and impractical for the legislature of the state of Idaho to administer such policy ."

.To administer the state wildlife policy the commission was authorized to find facts, investigate and hold hearings. This legislation was developed with out the involvement of the commission and with out its advise or recommendations.

.This bill makes fundamental changes to the depredation agreement that was negotiated between representatives of the agricultural industry and sportsmen in 1988 and 1989. The Fish and Game Advisory Committee was created in 1990 by state law (IC 36-122) "as an independent resource to give advice and recommendations on" the depredation program to the Fish and Game Commission.

The Advisory Committee has been very effective at reducing depredation problems and improving Landowner-Sportsmen relations.

.The existing depredation program successfully reduces big game depredation problems while supporting positive relationships between agriculture producers and landowners and sportsmen.

.This bill was developed without the advice or recommendations of the Fish and Game Advisory Committee. Rather it is the result of a single group circumventing the established statutory process to affect a change it desires.

TESTIMONY

Inserted into the minutes is a copy of the testimony of **Jack Fisher**.

I would like to direct your attention to the last page of S1171 , the last section entitled "Contact". Senator Cameron I know quite well. Representative Moyle I know also. But who is Nathan Helm? Sportsmen for Fish & Wildlife? Who is this new person that is leading the charge to emasculate the Big Game Depredation Fund that has worked so well for over 15 years? What are the real reasons behind this latest attempt to resurrect a thinly veiled rewrite of Representative Roberts bill of the last two years on the same subject.

My research has lead through a tangled web of strategies that involve intimidation, innuendo, deceit, omission, pressure, my way or the highway and others that come to mind. Mr. Helm has been involved with SWF for seven months and is already an expert on the Big Game Depredation Fund but has not had the time or the desire to meet with the Fish & Game Advisory Committee to discuss this proposal.

The trail leads through the Fish & Game Fee Increase bill which is in jeopardy. Through HB174, the Cervidae bill that would allow mule deer, white tailed deer and moose to be game farmed under Department of AG. S1098 The Zoo bill that would move regulation of private Zoo's to Department of AG. And now to S1171 which would take away much of the Fish & Game Department's ability to manage depredation problems.

Does it matter that in Utah in 2004 that SWF was allowed to market Big Game Tags for their own benefit? (1) Bison, (1) Rocky Mountain Goat, (6) Moose, (13) Antelope, (31) Elk, (56) Mule Deer, for a total of 106 Big Game Animals? That's a lot of dollars and I believe that it does matter. It is funding SWF's expansion program in Idaho and it is germane to the real reason behind this latest attack on the Depredation Program.

The same scenario that played out in Utah is being attempted here in Idaho. Divide and conquer is one of the oldest strategies and it works well if not exposed and dealt with. Split the sportsmen down the middle and only tell them half the truth. Couple this with convincing the legislature to take away the Fish & Game Department and Commissions ability to manage their resources, set their seasons and harvest quotas and you have the Utah plan in Idaho.

Senators, don't allow this to happen in Idaho. We can manage our own wildlife quite effectively if allowed to. Oversight is fine, but now we need your help.

TESTIMONY

Inserted into the minutes is a copy of the testimony of **Ms. Cherie Barton, President of the Idaho Wildlife Federation.**

Mr. Chairman, Senators:

My name is Cherie Barton and I'm the President of the Idaho Wildlife Federation. Thank you for giving me the opportunity to address you today on Senate Bill 1171. The Idaho Wildlife Federation considers this bill unnecessary legislation. We feel the current legislation that this body previously adopted is sufficient to address the needs of farmers and ranchers as well as providing sportsmen of Idaho a means of helping when depredations occur. Our current Legislation is a model that other states have adopted and thus should not be changed by SB 1171.

Idaho's Wildlife Depredation Law has been an effective tool in helping reduce and prevent wildlife damage to growing crops and harvested commodities since 1995. Six representatives of the agricultural community and six sportsmen representatives worked long and hard in the early 1990's to draft a plan in response to the Idaho Legislature's call for an equitable solution to a severe depredation problem in the late 1980's. I'm sure many of you can remember their efforts and the hard work of this Legislature

which resulted in a law that has been the model for many other states. For the past ten years, the Fish and Game Advisory Committee, whose members are appointed by the directors of the Departments of Agriculture and Fish and Game, have used monies from the depredation account to fairly compensate farmers and ranchers for damages to growing and stored crops.

Over the years, the committee has recommended several modifications to the original statute. All of the suggested changes have been carefully considered by this committee and, to date, most all of these recommendations have become law. I ask this committee, where are the complaints from ranchers and landowners for our existing legislation?

This Bill will "end run" the existing advisory committee, that is currently made up of ranchers and representatives of nearly 500,000 hunters and anglers, and might I add is operating very efficiently. Our existing depredation program successfully reduces big game depredations problems while compensating farmers and ranchers for damages to their crops as well as creating positive relationships between agriculture, landowners and sportsmen. This Bill does nothing to enhance those relationships.

The Idaho Wildlife Federation believes the proposed legislation would have a number of adverse impacts which would greatly reduce the effectiveness and, we believe, the intent of the original law.

1. We strongly oppose using any depredation account monies to fund additional animal damage control. The intent of the depredation law is to the reduce crop depredation and compensate for crop losses when they occur. Animal Damage Control (ADC) is currently funded at a legislatively approved level to control coyotes and there is no science to suggest that additional predator control will increase big game populations. This money would be better spent providing wildlife habitat on private lands. Measures such as using annually available interest monies to fund for habitat development, rehabilitation, and acquisition are consistent with this effort.

2. Our license fees contribute \$200,000 to the depredation account. All unspent monies should be reverted back to the Department of Fish and Game's general operating funds for habitat and hunting access. To do otherwise, we believe would be inappropriate.

3. Available depredation fund monies to support for access programs should continue and not be arbitrarily limited to \$75,000 annually. Access to private lands helps reduce big game populations and thus helps reduce depredation. Use of hunters should always be the first and least expensive tool to reduce depredation problems. As well as continuing to build

relationships with landowners.

4. Although the propose bill is not clear on this issue, we are opposed to the apparent transfer of administrative authority for processing claims from the Department to the state controller's office. The current program is working well, why create a new, additional bureaucracy?

The existing Depredation Law is a good one, is a model for other states, and should not be changed. Senate Bill 1171 is unnecessary legislation for Idaho's ranchers and sportsmen.

Thank you for giving me this opportunity to provide testimony.

TESTIMONY

Inserted into the minutes is a copy of the testimony of **Mr. Carl Rey**.

Idaho Fish & Game Advisory Committee
Committee Member Orientation & Handbook
Prepared & Compiled by Carl D. Rey, March 2005

Mission Statement: "Generally improve and safeguard landowner-sportsmen relations through the development of consensus-based recommendations concerning wildlife depredation and other associated fish and wildlife problems. "

Origin of the Committee: The Idaho Fish and Game Advisory Committee has its origins (in the creation of a predecessor committee) in 1989 by action of the Forty-Seventh Idaho Legislature pursuant to House Concurrent Resolution #31. HCR #31 was passed in response to escalating conflicts at that time between the state's landowners, sportsmen, the Idaho State Department of Agriculture, and the Idaho Department of Fish and Game, related to extraordinary and increasing levels of crop losses resulting from big game depredation. The situation that precipitated the committee's formation occurred because of what can only be characterized as a perfect storm of severe wildlife depredation throughout (especially the southern half of) the state during the winter of 1988-89. That winter a point was reached where the multi-year, cumulative effect of expanding big game herds, drought and severe winters, as well as certain management practices (by both professional wildlife managers and private landowners, alike) had contributed to the somewhat spectacular collision of private property rights, economics (related to crop loss impacts), policy concerning public property resources (wildlife), public opinion and politics.

It was into this highly charged atmosphere of controversy that the legislature, under the auspices of HCR #31, authorized a "wildlife depredation negotiation process" and thereby instructed the Directors of the Departments of Agriculture and Fish and Game to appoint a

"Negotiating Committee." This Negotiating Committee would serve to: ". . .review and develop a comprehensive program and recommend long-term solutions to deal with landowner losses resulting from wildlife depredation." The committee was further directed: ". . .to conduct public meetings on the subject and to confer with all parties necessary to assist them in their task. " The Northwest Renewable Resources Center of Seattle, Washington was retained by the Idaho Department of Fish and Game to mediate the negotiations.

Accordingly, six negotiators each were appointed by each director. Following a series of regional statewide meetings held throughout that year, the committee used consensus to arrive at a mutual agreement and set recommendations that were to later be adopted by the legislature (See: "Final Agreement and Recommendations: To Implement' A Policy Regarding Wildlife Depredation for the State of Idaho," November 6, 1989). It was the codification of that agreement and those recommendations, in part, that in 1990 would authorize the continuation of a committee, to be called the "Idaho Fish and Game Advisory Committee," that would continue to assess the effectiveness of those recommendations implemented pursuant to the November 06, 1989 policy document.

History and Structure of the Committee: Following the legislative directives of 1989 and its adoption of the "Negotiating Committee's" recommendations, Senate Bill 1515 resulted in enabling statutes that were codified in the state's 48th legislative session in 1990 under Title 36 of Idaho Code. SB 1515, in addition to providing a permanent funding mechanism in the form of the Primary Depredation Account and the Secondary Big Game Depredation Trust Account, also mandated and authorized the Directors of the Departments of Agriculture and Fish and Game to continue their respective six member each appointments as per the predecessor Negotiating Committee. Representatives to this committee, once appointed, were to serve at the pleasure of their respective director and were initially charged with seeking consensus and resolution to issues particularly involving big game depredation. Correspondingly, also by statute, the committee was given oversight responsibilities for the primary and secondary depredation accounts that were simultaneously created as funding mechanisms both to pay for the committee's operational expenses and the state's depredation claims program. The committee has performed this oversight role since its inception in 1990 and continues to review the fish and game department's ongoing system for providing payments for depredation claims.

TESTIMONY

Nate Helm said he represents **Sportsmen for Fish and Wildlife of Idaho**. He works for the Board who represents individual chapters across the state.

He said the primary purpose of the bill was to look for avenues to increase

the opportunity for the sportsmen to hunt and fish in Idaho. The number one concern was to maintain the integrity of the current depredation accounts. They wanted to create an alliance with landowners. Those folks maintain some habitat that is critical to winter populations.

Mr. Helm said there have been accusations that Sportsmen for Fish and Wildlife of Idaho have been giving some leg up to the ag community. He said they have been working with them and they are guilty of that. He stated that they (the ag community) own the habitat that feeds the game, so they want to work with them any way they can. The number one priority was to create that alliance. The second priority was to maintain the current programs for supporting the things that have been worked on by the Fish and Game Advisory Committee where money has been allocated. Last, the Board has asked for resources allocated for predator control. The fund is called Animal Damage Control fund. There is an Animal Damage Control Board which disseminates the money. They currently received a letter from the Fish and Game, under the direction of the Commission, outlining how the money is to be expended.

Mr. Helm said he takes responsibility for his actions in addressing the Fish and Game Advisory Commission and their participation in this. The first person he met with was Dr. Kent Marlor. He went to his office in Rexburg and provided him their outline of objectives for this upcoming legislative session. Mr. Helm said he did not contact Mr. Marlor anymore. He said he knew Carl Rey, but as Mr. Rey was out-of-town, he worked with others on the committee.

Mr. Helm stated that the only change in the depredation accounts is the allocation of the excess revenue. It is the right thing to do for Idaho's sportsmen and Idaho's game. He asked for the committee's support on the bill.

Senator Stennett asked Mr. Helm if he was aware that by statute, the Advisory Committee was given the oversight of these funds. Mr. Helm said he was. Senator Stennett then asked Mr. Helm if he tried to work with that committee, other than talking to Mr. Rey and Dr. Marlor. Mr. Helm said that in talking with the other drafters of this legislation, it was not going to harm the depredation portions of that account. He thought they were only targeting the excess monies and not a huge depredation change issue.

Senator Stennett then questioned the fiscal impact statement. It said no fiscal impact, but the handout shows there to be an impact. Senator Cameron stated that Ray Houston helped put together the information. There was some discussion relating to this issue.

Chairman Schroeder asked Mr. Helm that as a result of an earlier discussion this day, is there a relationship on the hearing of this bill and the fee increase bill being held in the House? **Mr. Helm** asked to be refreshed of that conversation. Chairman Schroeder then asked if the fee increase bill in the House was being held subject to the hearing on this bill. Mr. Helm said the holding of the bill in the House was intended for

them to ask specific questions about it and part of those questions dealt with what they wanted to do with directing money here specifically. Chairman Schroeder then asked if there would be a hearing on the fee increase bill in the House, now that this bill had been heard. Mr. Helm said that it was up to the wishes of the body

- MOTION** **Senator Burtenshaw** made the motion to send S 1171 to the 14th order. **Senator Cameron** seconded the motion.
- SUBSTITUTE MOTION** **Senator Langhorst** made a substitute motion to hold the bill in committee. **Senator Stennett** seconded the motion.
- ROLL CALL VOTE** A roll call vote was taken on the substitute motion. Voting aye were Senators Langhorst, Stennett and Schroeder (3). Voting nay were Senators Little, Brandt, Williams, Burtenshaw, Pearce and Cameron (6).
- A roll call vote was taken on the original motion. Voting aye were Senators Little, Brandt, Williams, Burtenshaw, Pearce and Cameron (6). Voting nay were Senators Langhorst, Stennett and Schroeder (3).
- The **bill will be sent to the 14th Order** and **Senator Cameron** is the sponsor.
- ADJOURN** The Chairman thanked the committee for their hard work this week, then adjourned the meeting at 3:50 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 14, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

ANNOUNCEMENT: The Chairman said that on Wednesday there would be a hearing on the fee increase bill for Fish and Game.

SPEAKER: Chairman Schroeder then welcomed Mr. Bert Bowler and Mr. Don Reading who will present the "Economics of Salmon Recovery".

Mr. Bowler, Native Fisheries Director for Idaho Rivers United, said they are here to provide an update on recent economics. They have provided a report, The Potential Economic Impact of Restored Salmon and Steelhead Fishing in Idaho. **Mr. Don Reading, Economist**, then presented the report. He is an economist; taught for 13 years - primarily at Idaho State for 10 years; economist and staff director at the Idaho Public Utilities Commission for 10 years; and since that time has been an economic consultant.

He said the study isn't looking at any kind of justification or procedure or suggestions on how to save salmon and steelhead.

Inserted into the minutes is the Executive Summary from that report which Mr. Reading referenced his remarks.

The Potential Economic Impact of Restored Salmon and Steelhead Fishing in Idaho.

Executive Summary:

The recovery of Snake River Basin salmon and steelhead runs - to sustainable, abundant and harvestable levels - would provide a truly , renewable resource that brings substantial economic benefit to Idaho.

This study analyzes the potential economic impact of a fully recovered salmon and steelhead fishery in Idaho, based on current data and data from

the 1950s, when full salmon and steelhead fishing seasons were last allowed in the Gem State. This is the fourth in a series of studies examining various aspects of salmon and steelhead fishing economies in Idaho. It is the first comprehensive examination of the potential impact of both fully restored salmon and steelhead fisheries.

The methodology used in this study is consistent with methodology used in previous analyses of salmon and steelhead fishing in Idaho. It utilizes community level input-output models developed by the University of Idaho. Expenditure data developed in earlier studies was also used, derived from angler surveys done by the Idaho Department of Fish and Game during Idaho's 1992-93 steelhead season and 2001 salmon season. Effort data, the number of angler trips, was taken from the previous studies and also from 1950s survey information.

Salmon fishing in Idaho has changed dramatically over the last 60 years. In the 1950s, anglers had access to hundreds of miles of rivers and streams, with most fishing occurring in June, July and early August in the headwater areas and tributaries of the Salmon River, where the salmon stage to spawn. Due to low returns, however, salmon fishing has not been allowed in the Upper Salmon River Basin since 1978, limiting angling opportunities primarily to the Clearwater and Snake Rivers, and the Little Salmon, South Fork Salmon and mainstem Salmon River downstream from the town of Riggins.

In addition to changes in the location of salmon fishing opportunities, fishing technique has also changed. In the 1990s, fishing from jet boats or drift boats in the lower mainstems - a technique traditionally used by steelhead anglers caught on during limited salmon seasons. And in 2001 and 2002, thousands of hours were expended in the mainstems of the Snake, Clearwater, and portions of the lower Salmon rivers during the months of May and June to catch spring chinook in prime condition, just a month or two out of the ocean.

Research for this study shows the benefit of a restored salmon and steelhead fishery to Idaho's economy could reach \$544 million annually. Direct expenditures out of pocket spending by anglers measured \$196 million, while indirect expenditures were estimated at \$348 million. Indirect expenditures are estimates of the total economic impact of angler spending in a community -calculated by applying standard economic multipliers to direct expenditures.

The table below gives a brief summary of the Economic Impact of Restored Salmon and Steelhead Fisheries in Idaho:

	<u>Direct</u>	<u>Indirect</u>	<u>Total</u>
River	\$121,951,445	\$208,576,476	\$330,527,921

Communities

Rest of State	\$74,207,952	\$139,510,949	\$213,718,901
Total	\$196,159,397	\$348,087,425	\$544,246,822

In addition to examining the economic impact of a restored fishery on the state as a whole, this study also examines the impact on individual communities most likely to benefit from restored fisheries. Not surprisingly, we found that the communities of North Fork, Salmon, Challis and Stanley would see significant increases in direct spending due to a re-emergence of a robust salmon fishery. Spending in those communities would also be bolstered because they serve as primary staging areas for trips on the Middle Fork of the Salmon River, where salmon and steelhead fishing is currently not allowed.

The work of Ben Johnson Associates was funded by a private, charitable foundation grant made to Idaho Rivers United, a non-profit river conservation group based in Boise, Idaho. IRU's native fisheries director and former Idaho Department of Fish and Game anadromous fisheries biologist, Bert Bowler, also contributed biological information to the study. The study results were reviewed and endorsed by the cities of Riggins and Stanley, Idaho, and economic and business organizations in Salmon, Challis and Stanley. Endorsement of this economic study does not indicate support for Idaho Rivers United, or for any particular, view of how fully restored salmon and steelhead fisheries might be achieved.

Purpose of The Study - This study was initiated to evaluate the potential economic benefit of recovered salmon and steelhead fisheries to the state of Idaho. The following report focuses on rural Idaho and the opportunity for rural communities to bolster their economies using sustainable, harvestable runs of salmon and steelhead on an annual basis.

Key statistics and highlights:

.Restored **salmon and steelhead fisheries could produce \$544,246,822 million a year** in economic activity in Idaho.

.With restored fisheries, **direct spending** by salmon and steelhead anglers - actual, out of pocket expenditures -could reach **\$196 million** a year.

.**The ripple effect** of direct angler spending, or indirect expenditures, could reach **\$348 million** a year.

.**Communities in the Salmon River and Clearwater River Basins**, from Lewiston to Stanley, would be the biggest beneficiaries of restored salmon and steelhead fisheries -**\$331 million per year**.

.Communities that could expect the highest economic return from a fully restored fishery annually are:

Lewiston - \$51.9 million
Orofino - \$47.2 million
Salmon - \$40.4 million
Riggins - \$35.7 million
Challis - \$26.8 million

Stanley could realize economic benefits of \$14.2 million a year.

.Communities in the Upper Salmon River Basin -North Fork, Salmon, Challis and Stanley have not enjoyed the benefits of salmon fishing seasons since 1978.

.Restored salmon and steelhead fisheries could result in angling opportunities for spring and summer chinook, fall steelhead throughout the year.

.Fully restored fisheries could spawn 458,000 fishing trips per year, compared to 256,000 during the 1959 season.

Chairman Schroeder thanked the gentlemen for their presentation.

He said next would be H 70, with Mr. Dean Sangrey presenting.

H 70

An act relating to advisory committees of the Department of Parks and Recreation; amending Section 57-1503, Idaho Code, to provide for appointment of waterways improvement fund advisory committee members by the Park and Recreation Board; amending Section 67-4223, Idaho Code, to establish length of term for members of the recreational vehicle advisory committee; and amending Section 67-7128, Idaho Code, to establish length of term and the rate of compensation for members of the off-road motor vehicle advisory committee and to make a technical correction.

Mr. Sangrey, Operations Division Administrator, Department of Parks and Recreation, said various inconsistencies exist in statutory guidelines. Areas affected by discrepancies include committee member compensation, varying term lengths for appointed committee members, and inconsistency in appointment authority.

Senator Little questioned the words “may” versus “shall” on page 4, lines 28 through 30, standardizing compensation. There was considerable discussion if it would affect PERSI accounts or other retirement accounts.

Mr. Sangrey said he could not speak for PERSI or other taxing agencies, but he would get the necessary information for the committee. Due to his time schedule, he will be available Friday, March 18 to report back to the committee.

Chairman Schroeder said the next legislation to be heard is H 229 and Representative Elaine Smith will present it.

H 229

An act relating to powers of the Park and Recreation Board; amending Section 67-4223, Idaho Code, to authorize the Board to provide for a reduction of no more than fifty percent of the fee charged for recreational vehicle camping, effective Monday night through Thursday night, for any senior citizen who possesses a valid federal "Golden Age Passport" or who possesses a special park pass issued by any state which similarly recognizes senior citizens and to make technical changes.

Representative Elaine Smith said this legislation provides options in camping fees for "seniors". There would be a fifty percent reduction in rates, Monday through Thursday at specific parks. The specific parks that are suggested generally have lower participation rates. The reduced fee would not be available at highly used parks. Representative Smith said it would also help tourism in those areas where the parks have a lower participation rate.

TESTIMONY

Inserted into the minutes is a copy of the testimony of **George Dillard**.

Mr. Chairman and members of the committee, good afternoon.

My name is George Dillard and I represent the RV users of this state. My official position is Legislative Representative for the Idaho State Good Sam Club.

The idea for this bill originally came was proposed by a Pocatello Chapter and was presented on the floor of the State Good Sam meeting in Blackfoot, Idaho during the summer Samboree meeting.

I have had a meeting with Mr. Meinen, the State Parks Director and we discussed it in detail.

Unknown to me, the Pocatello Chapter asked Representative Smith to introduce it as a bill. I know she had some meetings with Mr. Meinen and Mr. Sangrey about this bill and they came to an agreement with language that would make both the RV'ers and the State Parks happy.

The original plan is for to let the Seniors use selected State Parks at a discounted fee during the time that those parks were not being used to their maximum. This would give the State Parks some additional revenue as well as put more people in the parks. This has a two-fold advantage. The seniors would be using the parks when they are traditionally less used so that they might be gone when the park is the fullest which is the weekend. It might also encourage them to have their children and grandchildren meet them at the park for a good family outing, thereby giving more revenue to the park.

We also feel that with this discount system in place for selected parks, it would provide more usage during the time when children are in school, spring and after September 1.

We feel that this bill is a win-win situation and urge your yes vote and a recommendation of do pass to the floor of the Senate.

Thank you very much. I will now answer any questions you might have.

TESTIMONY

Mr. Dean Sangrey testified that the Parks Department is in agreement with this legislation. He stated that it makes sense to earmark certain parks that have low participation. Some of the specified parks include Three Island, Bruneau Dunes, and Winchester. He feels that it is a unique pricing structure and it will bring in revenue from those parks that have about 40 percent occupancy.

MOTION

Senator Langhorst made the motion to send H 229 to the floor with a do pass recommendation. **Senator Little** seconded the motion. A voice vote indicated that it was unanimous. **Senator Langhorst** will be the sponsor.

Chairman Schroeder said that **Mr. Jim Caswell from OSC** will present H 132 and H 133.

H 132

An act relating to Fish and Game; amending Section 36-201, Idaho Code, to provide that all methods of take shall be authorized for the management of wolves in accordance with existing laws or approved management plans regardless of the classification assigned to wolves.

H 133

An act relating to Fish and Game; amending Section 36-1101, Idaho Code, to clarify that specified law shall not limit or prohibit the lawful control of wolves through the use of helicopters if deemed necessary by federal or state agencies in accordance with existing laws or management plans.

Mr. Caswell said (referring to H 132) by way of background, in 2002, a state wolf management plan was passed. In that plan, they talked about the classification of wolves with three potential options. They could be classified as (1) big game or (2) fur bearers or (3) a new classification. Last year, the Commission voted to classify wolves as big game. Mr. Caswell said this bill is mainly clarification language, making sure they can do what needs to be done.

Mr. Caswell said H 133 allows the use of helicopters if deemed necessary. Lines 25-29 on page 2 of the bill makes it very clear that helicopters may be used for lawful control.

Senator Stennett said he needed to ask if this bill would have any effect with the state's relationship with the federal government getting the wolves declassified. Mr. Caswell said he would not be standing in front of this committee if there would be any problems with the federal government concerning the wolf issues .

TESTIMONY: **Mr. Stan Boyd** said he represents the Idaho Cattle Association and the Idaho Wool Growers and both organizations support both H 132 and H 133.

MOTION: **Senator Little** made the motion to send H 132 and H 133 to the floor with a do pass recommendation. **Senator Brandt** seconded the motion. A voice vote indicated it was unanimous. **Chairman Schroeder** will be the sponsor for both bills.

Chairman Schroeder then welcomed Steve Douglas who will present H 67.

H 67 An act relating to forest practices assessments; amending Section 38-134, Idaho Code, to revise the assessment for forest land owners of twenty-five acres or less and to make technical corrections.

Mr. Steve Douglas, Area Supervisor, Idaho Department of Lands, said a couple of years ago, the legislature modified Idaho Code 38-134 to allow the State Land Commissioners to increase the annual assessment. There was neglect to modify the code language affecting private owners of forest lands of less than twenty five acres or less. The purpose of the bill is to make the assessment rate consistent with all forest land owners.

Mr. Douglas stated that the Idaho Forest Owners Association supports this legislation and he provided a letter from that organization which is inserted into the minutes.

Mr .Winston Wiggins
Idaho Department of Lands
PO Box 83720
Boise, ID 83720

RE: FPA Assessment for parcels 25 acres and less

Dear Winston:

At the November Idaho Forest Owners Association (IFOA) Board meeting Craig Foss attended the meeting to give us an update on the FPA assessment for parcels 25 acres or less. The IFOA Board agreed to support the increase.

However, there is concern that an overcharge has been occurring because of multiple county owners cannot be identified in the IDL's computer system as one major owner. The discrepancies can be in the name, a period after the initial or a missing initial or even an extra space. Another problem is that each county has a different way to designate husband and wife. The IFOA Board would like to work with the staff in order to come up with an acceptable solution to the overcharge problem.

Arleen Pence
Executive Vice President

208-882-0833
IFOA@moscow .com

MOTION: **Senator Little** made the motion to send H 67 to the floor with a do pass recommendation. **Senator Burtenshaw** seconded the motion. A voice vote indicated it was unanimous. **Senator Langhorst** will be the sponsor of the bill.

Chairman Schroeder said the next bill to be heard is H 92 and Senator Brandt will present it.

H 92 An act relating to Fish and Game; amending Section 36-2203, Idaho Code, to revise standards relating to shooting preserves and to provide for grandfather rights.

Senator Brandt said the purpose is to expand the allowable acreage for shooting preserves. This bill would allow an increase from the existing 1,600 acre limit to a 4,000 acre limit. Grandfather rights would be retained on the original 1,600 acres but would not apply to the additional acreage.

When asked if the Fish and Game was in support of this bill, Senator Brandt replied that they were.

Another question was asked as to what animals or birds were included on the shooting preserves. **Mr. Steve Huffaker** replied that it was strictly upland birds.

There was discussion regarding historical access. **Senator Little** made a request to have a definition of historical access. **Chairman Schroeder** asked **Senator Brandt** to obtain the Attorney General's opinion and report back to the committee at the next meeting. Action will be taken on the bill at that time.

ADJOURN: **The Chairman** adjourned the meeting at 2:50 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 16, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: The meeting was called to order by **Chairman Schroeder** at 1:40 p.m. The Chairman said there were some minutes to be approved.

MINUTES - MOTION: **Senator Williams** made the motion for approval of the minutes of March 2, 2005. **Senator Burtenshaw** seconded the motion. A voice vote indicated it was unanimous.

MOTION: **Senator Pearce** made the motion for approval of the minutes of February 28, 2005. **Senator Williams** seconded the motion. A voice vote indicated it was unanimous.

H 92 The Chairman said it was his understanding that Senator Little had an amendment prepared for H 92 that was heard on Monday. **Senator Little** said he did have one and it just changes two words. On page 1 of the bill, line 19, it deletes "historical" and inserts "existing", and on line 39, it deletes "historical" and inserts "existing".

MOTION: **Senator Little** made the motion to send H 92 to the 14th Order. **Senator Brandt** seconded the motion. A voice vote indicated it was unanimous. **Senator Brandt** will be the sponsor of this bill.

Chairman Schroeder said the next bill to be heard will be S 1191 and **Mr. Marcus Gibbs, Chairman of the Fish and Game Commissioners**, will present the bill.

S 1191 An act relating to Fish and Game, amending Section 36-104, Idaho Code, to authorize the Fish and Game Commission to establish procedures and fees relating to the purchase of controlled hunt bonus or preference points; amending Section 36-306, Idaho Code, to revise vendor issuance fee provisions; and amending Section 36-416, Idaho Code, to revise the schedule of license fees.

Mr. Gibbs said this bill is similar to H134 that was held in the House committee. This bill is a compromise. The original increase was 13.7 percent and the increase in this bill will be as near 10 percent as possible.

Mr. Steve Huffaker, Director of Fish and Game, was asked about the bill. He said the bill was basically rewritten by the House Committee, then it came to him and he consulted with the Commission. Then the staff went through the proposal and now it is before you.

There was discussion about preference points and the one year and five year license fees for taxidermists and fur buyers.

TESTIMONY:

Inserted into the minutes is a copy of the testimony of **Ms. Cheri Barton, President of the Idaho Wildlife Federation.**

The Idaho Fish and Game is charged by the state with many responsibilities and one of the main ones is to adhere to a budget. For the last six years the Fish and Game has fulfilled that goal. The department has carefully husbanded its natural resources and has stayed within the budget, but now the department is having to go to its savings to offset the much higher costs that are today's reality.

The state has rightly demanded that the Fish and Game be accountable for its budget and the department has done that through the last six years. Now with the steadily increasing costs of fuel, building materials, utilities, insurance and other non-fixed costs, the department like a dependable employee needs a raise. How many of us has gone six years without a raise?

The department is not asking for any extravagant raise, it is asking what any dependable agency would ask for. Give us enough to do our job, to do the best work we can do for the state. Idaho has the natural resources; its teeming wildlife, its wild beauty, its great ranges, its lakes and rivers, its abundant farms and ranches and most of all, its hardworking people who expect the Fish and Game to provide the public harvestable numbers of game and fish and opportunity to enjoy Idaho. This is a big task but the rewards are great. Idaho's outdoors are one of the biggest revenue producers there is. Many communities large and small depend on a well managed resource base to bring the hundreds of millions of dollars that keep local economies strong. Towns across the state look to the dollars coming in from people going afield, people who buy gas and groceries, stay in hotels and motels, people eating in local cafes, people hiring outfitters and guides, people who come back year after year to hunt and fish and to enjoy nature.

What would happen to all these local economies if the fishing and hunting opportunities dwindled because the Idaho Department of Fish and Game had to cut back on the protection and enhancement of outdoor resources. It might not happen overnight but in the long run if the department can't meet its goals we could all stand to lose.

Out of the 11 western states Idaho ranks 4th in the cost of a deer tag. Idaho

is still a bargain when it comes to the costs to hunt and fish and will still be a bargain even with a modest fee increase. The fee increase is very necessary to the future well being of this states economy and for the ability of the people of this state to enjoy our great resources to the fullest. The Idaho Wildlife Federation has long been an advocate for Idaho's fish and wildlife and will continue to do so. We ask that this committee and the legislature pass this fee increase. Thank for your time and I'd like to answer any questions or comments the chairman or committee might have.

TESTIMONY: Inserted into the minutes is a copy of the testimony of **Jack Fisher**.

My name is Jack Fisher. I am a member of the Fish & Game Advisory Committee. Chairman Carl Rey and Vice Chair Dr. Kent Marlor could not be present today due to the short notice of this hearing and have asked if I would represent the Committee at this hearing.

As you have already heard most of the compelling fact and figures documenting the need for this modest fee increase, I will not repeat them. The advisory committee voted to support the original HB134. It is our wish to extend that vote of support to S 1191. The need is there if the Department is to continue the programs that sportsmen have come to expect. The Fish & Game Advisory Committee urges your support today of S 1191.

Thank you.
Jack W. Fisher
FGAC

Following the testimony, the committee engaged in more discussion regarding fees and preference points.

MOTION: **Senator Cameron** made the motion to send S 1191 to the 14th Order. **Senator Brandt** seconded the motion.

DISCUSSION: There was more discussion from the committee regarding the fees and points. Senator Cameron said he would like to have a discussion and debate about preference points, with the Department and the Commission coming back next year and addressing that issue. He said he also would like the committee to set the public policy as to whether the preference points are a good idea or bad idea. He said his purpose is to remove the preference points and that he is also concerned about the fee increase.

VOTE: A voice vote indicated the motion passed unanimously. **Senator Cameron** will be the sponsor and **Chairman Schroeder** is a co-sponsor.

Chairman Schroeder said there would be a report on "The Effects of Coyote and Mountain Lion Removal on Mule Deer Populations". He asked **Mr. Huffaker** to introduce the speaker.

Mr. Huffaker said before introducing the speaker, he wanted to bring to the attention of the committee, the handouts in their folders. One is in reference to S 1191 and the other is "Wolf Take in Response to Wild

Ungulate Impacts - The New 10j".

Inserted into the minutes are those handouts.

Senate Bi11 1191- Fish and Game Fee Adjustment

What is being proposed?

A modest increase in the price of licenses and tags will help catch up with current costs and will help provide high priority services requested by hunters and anglers. It increases the amount businesses receive for selling hunting and fishing licenses and tags. Many of these businesses are in rural communities. Additional revenue will be needed in Fiscal Year 2007 to continue meeting these needs.

Why does Fish and Game need more money?

The last fee adjustment took effect in May 2000. At that time, legislators, hunters, anglers and others were told that fees would have to go up again in July 2005, the start of Fiscal Year 2006.

Since 2000, the cost for gasoline, utilities, salaries and insurance have increased. Like any business, Fish and Game has taken steps to control costs. Unlike businesses, however, Fish and Game has not adjusted fees since 2000, in spite of rising expenses.

How did Fish and Game use that money?

Fish and Game fulfilled the promises made in 2000 to improve hunting and fishing by:

- .Increasing efficiency
- .Developing new fishing waters
- .Improving Wildlife Management Areas
- .Controlling noxious weeds on Department property
- .Increasing aerial surveys of game animals, providing better information for managing big game herds
- .Repairing hatcheries
- .Increasing back country patrols by officers
- .Restoring wildlife trapping and transplanting efforts
- .Improving customer service

How much will fees increase?

This is a modest adjustment in fees. Resident hunting licenses would cost \$1.25 more. All fees would go up 10%. Fishing licenses would cost \$2.25 more, about the price of a gallon of gas.

<u>Resident License Type</u>	<u>Current</u>	<u>Proposed</u>	<u>Difference</u>
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Hunting	\$11.50	\$12.75	\$1.25
Fishing	\$23.50	\$25.75	\$2.25
Combination	\$30.50	\$33.50	\$3.00
Elk tag	\$28.50	\$30.75	\$2.25
Deer tag	\$18.00	\$19.75	\$1.75
Turkey	\$18.00	\$19.75	\$1.75
Moose/Sheep/Goat	\$151.50	\$166.75	\$15.25

<u>Non Resident License Type</u>	<u>Current</u>	<u>Proposed</u>	<u>Difference</u>
Hunting	\$128.50	\$144.50	\$16.00
Fishing	\$74.50	\$82.00	\$9.50
Combination	\$181.50	\$199.75	\$18.25
Elk	\$338.50	\$370.75	\$32.25
Deer	\$235.00	\$258.50	\$23.50
Turkey	\$61.50	\$67.50	\$6.00
Moose/Sheep/Goat	\$1,501.50	\$1,751.75	\$250.25

Senate Bill 1191 makes sense. It keeps hunting and fishing affordable. It helps small businesses and it provides stable funding to continue the services hunters and anglers expect.

What will I get for my money?

SB 1191 will provide sufficient funding to maintain core services. It may allow some expansion of programs identified as high priority by hunters and anglers. The high priority programs:

Give hunters and anglers more places to hunt and fish.

The ACCESS YES! program, which compensates working farmers and ranchers for providing hunting and fishing access on private property will be expanded. Additional funding will give hunters and anglers access to more acres of private land.

Give hunters and anglers more information about hunting and fishing and gets them involved in managing fish and wildlife.

Hunters and anglers will have more opportunities to get involved in activities benefitting fish and wildlife. Senate Bill 1191 also expands educational programs and increases the information available to hunters and anglers.

Give hunters and anglers more of a voice in fish and wildlife management.

A frequent criticism of Fish and Game is that it only listen to its "friends" or those with the loudest voice. Senate Bill 1191 will help find out what the average hunter or angler wants and will increase their opportunity to influence fish and wildlife management.

Get tough on poachers by targeting hardcore poachers who steal fish and wildlife.

Conservation officers will have the resources to focus on the most flagrant poaching cases.

Help mule deer.

The Department's ability to work with private landowners, state and federal land management agencies, volunteers, groups and others to improve conditions for mule deer will be enhanced. Senate Bill 1191 will help improve habitat benefitting mule deer, sharp-tail grouse, sage grouse and other species.

Maintain core services for hunters and anglers.

Hunters and anglers expect certain services. A modest fee adjustment will keep hatcheries operating and trucks running to stock rivers, lakes and streams so people can share love of fishing with children. It will keep conservation officers patrolling to catch poachers who steal fish and wildlife. It will allow Fish and Game to expand monitoring of big game herds and enhance research efforts to assess the effect of predators, including wolves, habitat and other factors on game populations. It will provide stable funding to manage wildlife to provide a variety of opportunities.

Support small businesses.

Businesses will receive an additional 25-cents per license sold to help offset their increased costs. Many of these businesses are in rural communities.

Wolf Take in Response to
Wild Ungulate Impacts
-The New 10j -

Federal Register, January 6, 2005:

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 17
RIN 1018-AT61

Endangered and Threatened Wildlife and Plants; Regulation for Nonessential Experimental Populations of the Western Distinct Population Segment of the Gray Wolf.

ACTION: Final rule.

"(v) Take in response to wild ungulate impacts. If wolf predation is having an unacceptable impact on wild ungulate populations (deer, elk, moose,

bighorn sheep, mountain goats, antelope, or bison) as determined by the respective State or Tribe, a State or Tribe may lethally remove the wolves in question.

(A) In order for this provision to apply, the States or Tribes must prepare a science-based document that:

(1) Describes what data indicate that ungulate herd is below management objectives, what data indicate the impact by wolf predation on the ungulate population, why wolf removal is a warranted solution to help restore the ungulate herd to State or Tribal management objectives, the level and duration of wolf removal being proposed and how ungulate population response to wolf removal will be measured;

(2) Identifies possible remedies or conservation measures in addition to wolf removal; and

(3) Provides an opportunity for peer review and public comment on their proposal prior to submitting it to the Service for written concurrence.

(B) We must determine that such actions are scientifically-based and will not reduce the wolf population below recovery levels before we authorize lethal wolf removal.

" Unacceptable impact-State or Tribally-determined decline in a wild ungulate population or herd, primarily caused by wolf predation, so that the population or herd is not meeting established State or Tribal management goals. The State or Tribal determination must be peer-reviewed and reviewed and commented on by the public, prior to a final determination by the Service that an unacceptable impact has occurred, and that wolf removal is not likely to impede wolf recovery."

SCIENCE-BASED DOCUMENT:

1) Ungulate Populations: May 2005

- a. state management plan population objectives -Crenshaw
- b. population status & trend- Crenshaw
- c. .pre & post wolf population analysis Nadeau
- d. juvenile & adult survival rates -Crenshaw/Zager
- e. body condition & other nutritional indices -Zager
- f. cause-specific mortality -Zager
- g. trends in hunter participation and harvest -Crenshaw
- h. predictive population modeling -Crenshaw

2) Wolf Populations: May 2005

- a. state management plan objectives -Nadeau

- b. population status & trend -Nadeau
 - c. prey selection patterns -Nadeau
- 3) Other Ungulate Conservation Measures: May 2005
- a. hunting season restrictions -Crenshaw
 - b. black bear & mountain lion management efforts -Crenshaw
 - c. habitat improvement efforts -Crenshaw
- 4) Wolf Control Proposal: July 2005
- a. Rationale -Nadeau/ WB
 - b. level & duration of control efforts -Nadeau/ WB
- 5) Monitoring: May 2005
- a. ungulate population response monitoring -Zager/Crenshaw
 - I. abundance & composition surveys
 - ii. survival & cause-specific mortality
 - b. wolf population monitoring -Nadeau/NPT
 - I. index population change
 - ii. active/inactive territories
- 6) Peer Review & Public Comment: August /September 2005
- a. Internal/external peer review -Compton/Nadeau
 - b. science panel review -Compton/Nadeau
 - c. public comment -
 - I. random opinion survey -Ackerman/Compton/NRPB
 - ii. public meeting(s) - Region/WB
- 7) Provide document to FWS for review: October 2005
- 8) If data suggest and proposal accepted. wolf reductions by January

SPEAKER: **Mr. Huffaker** introduced **Mark Hurley**, who made a study between 1997 and 2002, of mountain lions, coyotes, mule deer, rabbits and mice in southeast Idaho. He said that Mark has prepared a slide presentation, "Mule Deer Population Response to Predator Reduction and Environmental Conditions" and will also offer his comments about the study. Attached are copies of those slides.

ADJOURN: **Chairman Schroeder** thanked Mr. Hurley for his presentation, then adjourned the meeting at 3:05 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 18, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Cameron

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

He said the first order of business would be to hear from **Mr. Lawrence Armacost, Gubernatorial appointee for the Water Resources Board.**

Gubernatorial appointment: Mr. Armacost has been appointed to the Idaho Water Resource Board, succeeding Joseph Jordan. His term is from 02/23/2005 to 01/01/2009.

He graduated from Meadows Valley High School; B.S. in Agricultural Engineering from the University of Idaho; and M.S. in Engineering from the University of CA, Berkeley. He was employed by the Walla Walla District of US Army Corps of Engineers from 1959 to 1991. Since 1991, he has been self-employed as a professional engineer and rancher and now resides in New Meadows.

His past civic involvement included member and president of Walla Walla Chapter American Society of Civil Engineers; member and president of Walla Walla Chapter National Society of Professional Engineers; president of Edison School PTSA, Walla Walla; trustee and president of Walla Walla County United Way; member of Toast Masters Club.

His current activities include member of Meadows Valley United Methodist Church; chairman of Little Salmon River Watershed Advisory Group; member of Board of Directors Goose Creek Canal Company; and member of Adams County Solid Waste Advisory Committee.

The Chairman thanked Mr. Armacost for appearing before the committee. He said consideration of his appointment would be Monday, the 21st.

MINUTES - MOTION: **Senator Stennett** made the motion for approval of the minutes of March 4, 2005. **Senator Williams** seconded the motion. A voice vote indicated it was unanimous.

H 70 **Chairman Schroeder** said **Dean Sangrey** had researched the questions the committee had on H 70 at a previous meeting and he is here to address those issues.

Mr. Sangrey provided the committee with a handout that responded to their concerns. Following is that information.

In response to the issues identified by the Committee during the meeting on Monday, March 14, 2005, I am providing the following additional information:

PERSI - Re-employment in a temporary capacity, such as membership on an IDPR Grant Advisory Committee, would not adversely affect an individual who is qualified for, and receiving, PERSI benefits. Service on an advisory committee would not exceed 20 hours or more per week, nor would it total 5 consecutive months in any given year, in accordance with the provisions of the Retirement Rules of PERSI, Rule 145 (copy attached).

IRA's - 1) Individuals who don't participate in an employer-maintained retirement plan can deduct up to the lesser of \$4,000 or 100% of the compensation that is includible in gross income.

2) Individuals who do participate in an employer plan can't make deductible contributions unless their adjusted gross income is below specified levels.

401K's - Contributions are based on wages paid by an employer in a qualified plan and would not be affected by this compensation.

Consistency - As discussed during the meeting on Monday, it is the Department's desire to provide consistency in the statutory guidance provided for the function and operation of our advisory committees. As those provisions relate to compensation for committee members, we would not be opposed to changing the provision from "members shall be compensated" to "members may be compensated" as provided in section 59-509, Idaho Code.

DISCUSSION: During the discussion, Mr. Alan Winkle, Director of PERSI, said that Idaho Code, 59-509, provides two scales - one is covered by PERSI and the other is not. Senator Stennett suggested that the departments tell their board members about the compensation issue.

MOTION: **Senator Williams** made the motion to send H 70 to the floor with a do pass recommendation. **Senator Brandt** seconded the motion. A voice vote indicated it was unanimous. **Senator Williams** will be the sponsor.

Chairman Schroeder said the next order of business would be to hear an RS. Some of the students at the University of Idaho have been working on a resolution and it is in regards to a resource issue. The Chairman feels this committee should have a discussion on it, and if the committee agrees to go forward with it, a letter will be sent to the Senate State Affairs committee asking it to be printed, then sent to the Floor. He then asked **Kathryn Whittier, student lobbyist for the U of I**, to present the resolution.

RS 15098C1 A concurrent resolution stating findings of the Legislature and encouraging development of the concept of sustainability at Idaho institutions of higher education.

Statement of Purpose

The proposal would direct the institutions of higher learning to encourage the stewardship and increase awareness that will lead the state of Idaho

to a sustainable future. Sustainability can be defined as creating community-based economic and social connections while maintaining environmental quality without depleting natural resources for future generations. Institutions of higher learning are encouraged to set an example by implementing steps to achieve a sustainable community, with the ultimate goal of a sustainable Idaho.

Inserted into the minutes is a copy of the talking points of Kathryn Whittier, who presented RS 15098C1.

Senate Resources and Environment Committee
18 March 2005
Kathryn Whittier, ASUI Lobbyist

University of Idaho leading the way to initiatives in sustainability throughout the state. Resolution invites lawmakers to join with us.

Talliores Declaration, signed by Pres. Tim White. Project led by ASUI Sen. Jonathan Teeters. Joins us with 301 universities in more than 40 countries.

Jay Kenton, VP of Finance: "I believe a commitment to sustainability is important for a variety of reasons," Kenton said. "First, I think it represents prudent stewardship of the state's assets and our environment. Second, it shows concern for the future by exposing and educating tomorrow's leaders (our current students) about the societal benefits of such a program. And lastly, as an institution of higher learning, I believe that the public expects the university to provide leadership and contribute knowledge in this regard-thus it is part of our basic mission and purpose."

Cross-curricular. It's about efficiency. It's about technology. It is cost-savings in environmentally friendly ways.

What is sustainability? At its most basic level, sustainable means "meeting the needs of the present without compromising the ability of future generations to meet their own needs." Thomas Jefferson: "'Then I say the earth belongs to each...generation during its course, fully and in its own right. The second generation receives it clear of the debts and encumbrances, the third of the second, and so on. For if the first could charge it with a debt, then the earth would belong to the dead and not to the living generation. Then, no generation can contract debts greater than may be paid during the course of it's own existence. Sept 6, 1789."

UI's initiatives currently: energy savings- "Nearly all incandescent lights on campus were replaced with efficient fluorescent lamps, and many older fluorescent lighting fixtures were retrofitted with more efficient lamps and ballasts. In addition, photocell, occupancy sensors, and times switches were installed at various locations to reduce unnecessary hours of

operation of existing lighting. These lighting initiatives provide an annual savings of over 5 million kWh of electricity, which translates to over \$200,000 per year in electric cost savings." Also Gray Water Project. Woodchip burning. And more.

Sustainability is neither a conservative nor liberal movement. Libertarian view on it. ...it's about being wise stewards over our resources. It's about leaving a legacy for future generations to draw upon.

Chairman Schroeder thanked Ms. Whittier for her presentation.

MOTION:

Senator Little made the motion to write a letter of recommendation asking State Affairs to print RS 15098C1 and to have it sent to the Floor. **Senator Stennett** seconded the motion. A voice vote indicated it was unanimous. **Senator Little** will be the sponsor of this resolution.

The Chairman then asked **Vice Chairman Pearce** to present H 145a.

H 145a

An act relating to water quality; amending Section 39-3602, Idaho Code, to define terms, to revise a definition and to make technical changes; amending Section 39-3611, Idaho Code, to revise provisions applicable to the development and implementation of total maximum daily load or equivalent processes; amending Section 39-3615, Idaho Code, to revise provisions applicable to watershed advisory groups and to make technical changes; amending Section 39-3616, Idaho Code, to revise the duties of watershed advisory groups; declaring an emergency and providing for application.

The Statement of Purpose states that this legislation codifies existing practices and needed improvements in the development and implementation of TMDLs. It requires the Director of the Department of Environmental Quality (DEQ) to consult with Watershed Advisory Groups (WAGs) to provide them with a full opportunity to participate in the development, implementation and periodic reviews of Total Maximum Daily Loads and any supporting subbasin assessment for their watersheds. It also clarifies that WAG membership shall include, where appropriate, representatives of the same categories of interest groups from which Basin Advisory Group members are to be appointed.

TESTIMONY:

Vice Chairman Pearce introduced **Dan Steenson, attorney for the Nampa-Meridian Irrigation District**, who discussed the bill and explained the amendments.

Also testifying was **Ms. Toni Hardesty, Director of DEQ**. She said that she appreciated the sponsors of the bill working with her department on this bill.

Testifying next was **Justin Hayes, Program Director, Idaho Conservation League**. He said that he wanted to thank everyone involved for the compromise that was reached on this bill. Now with the amendments, he stated that they could drop their opposition.

MOTION:

Senator Brandt made the motion to send H 145a to the 14th Order. It was seconded by **Senator Burtenshaw**. A voice vote indicated it was unanimous. **Senator Pearce** will be the sponsor of the bill and will also take care of the amendments.

**ANNOUNCE-
MENTS AND
ADJOURN:**

Chairman Schroeder said that Mr. Huffaker, Director for the Fish and Game Department, has provided a handout for all committee members. It is a progress report of the Southeast Mule Deer Ecology.

The Chairman announced that the committee would meet Monday, as usual, but after that, it would be subject to the call of the Chairman.

He then adjourned the meeting at 2:45 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 21, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: Senator Little

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 1:30 p.m.

Gubernatorial appointment consideration: He said the committee would consider the Gubernatorial appointment of **Lawrence V. Armacost** who appeared before the committee last Friday.

Senator Burtenshaw made the motion to recommend the appointment of Lawrence V. Armacost to the Idaho Water Resources Board. The motion was seconded by **Senator Cameron**. A voice vote indicated it was unanimous. **Senator Pearce** will be the sponsor.

The Chairman said next on the agenda is the hearing for HJM 6. Senator Richardson was to present the bill, but due to other obligations he was unable to be here. Speaking in his absence was Representative Tom Trail.

HJM 6 A joint memorial to the President of the United States, to the United States Secretary of Energy, to the Senate and House of Representatives of the United States in Congress assembled, and to the Congressional delegation representing the State of Idaho in the Congress of the United States.

Representative Trail said this memorial is to support the new national laboratory, called the "Idaho National Laboratory". It is asking the President, the Secretary of Energy, the Congress and the Idaho delegation to pledge continued support and to let them know Idaho is ready to assume energy leadership for the nation through our new national laboratory.

MOTION: **Senator Williams** made the motion to send HJM 6 to the Floor with a do pass recommendation. **Senator Brandt** seconded the motion. A voice vote indicated it was unanimous. **Senator Richardson** will be the sponsor of the bill.

ANNOUNCEMENT: The Chairman said this is the last regularly scheduled meeting. There will be some bills coming from the House, so meetings to hear them will be early morning, noon or at night. Some bills might be put on buck slips.

Chairman Schroeder said H 280 would be heard next and presenting the bill will be Mr. Norm Semanko.

H 280

An act relating to change of ditch, canal, lateral, drain or buried irrigation conduit; amending Section 42-1207, Idaho Code, to provide the time limit when restoration shall be completed and to eliminate a requirement to record locations; and amending Section 18-4308, Idaho Code, to provide the time limit when restoration shall be completed and to eliminate criminal penalties for failure to record locations.

Mr. Norm Semanko, Executive Director, Idaho Water Users Association, Inc., said that they worked with Representative Moyle on this bill. The bill does two things: the code now has a provision that restoration is not to exceed five days, but a more reasonable time frame would be 30 days. The second thing is to provide more time for the constructor of the project to record the specifications and location of the buried conduit. It would also allow the use of global positioning system technology in place of a certified survey to ascertain the locations of the buried conduit for purposes of recording.

MOTION:

After a brief discussion, **Senator Cameron** made the motion to send H 280 to the floor with a do pass recommendation. **Senator Brandt** seconded the motion. A voice vote indicated it was unanimous. **Senator Williams** will be the sponsor.

Acknowledgement:

Chairman Schroeder presented **April Palmer, Page**, with a Senate watch and a letter of appreciation, signed by all the Senators on the Resources Committee, and thanked her for her assistance during the last half of this legislative session. April was appreciative, as well as surprised.

SPEAKER:

The Chairman said there was a spill on the Burlington Northern property near Coeur d'Alene. There had been some press coverage about it and he felt it would be for the good of the committee to have the Department of Environmental Quality (DEQ) provide an update.

Chairman Schroeder then welcomed **Ms. Toni Hardesty, Director of DEQ**, who will present that update.

Inserted into the minutes is an outline of Ms. Hardesty's talk.

March 21, 2005

Brief Update on Burlington Northern Santa Fe (BNSF) Hauser, Idaho Re-fueling Facility

December 10, 2004 - 1st Release Discovered - Problem Broken Industrial Storm Water Line

- pipe was not double lined
- it was outside area that is lined to catch leaks
- diesel was released to the environment
- diesel reached the aquifer at approximately 160 feet

February 14, 2005 - BNSF reported liquid in sumps at the re-fueling platform

- DEQ inspected and suspected diesel present in the inspection sumps

February 17, 2005 - DEQ asked BNSF to stop refueling at the facility and inspect all four areas with fuel containment systems

February 23, 2005 - District Court Judge Hosack issued TRO closing the facility

- Inspections revealed extensive cracks in cement platforms at re-fueling facility; off-loading platform; tank farm; and pump house (control facilities) (See drawing)
- Cracks at re-fueling facility allowed liquid through at rate of approximately 8 gallons per hour
- All tracks were pulled at refueling and off-loading facilities.
- Concrete cracks repaired and cement sealed at re-fueling facility. (See photos)
- Same repairs underway at other facilities.
- Liquid also escaped from two heavy duty polyurethane liners at the re-fueling facility where pipes go through the liners (see photos)
- Boot/liner connections were excavated at all four "contained" facilities-refueling platform, off-loading facility, tank farm, control facilities. All have failed but one.
- Boot/liner connections re-designed and new design being constructed at all facilities.
- Tests are continuing to determine if any diesel is in soils or aquifer beneath the re-fueling platform.
- (Permanent) vapor monitoring wells have been installed under the re-fueling platform every 50 feet. Samples have been taken; waiting for lab results.
- Ground water monitoring wells installed; no indication of contamination in groundwater/aquifer under contained facilities to date. Re-sampling to confirm.
- Currently conducting chemical and construction analysis of the cement at four contained facilities and re-design of industrial storm water lines involved in December release.
- Hearing on TRO scheduled before Judge Hosack April 5, 2005.

Following her report, Ms. Hardesty then introduced **Mr. Joe Nagel**, a DEQ employee, who oversees the clean-up grounds. The committee was provided with a 10 page handout (attached), which consisted of pictures taken at various stages of the spill. He explained each of the pictures as to what happened and actions taken by DEQ.

ADJOURN:

Chairman Schroeder thanked Ms. Hardesty and Mr. Nagel for their

report. He then adjourned the meeting at 2:20 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 29, 2005

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: **Chairman Schroeder** called the meeting to order at 8:30 a.m.

MINUTES: The following minutes were approved.

MOTION: **Senator Williams** made the motion for the approval of the minutes of March 11. The motion was seconded by **Senator Brandt**. A voice vote indicated it was unanimous.

MOTION: **Senator Brandt** made the motion for the approval of the minutes of March 14. The motion was seconded by **Senator Williams**. A voice vote indicated it was unanimous.

MOTION: **Senator Burtenshaw** made the motion for the approval of the minutes of March 18. The motion was seconded by **Senator Williams**. A voice vote indicated it was unanimous.

MOTION: **Senator Langhorst** made the motion for the approval of the minutes of March 7. The motion was seconded by **Senator Williams**. A voice vote indicated it was unanimous.

MOTION: **Senator Pearce** made the motion for the approval of the minutes of March 16. The motion was seconded by **Senator Burtenshaw**. A voice vote indicated it was unanimous.

Gubernatorial appointment considerations: **Chairman Schroeder** said the next order of business would be to hear from the three Gubernatorial candidates for the Idaho Water Resource Board. The first to speak was **Mr. Claude Storer** from Idaho Falls.

Mr. Storer is being reappointed to the Idaho Water Resource Board (third term), with his term commencing January 1, 2005 and expiring January 1, 2009. He is self-employed as a farmer and rancher; serves on the Committee of Nine (15 years); is a director for the Great Feeder Canal; a director for the Harrison Canal; and is active in local activities as well as his church.

When asked about water issues, Mr. Storer said he helped negotiate the

Fort Hall agreement, as well as the Nez Perce, but has never seen the water problems that are present today, due to the shortage and the drought conditions. He feels it will affect not only the economy of agriculture, but also the economy of the state.

Mr. Leonard Beck, of Burley, spoke next. He is being reappointed to the Idaho Water Resource Board (second term), with his term commencing January 1, 2005 and expiring January 1, 2009. He graduated from Utah State and is self-employed as a farmer. He serves on water boards, Committee of Nine, active in school fund-raisers, and is an FFA Advisory Board member.

When asked about the challenges facing the Water Board, Mr. Beck stated that the Board has been placed in a decision-making, problem-solving position. He suggested that more resources to assist them would be very helpful.

An inquiry was made as to what the Committee of Nine represented. Mr. Beck said that they represented a group of water users from Jackson Lake to Milner Dam. The Committee was formed in the early 1920's and is simply an advisory committee which meets every other month. They discuss issues which are before the state that pertain to their area, then advise the water masters and also, from time-to-time, their legislators. Mr. Beck said his viewpoint on water issues, and to reach a conclusion, is that the state priority doctrine, which is "first in time, first in line", should be upheld.

Last to speak was **Mr. Terry Uhling**, who is from Boise. He is being reappointed to the Idaho Water Resource Board, with his term commencing January 1, 2005 and expiring January 1, 2009. Mr. Uhling received his B.A. from Washington State University and his J.D. from the University of Nebraska at Lincoln. His past employment has included the following: clerk for the US Government; deputy Ada County prosecuting attorney; and as a lawyer for two different law firms. He is presently employed by the J. R. Simplot Company. Some of his civic activities include serving as board member of Easter Seals/Goodwill Industries, Mountain States Legal Foundation, and Idaho Water Resources Board. He is also a volunteer for YMCA, Habitat for Humanity, Red Cross, and United Way. He holds membership in the Idaho Water Users Association, Idaho Environmental Natural Resources, Idaho State Bar, Idaho/National Mining Association, Farwest, and other various state/national associations.

Mr. Uhling said it is a privilege to sit on the Water Board. He has been involved in water issues since he first started practicing law. When asked about the economic impact of the drought, he said that with back-to-back low water years, it has caused stress on the system. With curtailing land or taking land out of production, it will have a ripple effect. He stated that from his perspective, it will have a significant impact on the state of Idaho.

Mr. Uhling was asked if it would be possible to create a state-wide project regarding water issues. The reply was that he didn't know. He said that however, some projects reach a vehicle and resolution that they support.

By going into people's neighborhoods, you need to make sure you listen to their needs, both short-term and long-term. Mr. Uhling also feels that one size does not always fit all.

Regarding additional storage capacity sites, Mr. Uhling said that a number of sites are being looked at. He also stated that the state needs to look at ways of augmenting the water that we have.

The Chairman thanked all three gentlemen for appearing before the committee and stated that the committee would vote on their appointments at the next meeting.

He then said HJM 5 would be heard and Representative Barrett would present it.

HJM 5

A Joint Memorial to the Senate and House of Representatives of the United States in Congress assembled, and to the Congressional delegation representing the State of Idaho in the Congress of the United States.

The Statement of Purpose states that this memorial reserves the rights and remedies offered by Title 7 of the US Code, Section 11 (h) of the Endangered Species Act, and the Idaho State Department of Agriculture law to manage for depredation pursuant to Section 22-103.

TESTIMONY:

Inserted into the minutes is the testimony of Representative Barrett.

The purpose of this memorial is to create awareness, to establish one more option, to renew and further communicate the legislature's intent to protect the health, safety, and private property of its citizens, preserve the sovereignty of the State, and to recognize and claim the rights and remedies under U.S. Code, Title 7, wherein the U.S. Secretary of Agriculture may conduct a program of wildlife services with respect to injurious animal species and take any action the Secretary considers necessary in conducting the program. Section 426a. Title 7 is authorization of expenditures for the eradication and control of predatory and other wild animals. (Thye-Granger Act)

The reason behind this memorial: Throughout federal legislation, there is recurring language that reflects the primary role of the state in fish and wildlife management; i.e., from U.S. Code of federal regulations, part 24 – Department of the Interior Fish & Wildlife Policy: State-Federal Relationships – (43 CFR Subtitle A (10-1-03 Edition); we read, "State jurisdiction remains concurrent with Federal authority." "Concurrent" means law exercised equally over the same area, and the operative word is "equally." "Basic authority and responsibility for management of fish and resident wildlife....remains with the State," appears in the Endangered Species Act, and "Congress in the Sikes Act has directed the Secretary of the Interior to cooperate with the States in developing programs on certain public lands." Please note: Interior is directed to cooperate with the State, not vice-versa. That is an important language distinction. We are not victims of intimidation, coercion, or "blackmail dollars"----unless we

volunteer.

The legislature is not designed to attend minutiae on a daily basis, and therefore delegates that task to its agencies; however, agencies are middle management accountable to the legislature for their performance. Nevertheless, as a practical matter, the legislature has the responsibility to look above and beyond middle management, so that no stone is left unturned in protecting private property rights and the sovereignty of the state. One of our greatest Constitutional protections is the balance of powers. The legislature speaks for itself, no one else. AND, no one else speaks for the legislature unless authorized to do so.

This memorial will not interfere with any work in progress designed to move the Canadian gray wolf toward de-listing. It does not minimize good faith efforts by state agencies to achieve de-listing of the Canadian gray wolf, whose density has accelerated alarmingly with no end in sight, by any other means. Rarely is there a single road to a destination, and sometimes the road less traveled has some advantages—but you won't find it unless it's on your map. If you are doing the right thing for the right reason, it is my belief that Divine Providence will give you a helping hand.

In summation, "don't put all your eggs in one basket!" Be prepared.

There was no testimony, for or against, this memorial.

MOTION: **Senator Cameron** made the motion to send HJM 5 to the Floor with a do pass recommendation. **Senator Brandt** seconded the motion. A voice vote indicated eight Senators were in favor of the motion. Voting **nay** was **Senator Langhorst** and he asked to be recorded as such. **Senator Brandt** will be the sponsor.

ADJOURN: **Chairman Schroeder** adjourned the meeting at 9:15 a.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 30, 2005

TIME: 9:30 a.m.

PLACE: Room 433

MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: None

CALL TO ORDER: The meeting was called to order at 9:50 a.m.

Gubernatorial appointment consideration **Chairman Schroeder** said the first order of business will be the committee's consideration of the three Gubernatorial appointments.

MOTION: **Senator Burtenshaw** made the motion to recommend the appointment of **Claude Storer** to the Idaho Water Resources Board. The motion was seconded by **Senator Williams**. A voice vote indicated it was unanimous. **Senator Burtenshaw** will be the sponsor.

MOTION: **Senator Cameron** made the motion to recommend the appointment of **Leonard Beck** to the Idaho Water Resources Board. The motion was seconded by **Senator Burtenshaw**. A voice vote indicated it was unanimous. **Senator Cameron** will be the sponsor.

MOTION: **Senator Little** made the motion to recommend the appointment of **Terry Uhling** to the Idaho Water Resources Board. The motion was seconded by **Senator Williams**. A voice vote indicated it was unanimous. **Senator Little** will be the sponsor.

H 336aa The next order of business will be to hear H 336aa.

An act relating to the Governor's office of Species Conservation; amending Section 67-818, Idaho Code, to revise the duties of the office and to revise criteria for the development of certain state policy and management plans; and declaring an emergency.

Presenting the bill was **Lloyd Knight, Executive Vice President, Idaho Cattle Association**.

Mr. Knight said this is the same bill as was presented earlier in the session with the exception that it does not include any language that has to do with invasive species.

Inserted into the minutes is a copy of his remarks in full.

To: Members of the Senate Resources and Environment Committee

From: Lloyd B. Knight, Executive Vice President

Date: March 30, 2005

Subject: Please Support H336aa

As you consider H.336aa, the members of the Idaho Cattle Association (ICA) would like to urge your support in passing this important legislation. H.336aa would allow OSC to expand their work to include candidate, rare, and declining species, in addition to their current workload of endangered and threatened species.

From our perspective, the Office of Species Conservation (OSC) has proven itself to be an advocate for Idaho's citizens. In the process of conserving species and bringing common sense into the application of the Endangered Species Act, OSC is also preserving Idaho's rural communities. Their important, unprecedented work in preventing the listing of the slickspot peppergrass, in cooperation with ranchers and governmental agencies, is proof positive. No less valuable has been OSC's efforts in assisting in local and statewide sage grouse conservation efforts. There is no doubt that these efforts, in part, led to the recent U.S. Fish and Wildlife Service's decision that sage grouse listing is not warranted.

Without the passage of H.336aa, OSC would not be able to continue their proactive work on these and the many other species that are being used as tools to force Idaho's ranchers and farmers off the land. It is ICA's strong belief that we must continue to proactively work to prevent the listing of species. As the adage goes, an ounce of prevention is worth a pound of cure.

Your approval of H.336aa will bring us one step closer to insuring our state and its citizens against the heavy hand of the Endangered Species Act.

Please feel free to contact either myself at 343-1615 or lloyd@idahocattle.org or Stan Boyd at 890-9914.

Senator Cameron said that on the Statement of Purpose, it states that there will be no fiscal impact and he assumes that the agency will not be back next year asking for additional funds. He then asked Mr. Knight if that was correct. Mr. Knight deferred the question to **Mr. Jeff Allen**, from OSC, who said that was correct.

TESTIMONY: **Mr. Norm Semanko, Executive Director of the Idaho Water Users Association**, said it was a good bill and it should pass.

MOTION: **Senator Brandt** made the motion to send H 336aa to the Floor with a do pass recommendation. **Senator Little** seconded the motion. A voice vote indicated it was unanimous. **Senator Brandt** will be the sponsor of the bill.

H 373aa

The Statement of Purpose reads: The purpose of this legislation is to address serious water shortage problems in the state by authorizing the Idaho Water Resource Board to fund a water rights acquisition and mitigation program through the issuance of revenue bonds secured by program revenues paid by water users who will benefit from the program and from other sources. The program is intended to provide a means of financing water projects designed to enhance water supplies, reduce water demand, improve water management, and provide water for mitigation purposes. The program is declared to be a water project deemed to be in the public interest. The program will be implemented in a manner that is protective of individual rights and promotes the best interests of the citizens of the state. The legislation amends Section 42-1740, Idaho Code, to add acquisition of water rights as a purpose for which the Water Resource Board may issue revenue bonds. The legislation amends Section 42-1753, Idaho Code, to add revenues received from assessments or fees paid by water users as a potential source of funds credited to the Board's Revolving Development Fund. The legislation amends Section 42-1754, Idaho Code, to authorize moneys from the Revolving Development Fund to be allocated to the Water Resource Board for payment of costs associated with the issuance and repayment of the Board's revenue bonds.

Mr. Karl Dreher, Director, Idaho Department of Water Resources, presented this bill.

He said the Water Board was established by the Legislature to do a number of things and also to pursue and finance water projects. The language in the statute had been construed broadly because of the new activities the Water Board likely will be expected to help finance. For example, manage recharge. The Bond Council felt it was necessary to clarify in the statute what was meant by water projects. The crux of the bill is in Section 2, the last part - "All moneys paid or property supplied by the Idaho Water Resource Board for the purpose of carrying out the provisions of this act are hereby declared to be for water projects which are deemed to be in the public interest." Mr. Dreher also said that in Section 2, it states what is intended to consist of water projects - "...the Water Resource Board is authorized to take all actions necessary in accordance with existing law to plan, finance, acquire, establish, operate and maintain a program or projects to enhance water supplies and reduce demand for water through the financing of water rights acquisitions and managed recharge projects, to option, purchase, acquire, own, sell, exchange, lease, rent, and maintain water rights and other property deemed necessary or proper for such program or projects, to negotiate and enter into contracts for the acquisition or conveyance of water rights or interests therein, including to provide mitigation by the holders of junior-priority ground water rights for the benefit of the holders of senior-priority surface water rights, to issue and sell revenue bonds..."

The Director said by clarifying all of these actions constitute a water project, it removes any uncertainty, at least in the Bond Council's opinion, that the Water Board would be precluded from financing a mitigation plan, if that was necessary for a ground water district. The remaining sections of the legislation modified existing language in the statutes, Sections 3, 4, and 5,

adjusting the existing language so that it is entirely consistent with this broader description of what constitutes a water project.

The amended language in Section 4 talks about revenues collected by or on behalf of water user entities for the purpose of repaying indebtedness.

TESTIMONY: After some discussion by the committee, testimony was taken from the following:

Mr. Lynn Tominaga, Idaho Ground Water Appropriators (IGWA), said they are in support of this legislation.

Mr. Norm Semanko, Idaho Water Users Association (IWUA), stated that the amendments were critical to the legislation, and they are in support of the bill.

Mr. Dick Rush, a representative for Idaho Association of Commerce & Industry (IACI), said they are also in support of the bill. They want Idaho, not the Federal Government, to be in control of Idaho's water.

MOTION: **Senator Williams** made the motion to send H 373aa to the floor with a do pass recommendation. **Senator Pearce** seconded the motion. A voice vote indicated it was unanimous. **Senator Williams** will be the sponsor.

H 374aa **Director Dreher** presented the next bill, H 374aa.

An act relating to water; amending Chapter 6, Title 42, Idaho Code, by the addition of a new Section 42-620, Idaho Code, to provide that the director of the Department of Water Resources shall create or modify certain water districts, to provide that beginning in the year 2006 specified costs shall be included as an expense of delivering water in water district budgets, to provide for the apportionment of such expenses between water districts, to provide that at annual meetings certain water districts shall select a specified number of water users to serve on an advisory committee and to provide a maximum amount for certain department costs to be included as expenses of delivering water.

Mr. Dreher said this bill establishes a mechanism under which a portion of the costs incurred by the Department of Water Resources in monitoring and evaluating the conditions on the Eastern Snake Plains, as well as making necessary updates to the various models. The costs would be paid through water districts. This is a different kind of district than what has previously been talked about. Water districts are created by the Director for the purpose of administering water rights. They also have water masters. Participation in the water districts are mandatory once the water rights have been decreed. It is not optional. There is an annual meeting and they elect a water master and also set a budget. The members are assessed. This legislation provides that the water district administer water rights from the sources of water that are hydraulically connected to the Eastern Snake Plain Aquifer, that they would include in their annual budget an equitable apportionment of costs for the department maintaining the activities.

After Director Dreher's explanation of the bill and discussion by the

committee, testimony was taken.

TESTIMONY: **House Resources Committee Chairman Stevenson** said the House is in support of this legislation.

Mr. Tominaga, IGWA, said their group had concerns earlier, but now support the changes. He stated that it allows to keep the model updated.

Mr. Semanko, IWUA, said they had made some recommendations to the bill. With regards to the advisory committee, it is important to have representation.

Mr. Rush, IACI, said they support the bill. Overall, it gives the Department of Water Resources a tool to manage the facility and lets the Director make informed decisions.

MOTION: **Senator Burtenshaw** made the motion to send H 374aa to the floor with a do pass recommendation. **Senator Pearce** seconded the motion. A voice vote indicated it was unanimous. **Senator Burtenshaw** will be the floor sponsor.

H 394 **Representative Stevenson** presented this bill.

The Statement of Purpose lists four changes to Chapter 52, Title 42, Idaho Code.

The first change would allow for the election of two directors-at-large by a two-thirds majority at the annual meeting of a Ground Water District.

The second change would allow ground water districts to increase their indebtedness from 10 to 30 years under 42-5233, Idaho Code.

The third change addresses several concerns relating to the operation of Ground Water Districts.

The fourth change enables the director of IDWR to review the charges for nonmember participants on the basis of other mitigation costs and apportionment of those assessments and costs among all district members.

Representative Stevenson said the discussions have previously been about water boards, then water districts, and now it's about ground water districts. Water districts are mandatory. Ground water districts are not mandatory until formed. They are formed by a petition, taken to the county commissioners, voted upon by the ground water users in that area. The primary difference between a water district and a ground water district is that water districts do not have the ability to mitigate, where ground water districts can mitigate. This legislation is important to those who are members of ground water districts.

TESTIMONY: **Mr. Tominaga, IGWA**, stated that they are in support of this bill.

Mr. Semanko, IWUA, said their group reviewed the bill, but have no position

on it.

Mr. Rush, IACI, said they have no position, but some members have serious concerns. They have put together a trailer bill and he requested authorization for it to be printed.

Chairman Schroeder said they would deal with the bill first, then consider the trailer bill request.

MOTION: **Senator Cameron** made the motion to send H 394 to the floor with a do pass recommendation. The motion was seconded by **Senator Pearce**.

TESTIMONY: **Ms. Jo Beaman** said she represents a group of clients (since 1993) and they are in support of this bill.

VOTE: A voice vote indicated the motion passed unanimously. **Senator Cameron** will be the sponsor of the bill.

Chairman Schroeder said they would now talk about the request made by Mr. Rush.

Senator Cameron made an unanimous consent request for Mr. Rush to ask the House Ways and Means Committee to have the trailer bill printed. He thought it would move more quickly with that committee. The Senate Resources committee gave their consent for Senator Cameron's request.

**ANNOUNCE-
MENT** **Senator Burtenshaw** stated that he will ask for HJM 5 (at this morning's floor session) to be returned to the committee so it can be discussed further. He said the reason is that Chairman Schroeder shared a letter with him (which was received by fax late yesterday afternoon from Judge Manson for the Fish and Wildlife and Parks, Washington D. C.) and after reading it, he feels it is necessary for more discussion.

**Acknowledge-
ment** **Chairman Schroeder** presented **Justin Saydell, Intern** from the University of Idaho, with a Senate watch and letter of recommendation for his contribution to the committee this legislative session.

ADJOURN: The meeting was adjourned at 11:45 a.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 30, 2005
TIME: 1:00 p.m.
PLACE: Room 433
MEMBERS PRESENT: Chairman Schroeder, Vice Chairman Pearce, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst
MEMBERS ABSENT/ EXCUSED: None

Chairman Schroeder called the meeting to order at 1:10 p.m. for the purpose to further discuss HJM 5, at the request of Senator Burtenshaw.

Senator Burtenshaw said that as a result of reading the letter from Judge Manson, he felt a meeting was necessary.

Inserted into the minutes is a copy of the letter that was faxed to this office.

Senator Gary Schroeder
Idaho State Legislature
State Capitol Building
P.O. Box 83729
Boise, ID 83720-0081

Dear Senator Schroeder:

I write concerning House Joint Memorial No.5 about wolf management and depredation in Idaho.

As you know, much has changed concerning wolves in the Northern Rockies since 2001. First, our Administration reclassified wolves from "endangered" to threatened" in those areas outside the nonessential experimental population areas. Then, we proposed to remove wolves from the list of threatened wildlife. You and your colleagues in the Legislature adopted Senate Concurrent Resolution No.134, giving the state's approval to the Idaho Wolf Conservation and Management Plan. This was followed by your passage of House Bill No.294 to give the state authority to manage ESA-protected wolves. It was my great privilege to come to Boise and be with Governor Kempthorne and members of the Legislature when that bill was signed. We later promulgated new rules to help property owners and other citizens deal with problem wolves and to give the state new authority to manage wolves. We are presently working out the details

of that expanded authority with the State of Idaho.

I understand and share the frustration of some that despite all of the positive movement on this recovered species, litigation seems to arise at every such positive step to delay the inevitable delisting of the gray wolf. Nonetheless, I am concerned that the intent expressed in House Joint Memorial No.5 is not the same sort of step forward that we in Washington and Boise have partnered on so well over the last four years. Indeed, it may be perceived by certain individuals and groups as a step away from the commitments to manage wolves as previously adopted. That may embolden certain of those groups and individuals to press forward with their unproductive litigation.

As one of your partners in this matter of wolves, I ask you to consider carefully all that we have accomplished in the last four years and allow us the opportunity to continue to move forward without unnecessary challenges. I can assure you that we continue to apply our utmost effort to the issue of wolf management and conservation for the benefit of all the people of Idaho.

Sincerely

Craig Manson

Assistant Secretary for Fish and Wildlife and Parks

Senator Burtenshaw said that in the Memorial (lines 28-35) his question is, after reading the letter, does this supercede the Endangered Species Act or are we undoing the four years of good will? He stated that Wyoming lost their court case in trying to declare the wolf a predator. He also said the Idaho Fish and Game has declared the wolf a big game animal and now this memorial says they are a predator.

Senator Brandt said that on line 36 it says "should", not "shall".

Chairman Schroeder said there is a question whether this is a biological distinction or a legal distinction and wolves do eat other animals. That is a biological definition of a predator.

Senator Burtenshaw restated his position that he doesn't want four years of work for naught.

Chairman Schroeder said the Governor's Office had given him a letter, but asked that he not share it.

Senator Cameron said he interprets Judge Manson's letter to say be careful, move cautiously because we've worked hard over the last four years and don't want to go backwards. The Judge also says "..... perceived by certain individuals and groups as a step away from the commitments to manage wolves as previously adopted." Senator Cameron went on to say the Memorial doesn't say that we are going to start listing them as a predator. They are still listed as a big game animal

under the Rules.

Chairman Schroeder said the bottom line is they can do anything to wolves as long as it doesn't hurt the management program or delay the delisting. The other bills passed so far did not do that.

Senator Cameron suggested having legislative intent language read into the Senate Journal that said something to the effect that nothing in this Memorial should be construed to indicate that we are backing away from any previously made commitments or that we are wanting to delay delisting in any way, shape, or form. Senator Cameron said if language was read into the Journal, it would make it perfectly clear by passing this, we are not throwing out everything that's been done in the past four years, and we are still committed towards delisting.

Representative Barrett, who is one of the sponsors of the Memorial, said that was agreeable with her.

There was more discussion by the committee. Following that, Senator Cameron stated that he can't see the heartburn with this Memorial. He feels if the legislative intent language is spread across the pages of the Journal, that should reaffirm the state's position.

MOTION: **Senator Brandt** made the motion to send HJM 5 to the floor with a do pass recommendation without the intent language.

SUBSTITUTE MOTION: **Senator Pearce** made the motion to send HJM 5 to the floor with a do pass recommendation with the intent language. It was seconded by **Senator Williams**.

Senator Stennett questioned the good of the intent language spread across the Senate's Journal when it is a House Memorial that is being discussed. **Senator Cameron** said they could ask Representative Barrett to request the Speaker to have it read into their Journal. Representative Barrett said with the presentation in the House Committee, they understood the intent and did not question it.

VOTE: A voice vote was taken on the substitute motion, then it was determined that a roll call vote should be taken. Voting aye were Senators Brandt, Williams, Cameron, Pearce and Schroeder (5). Voting nay were Senators Langhorst, Stennett, Little and Burtenshaw (4). **Senator Brandt** will be the sponsor.

ADJOURN: The meeting was adjourned at 1:50 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: April 1, 2005

TIME: Subject to the call of the Chairman

PLACE: Room 437

MEMBERS PRESENT: Chairman Schroeder, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Stennett, Langhorst

MEMBERS ABSENT/ EXCUSED: Vice Chairman Pearce

CALL TO ORDER: The meeting was called to order at 12:15 p.m. by **Chairman Schroeder**.

H 399 **Mr. Norm Semanko** will present this bill.

An act relating to water; amending Section 42-1763B, Idaho Code, as amended by Section 1, House Bill No. 153, enacted by the First Regular Session of the Fifty-Eighth Legislature, to provide a limitation relating to the amount of natural consumptive flow water leased by the U.S. Bureau of Reclamation and to provide for the Governor's certification that certain biological opinions have been issued; declaring an emergency and providing for retroactive application.

Mr. Semanko said there was a technical glitch in the drafting of H 153 regarding the flow augmentation language. The Nez Perce agreement provides two basic benefits to the state. The first one is the waiver of tribal claims. That will not happen until all conditions of the agreements are satisfied. The second major benefit is getting biological opinion coverage for our Bureau of Reclamation projects. That is contingent upon the biological opinions being issued.

Mr. Semanko said another change is simply for consistency through the bill that the Bureau can either acquire or rent up to 60,000 acre feet of natural flow. He stated they don't want an argument to be preserved by some clever lawyer, down the road on the Federal side, say that they are renting the water from the State and still go out and acquire 60,000 acre feet. Both of these items were drafting oversights and they appreciate these being corrected.

Mr. Clive Strong was asked to address this issue and there was also some committee discussion.

MOTION: **Senator Burtenshaw** made the motion to send H 399 to the Floor with a do pass recommendation. **Senator Williams** seconded the motion. A voice vote indicated the motion passed, with Senators Stennett and Langhorst voting no. Both asked to be recorded as such. **Senator**

Burtenshaw will be the Floor sponsor.

HCR 28

Representative Stevenson presented this Resolution.

A concurrent resolution stating legislative findings regarding the need for managed recharge of the Eastern Snake Plain Aquifer and directing the Natural Resources Interim Committee in conjunction with the Idaho Water Resource Board to pursue implementation of managed recharge.

Representative Stevenson said this bill is a result of the Interim committee's work this past summer. This resolution identifies the need for the recharge. The important part is that in order to have recharge, we have to have access to some of the facilities and they also hope that on BLM ground, they have been identified as recharge sites.

Senator Cameron made the motion to send HCR 28 to the floor with a do pass recommendation. **Senator Stennett** seconded the motion.

TESTIMONY:

Mr. Norm Semanko, IWUA, said they support the resolution.

VOTE:

A voice vote unanimously indicated the motion passed. Sponsors will be **Senator Cameron and Stennett**.

RS 15234

Senator Little said he had this RS prepared and it addresses some concerns regarding H 284, which relates to the authorized and unauthorized use of ditches, canals, laterals and drains for recreational purposes.

An act relating to the authorized and unauthorized use of ditches, canals, laterals and drains for recreational purposes; amending Section 36-1604, Idaho Code, to extend liability protection to all recreational use of land and water areas and to make a technical correction; amending Section 39-3603, Idaho Code, to provide that human contact recreation is not a designated or existing use for facilities unless the use is permitted by the facility owner or manager; and amending Section 39-3604, Idaho Code, to provide that human contact recreation is not a designated or existing use for facilities unless the use is permitted by the facility owner or manager.

After some discussion, **Senator Little** made the motion to send RS 15234 to State Affairs to be printed, then sent to the Floor. **Senator Burtenshaw** seconded the motion. There was more discussion, followed by a roll call vote. Voting aye were Senators Little, Williams, and Burtenshaw (3). Voting nay were Senators Langhorst, Stennett, Brandt, Cameron and Schroeder (5). The motion failed.

ADJOURN:

The meeting was adjourned at 1:35 p.m.

Senator Gary Schroeder
Chairman

Juanita Budell
Secretary