

FINAL REPORT

LEGISLATIVE COUNCIL INTERIM COMMITTEE

**NATURAL RESOURCES
2005-2006**

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Natural Resources Interim Committee HCR 25 (2005)

Members of the Committee:

Senator Don Burtenshaw, Co-chair	Representative Dell Raybould, Co-chair
Senator Gary Schroeder	Representative Bert Stevenson
Senator Stan Williams	Representative Mike Moyle
Senator Chuck Coiner	Representative Scott Bedke
Senator Clint Stennett	Representative Wendy Jaquet

Ad Hoc Members of the Committee:

Senator Brad Little
Senator Skip Brandt
Representative Jim Clark
Representative Jack Barraclough
Representative Peter Nielsen
Representative Donna Pence

Staff: Katharine Gerrity, Toni Hobbs, Ray Houston

Table of Contents

	<u>Page No.</u>
Charge	1
Meetings	2
Scope of Study	2
Speakers	3
Recommendations	3
Attachment (2005 Progress Report)	4

NATURAL RESOURCES INTERIM COMMITTEE

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Charge

The Natural Resources Interim Committee was a two-year committee formed in 2005 pursuant to the authority of HCR 25. The resolution authorized the Committee to undertake and complete a study of various natural resource issues in the state including continued study and evaluation of ways to stabilize the water distribution system in Idaho. The Committee was directed to submit a progress report to the Second Regular Session of the Fifty-eighth Idaho Legislature and to submit a final report to the First Regular Session of the Fifty-ninth Idaho Legislature. A copy of the progress report as submitted by the Committee in November, 2005, is attached hereto for reference.

Meetings

Since submission of the progress report, the Committee met again in Boise on July 12, 2006.

Scope of Study

Following submission of the progress report in November, 2005, the Natural Resources Interim Committee met in Boise on July 12, 2006. During the meeting, the Committee was updated by Mr. Steven Strack, Idaho Attorney General's Office, regarding the status of a federal action before U.S. District Judge James Redden relating to requisite consultation under the Endangered Species Act associated with the Snake River flow component of the Nez Perce Water Rights Agreement. At the time the agreement was entered into, a number of sideboards were included, one of which provided that the consultation would occur separately from the ongoing consultation on the federal Columbia River Power System (CRPS). Mr. Strack told the Committee that the judge issued a summary judgment upholding that sideboard, provided there is a comprehensive analysis of all effects throughout the CRPS on the species. Mr. Strack noted that due to the ruling it is difficult to reach a no jeopardy determination until the CRPS process, which is expected to be finished in early 2007, is completed.

The Farm Service Agency (FSA) advised the Committee about the status of the Conservation Reserve Enhancement Program (CREP), which began registering producers on May 30, 2006. The agency indicated it would be conducting appointments throughout the month of July, prior to the completion of necessary contracts and plans by the Idaho Department of Water Resources, the Idaho Soil Conservation Commission and final approval by the FSA, slated to occur in September of 2006. The goals of CREP are to conserve 200,000 acre feet of water inside the Eastern Snake Plain Aquifer and to improve wildlife habitat.

Director Karl Dreher, Department of Water Resources, and department personnel provided the Committee with information relating to the North Idaho Adjudication, Bell Rapids financing, the managed recharge project being conducted near Wendell, Idaho, and initial dialogues relating to the Idaho Water Resource Board's Aquifer Management Plan for the Eastern Snake Plain Aquifer.* In addition, department personnel provided the Committee with a detailed overview of Judge Barry Wood's Order, voiding the conjunctive management rules in the Matter of American Falls Reservoir District #2, A & B Irrigation District, Burley Irrigation District, Minidoka Irrigation District, and Twin Falls Canal Company vs. The Idaho Department of Water Resources, now on appeal to the Idaho Supreme Court.

Director Toni Hardesty, Department of Environmental Quality, addressed the Committee regarding the Shoshone Bannock Tribe's application with the EPA for treatment as a

state for purposes involving water quality standards for bodies of water on the reservation, the State of Idaho's response to that application, as well as future opportunities for input by the state. The Director also updated the Committee relating to NPDES permits and point source discharges regarding canals, and addressed the fact that even though the EPA has primacy for NPDES permits, Section 401 of the Clean Water Act gives states the authority to certify that NPDES permits meet state water quality standards.

* On August 10, 2006, the Idaho Water Resource Board hired CDR Associates, Boulder, Colorado, to facilitate development of an ESPA management plan which is expected to be completed in approximately January, 2007.

Speakers

The following is a list of people, groups or agencies that testified or provided comments to the Committee since the submission of the November, 2005, progress report:

Natural Resources Division, Idaho Attorney General's Office

Mr. Clive Strong, Division Chief

Mr. Steven Strack

Idaho Department of Water Resources

Director Karl Dreher

Mr. Hal Anderson

Mr. Phil Rassier

Mr. David Blew

Department of Environmental Quality

Director Toni Hardesty

Farm Service Agency

Mr. Ron Abbott

Recommendations

At this time, the Committee continues to monitor the progress of several legal actions that are making their way through the courts, as well as the progress of the Idaho Water Resource Board in regard to the development and implementation of the ESPA Aquifer Management Plan. Recommendations may be presented to the appropriate legislative committees and the Legislature at a later date.