

FINAL REPORT

LEGISLATIVE COUNCIL INTERIM COMMITTEE

NATURAL RESOURCES

2008

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Natural Resources Interim Committee HCR 12 (2007)

Members of the Committee:

**Senator Gary Schroeder, Co-chair
Senator Brad Little
Senator Chuck Coiner
Senator Clint Stennett
Senator Jeff Siddoway**

**Representative Dell Raybould, Co-chair
Representative Bert Stevenson
Representative Scott Bedke
Representative Mike Moyle
Representative Donna Pence**

Ad Hoc Members of the Committee:

**Senator Steven Bair
Senator Lee Heinrich
Senator Dean Cameron
Representative JoAn Wood
Representative Jim Patrick
Representative Jim Clark**

Staff: Katharine Gerrity, Toni Hobbs, Ray Houston

Table of Contents

	<u>Page No.</u>
Charge.....	2
Meetings.....	3
Scope of Study.....	3
Speakers.....	5
Recommendations.....	6

NATURAL RESOURCES INTERIM COMMITTEE

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Charge

The Natural Resources Interim Committee was a two-year Committee formed in 2007 pursuant to the authority of HCR 12. 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 make a final report to the First Regular Session of the Sixtieth Idaho Legislature.

Meetings

The Committee met in Boise on June 12, 2007, October 23, 2007, July 14, 2008 and August 12, 2008.

Scope of Study

The Natural Resources Interim Committee conducted its first meeting of the interim in Boise on June 12, 2007. During the June meeting, Committee members received an update from Dave Tuthill, Director of the Idaho Department of Water Resources, relating to the implementation of conjunctive administration in aquifers throughout the state of Idaho. The Director told the Committee that Idaho was in yet another drought year and that reservoirs did not fill as expected due to a very dry month of May. The Director then addressed the various aquifers throughout the state, including those located in the Rathdrum Prairie, Moscow-Pullman, the Treasure Valley/Lower Boise River Basin, Mountain Home, Big Wood, Big Lost, Bear River and the Eastern Snake Plain. He noted the current understanding of each particular region as well as unique concerns relating to each aquifer. The Committee also heard from Clive Strong, Division Chief, Natural Resources Division, Idaho Attorney General's Office, regarding litigation involving conjunctive administration of surface and ground water rights in the Eastern Snake Plain Aquifer. The Attorney General's Office also presented an overview in regard to litigation involving Idaho Power and the state. During the course of the meeting, the Committee voted to make a recommendation to the Governor to include in the budget the creation of a fund in the Idaho Department of Water Resources for the management and administration of Idaho aquifers to be funded out of the General Fund.

During the meeting in October, 2007 Committee members received reports relating to projected costs of the Idaho Department of Water Resources in regard to the funding of aquifer management throughout the state. During the meeting, the Committee voted to recommend to the germane committees repeal of Section 42-620, Idaho Code, which provides for costs of the Department for administration of water rights on the Eastern Snake Plain Aquifer, and enactment of a statute that would accomplish a statewide administration and study of all aquifers. In addition, the Committee voted to recommend that the Legislature support the budget request of the Idaho Department of Water Resources for the study of aquifer management throughout the state.

The Committee met in Boise on July 14, 2008 and again on August 12, 2008. During the July meeting, Committee members received an update regarding new water storage options from the Director of the Idaho Department of Water Resources, the Bureau of Reclamation and the Army Corps of Engineers. Director Tuthill expressed his concerns to the Committee that the adequacy of Idaho's water supply infrastructure is diminishing and that the infrastructure from the last century is not going to be adequate for the next century in part due to ESA water requirements, increased urbanization, the need for

backup for diminished ground water and climate change.

The Bureau discussed the Department of Interior's "Water For America Initiative" launched by Secretary Kempthorne with the intent to help state, tribal and local governments better conserve, manage and develop their vital water resources. The Bureau, along with the USGS, is working with state and local water users to begin this initiative. The Bureau also presented the Committee with information relating to several feasibility studies that are being done in regard to storage issues, a primary one being the feasibility of raising Minidoka Dam by up to five feet, which would result in an additional storage capacity of a maximum of 50,000 acre feet in Lake Walcott.

Idaho Department of Water Resources personnel also provided the Committee with an update regarding the Comprehensive Aquifer Management Plan. Two subcommittees have been formed including an environmental subcommittee to address fish and wildlife issues, water quality and hydropower, and an economic subcommittee. The economic subcommittee is working on an incremental cost assessment and looking at costs relating to such things as infrastructure, capital investment, possibly leasing or buying water, acquiring land, putting out dry-year leasing, and putting in additional diversion for those lands that now use ground water that could potentially be converted to surface water use. One of the major issues to be resolved involves funding.

Director Tuthill updated the members relating to curtailment potential in the ESPA, the Northern Idaho Adjudication and provided an IDWR status update. Members also heard from Mr. Randy MacMillan with Clear Springs Foods, Bryan Olmstead, manager of the Twin Falls Canal Company, and Albert Barker, Esq., regarding concerns about IDWR and their request that members consider a performance evaluation.

Finally, during the July 14 meeting, members were updated about the status of wolves in Idaho, both from a biological perspective as well as a legal perspective given the lawsuit that was filed in Montana opposing the decision to delist. At the time of the July meeting, counsel were awaiting the court's decision regarding a preliminary injunction which would put delisting on hold during the pendency of the lawsuit.

During the meeting in August, there was a discussion regarding the earlier request for consideration of a performance evaluation of IDWR and a related opinion of the Attorney General's Office requested by the co-chair of the Committee. It was determined that the question of a performance evaluation would not be pursued further at this point in time.

Personnel from the Department of Fish and Game and the Office of the Attorney General updated the Committee about the wolf delisting litigation. Since the time of the last meeting, a preliminary injunction was issued by the court which requires that the Department manage wolves under the 10j Rule pending litigation. Staff from the Office of the Governor assured the Committee that the Governor was looking into the best possible way to restore state management as quickly as possible, but that the Court's

ruling was making that process difficult. The court's primary issues with delisting seemed to involve Wyoming's management plan and the issue of genetic exchange between the Idaho, Montana, and Yellowstone populations. (The case was later dismissed when the court remanded, at the government's request, the Final Rule delisting the gray wolf to the U.S. Fish and Wildlife Service. A new delisting rule is now pending and the comment period has recently ended. A Final Rule which will again delist the gray wolf is anticipated.)

Committee members also received information from the Department relating to water supply and received an update regarding recharge potential for 2008. At the beginning of 2008, there was less than 13.1% in storage, probably the lowest carryover the state has seen. The 2008 snowpack was far above 2007 and 105% of normal with not much runoff through May. By the end of June, the reservoirs were filling up and by August 7 there was 70% of storage. The Department predicts that the carryover from 2008 will be 1.8 million acre feet and that, in most cases, the reservoirs will fill.

Speakers

The following is a list of people, groups or agencies that testified or provided comments during one or more of the Committee meetings:

Bureau of Reclamation

Mr. Rich Rigby

Ms. Lesa Stark

U.S. Army Corps of Engineers

Mr. Greg Graham

Office of the Governor

Mr. David Hensley

Mr. Nate Fisher

Natural Resources Division, Idaho Attorney General's Office

Mr. Clive Strong, Division Chief

Mr. Karl Klein

Mr. Steve Strack

Idaho Department of Water Resources

Director Dave Tuthill

Mr. Hal Anderson

Mr. Brian Patton

Idaho Department of Fish and Game

Ms. Sharon Kiefer

Mr. Jim Unsworth

Bonneville Power Administration

Mr. John Williams

Wells Fargo

Mr. Jim Wrigley

Clear Springs Foods, Inc.

Mr. Randy MacMillan
Twin Falls Canal Company
Mr. Bryan Olmstead
Capitol Law Group, PLLC
Mr. Albert Barker
Idaho Ground Water Association
Mr. Lynn Tominaga
Eastern Idaho Water Rights Coalition
Mr. Stan Clark

Recommendations

The Committee has no specific recommendations at this time. The Committee is awaiting the Idaho Department of Water Resource's Comprehensive Aquifer Management Plan which will be presented to the germane committees during the 2009 Legislative Session. Further recommendations may be presented to the appropriate legislative committees and the Legislature at a later date.