

# Senate Agricultural Affairs Committee

Minutes  
2008



## MINUTES

### JOINT HOUSE-SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** January 14, 2008

**TIME:** 1:30 p.m.

**PLACE:** Room 240

**JOINT COMMITTEE MEMBERS** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, Malepeai (Sagness), Chairman Trail, Vice Chairman Andrus, Representatives Lake, Stevenson, Bolz, Shirley, Patrick, Pence, Chavez, Durst

**SENATE MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Siddoway, Stennett, Malepeai (Sagness)

**SENATE MEMBERS ABSENT/ EXCUSED:** Senator Hill

**GUESTS:** The sign-in sheet(s) and any attachments will be retained with the minutes in the Senate committee's office, Room 114, until the end of the 2008 Legislative Session and then will be on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman Trail** called the meeting to order at 1:33 p.m.

#### MINUTES:

**Chairman Trail** began the meeting by stating that members of the Pacific Northwest Economic Region (PNWER) leadership team were with us today to present issues that are of mutual concern to Canada and, particularly, the Pacific Northwest region of the United States. He then introduced **Gary Fuhrman**, Director of Commodities & Marketing Manager, Farm Bureau Marketing Association, Idaho Farm Bureau Federation. **Mr. Fuhrman** gave some history about PNWER, stating that: PNWER is a regional US-Canadian forum with membership including business leaders and elected officials from British Columbia, Alberta, Yukon, Alaska, Idaho, Montana, Oregon and Washington. It is dedicated to encouraging global economic competitiveness and preserving the region's natural environment. PNWER is recognized by both the US and Canada as the "model" for regional and bi-national cooperation due to its proven success. PNWER's overall mission is to increase the economic well-being and quality of life for all citizens of the region and to coordinate provincial and state policies throughout the region; to identify and promote "models of success"; and to serve as a conduit to exchange information. Additionally, PNWER's Mission Statement Goals include: promote greater regional collaboration, enhance the competitiveness of the region in both

domestic and international markets, leverage regional influence in Ottawa and Washington, D.C., achieve continued economic growth while maintaining the region's natural beauty and environment. Founded in 1991, PNWER is the only statutory, non-partisan, non-profit, bi-national, public/private partnership in North America. It is headquartered in Seattle, Washington. PNWER currently has nine working groups: Agriculture, Environment, Forestry, Sustainable Development, Energy, Telecommunications, Tourism, Trade & Finance and Transportation.

**Gary Fuhriman** then introduced the various members of the PNWER leadership team present. They included: **Brandon Hardenbrook**, Deputy Director; **Honourable John van Dongen**, Minister of State for Intergovernmental Relations; **Honourable Jim Kenyon**, Minister, Economic Development, Yukon Liquor Corp., Yukon Housing Corp.; **H. Neil Windsor**, P.Eng., Executive Director & Registrar, The Association of Professional Engineers, Geologists and Geophysicists of Alberta; **Kim Blanchette**, Consul & Program Manager, Political & Economic Affairs, Consulate General of Canada; **David Kettles**, Director, U.S. Relations, Ministry of International, Intergovernmental and Aboriginal Relations, International Relations; **Bill Hepburn**, Ministerial Assistant for The Honourable John van Dongen, Office of the Premier, Minister of State for Intergovernmental Relations; and **Matt Morrison**, Executive Director, PNWER.

**Gary Fuhriman** then turned the floor over to **The Honourable John van Dongen**. **Honourable van Dongen**, in his opening remarks, reiterated the goals of PNWER and gave a synopsis of a few of the most recent meetings that had been held in Canada and the Pacific Northwest regarding the mutual concerns of Canada and the United States, with specific emphasis on the Pacific Northwest. **Chairman Trail** then opened the floor up for questions from the Senators and Representatives.

**Representative Stevenson** raised discussion regarding the issue of soft wood and the economics involved in the change in status of importing soft wood from Canada to the United States, and the exporting of same from the United States to Canada. There was lengthy discussion between the Committee members and the PNWER leadership concerning this issue.

**Chairman Trail** inquired about the Pine Bark Beetle. **Honourable van Dongen** agreed the Pine Bark Beetle is a serious economic issue for Canada and discussion ensued. The economic changes have caused an imbalance in trade. **Honourable van Dongen** stated that one of the key changes is the value of the dollar, which has had major impacts on the industry. The forestry industry had a major shift, and the demand has eased off. He reiterated the Pine Bark Beetle issue is a very serious issue right now. **Honourable van Dongen** stated that the Pine Bark Beetle showed up about 15 years ago and is moving across British Columbia. There is a plan in place to try to eliminate the Pine Bark Beetle. **Chairman Trail** asked if the Pine Bark Beetle has come into the United States yet. **Honourable Kenyon** responded that he does not think it has.

A question was raised regarding British Columbia sewage contamination to the mutual waterways and inquiring how Canada is handling the problem. **Honourable van Dongen** stated that the environmental expectations are very high in Canada, and that their biggest problem is human sewage into the rivers. He then elaborated on Canada's proposed future sewage regulations, which include Intensive Livestock Operations (ILO), which is a very strong environmental system. **Honourable van Dongen** also stated that British Columbia has strong sewage system regulations and rules, and that they are striving to make them even stronger.

**Senator Gannon** raised the question of what the Canadians view as the next potential threat to the Pacific Northwest regarding cattle, as well as what is the plan to handle the next outbreak of disease. He also questioned whether or not Brucellosis was, perhaps, a continuing threat. **Honourable Jim Kenyon** responded that both Canada and the United States would have to act quickly and that it is essential that both countries have to have a relationship across the borders, thereby making it safe for our governments to do the right thing. **Honourable van Dongen** stated that agencies, farmers and ranchers need to keep good communication.

**Neil Windsor** and **David Kettles** talked at length regarding the extraordinary depleted workforce in Canada and how virtually all industries and businesses have an extremely difficult time finding employees. Many businesses and industries are hiring employees from the United States and/or Europe.

**Vice Chairman Andrus** asked about the energy situation in Canada, and **Honourable van Dongen** talked about the amount of energy resources, as well as the problem with labor shortages. **Mr. Kettles** discussed the economy of Canada. **Honourable van Dongen** stated that if PNWER were not involved, each relevant situation would be far more difficult.

**Chairman Trail** raised the question about the effects of NAFTA. **Honourable van Dongen** responded that NAFTA is working well for Western Canada.

**Kim Blanchette** stated that Canada buys twice as much from the United States than China does, and that Canadian trade is larger with just 10 of our states than with their next largest trade country; in fact, 80% of Canada's trade is with the United States.

**Neil Windsor** stated that PNWER is the vehicle on cross-border issues.

**Chairman Trail** introduced and welcomed Celia Gould, Director, Idaho State Department of Agriculture. He then turned the floor over to **Director Gould**, who then introduced her accompanying staff.

**Michael Cooper**, Deputy Administration, Plant Services Division, presented an update on the Potato Cyst Nematode. The Potato Cyst Nematode as first discovered in April 2006, and resulted in the banning, for a period of time, of the exportation of potatoes from Idaho. A question

was asked about what some of the surrounding states are doing for testing. **Mr. Cooper** stated that there have been some budget funding problems, that emergency funding was done on a federal level, and a survey is being conducted with other states. Some states have completed the survey and some states are just getting started. **Ian Davis**, Program Director, stated that the ISDA and USDA have collected 80,000 soil samples in order to delineate soil infestation and to get a handle on the infestation so it won't spread. One of the primary missions is to protect the markets that are closed to us, and get them reopened. Trace forward work is in progress and sampling in other states will be offered. **Mr. Morrison** stated that the Canada-United States Canadian Food Inspection Agency (CFIA) and United States Department of Agriculture (USDA) guideline regarding Nematodes originated in September 2006. **Honourable van Dongen** stated that we need a workable, practical agreement that will work for both the United States and Canada concerning the elimination of the Potato Cyst Nematode. **Bryan Searle**, a farmer/grower from Eastern Idaho, whose fields are involved, said that he has had a very positive working relationship with **Michael Cooper**. **Mr. Searle** also stated that the true source of the Potato Cyst Nematode will probably never be known. **Michael Cooper** stated that eradication of the Nematode is very possible because Israel and other countries have accomplished it. The scientific consensus is that eradication can be accomplished.

**Senator Heinrich** inquired whether or not the Nematode will affect Idaho's farmers this year. **Director Gould** replied that, "yes", it definitely will. **Senator Heinrich** then inquired about seed potatoes and how we educate the growers so they don't plant uncertified seed potatoes. **Michael Cooper** said that state law says only certified seed can be planted, and that if the potatoes or seeds come from out of state, they have to be tested. **Director Gould** also stated that the agricultural industry polices itself very well.

A question was raised as to how long the cleaning program will take before fields are healthy enough to plant again. The response was that the fumigation process may take several years.

A question was asked whether or not the grower was getting any assistance with fumigation. The answer was that the Federal government is taking care of the cost. **Director Gould** stated that Idaho's Congressional delegation came up with the money to get this program started.

**Representative Chavez** asked if the Nematode only likes potatoes. The response was that the Nematode also likes peppers and certain weeds.

**Director Gould** thanked all members and guests for attending and discussed briefly the upcoming meeting in Coeur d'Alene this year. **Michael Cooper** stated that he had attended the honey beekeepers meeting, and that this industry is in trouble. There are concerns about infected pollen, as well as the collapse of bee colonies.

**Chairman Trail** thanked **Director Gould** and **PNWER** for attending the meeting, and **PNWER** thanked the committees for allowing them to give their presentation.

**ADJOURNMENT:** There being no further business, **Chairman Trail** and **Chairman Gannon** adjourned the meeting at 3:39 p.m.

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Senator Tom Gannon  
Chairman  
Senate Agricultural Affairs Committee

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Mary Harper  
Secretary  
Senate Agricultural Affairs Committee

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** January 15, 2008

**TIME:** 8:00 a.m.

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators McGee, Corder, Hill, Siddoway, Stennett and Sagness

**MEMBERS ABSENT/ EXCUSED:** Senator Schroeder

**GUESTS:** Please see sign in sheet.

**CONVENED:** **Chairman Gannon** called the meeting to order at 8:03 a.m.

**MINUTES:** **Chairman Gannon** introduced **Nicole Ball**, the Senate Agricultural Affairs Committee's Page for the first half of this Session, and he also introduced the Committee's Secretary, **Mary Harper**.

**Chairman Gannon** then turned the gavel over to **Vice-Chairman Heinrich** for the purpose of reviewing the Rules.

**Vice-Chairman Heinrich** welcomed **Patrick Kole**, Vice-President, Legal and Government Affairs, Idaho Potato Commission (IPC), to address the committee regarding Pending Rule Docket No. 29.0101.0701 and Pending Fee Rule Docket No. 29.0102.0701.

**DOCKET NO. 29.0101.0701** **Rules of Procedure of the Idaho Potato Commission - Pending Rule**

This Rule Docket contains changes to update the commission's location and contact information. The Rule justification is that it is necessary to protect the public health, safety, or welfare and it confers a benefit by clarifying contact information for those who do business with the Idaho Potato Commission.

**Mr. Kole** explained the text of the rule.

There were no questions from the committee regarding this rule.

**DOCKET NO. 29.0102.0701** **Rules Governing Payment of Tax and Usage of Federally Registered Trademarks - Pending Fee Rule**

This rule (1) clarifies IPC tax calculation and reporting method; (2) modernizes packaging rules; and (3) makes trademarks available for marketing purposes.

**Mr. Kole** explained the text of the rule.

**Vice Chairman Heinrich** opened the floor up for questions. **Senator Hill** asked **Mr. Kole** to explain, as it relates to the fee increase and the authorization by the Legislature to go up to a maximum of another 5 cents per 100 weight, and the fact that the IPC had gone up 2.5 cents, what review and analysis the Commission went through in order to determine how much they were going to use of the 5 cents they were allowed, and in that process, whether or not there was any indication of when they would need to raise that again. **Mr. Kole** replied that they had gone to the industry to seek their advice, and the industry had requested that the IPC run a national advertising campaign for one year and then come back to the industry and tell them whether or not it was working. The IPC developed a budget to facilitate a national advertising campaign, if they went to the 2.5 cents rather than the full 5 cents, and if the IPC dipped into their reserves. They started the national campaign in September and the results show that the Idaho potato prices are higher than they have ever been in terms of the competition to other states. Idaho is moving product at a higher price. The IPC also met with the shippers who responded that they have never had a better shipping year than this year. The IPC and the industry think the campaign is working. **Senator Hill** asked **Mr. Kole** how long it would be until the IPC raised the fee again. **Mr. Kole** responded that they had promised the industry that they would come back out in June and go through another set of field hearings and ask them what they thought the appropriate level would be and whether they wanted to continue with the national advertising campaign. **Mr. Kole** said that the indications they have so far is that the industry supports it but if the IPC cannot show the industry that the IPC is delivering, the industry won't support the campaign.

**Senator Corder** inquired about any comments the IPC received during their public hearings, in that the Legislature was still receiving comments from the growers that were very much against any increase. **Mr. Kole** responded that the IPC doesn't get phone calls but they have received approximately 90 positive letters from growers, and three or four negative letters from growers. Every year, since 1990, nationally, fresh potato consumption has gone down. In the last shipping season, to date, the potato industry has been able to increase their market share by about one per cent, nationwide.

**Senator Siddoway** expressed his skepticism of when someone says things are better, because most things are cyclical. **Mr. Kole** responded that there may be a paradigm shift in agriculture right now. He acknowledged that the industry tends to overproduce as soon as things get really good. He hopes that the group of people they're educating now will recognize that they always have to watch the supply. If they can keep that supply in balance, prices will remain good.

**Vice-Chairman Heinrich** told the Committee that he planned to wait until the Committee is totally through reviewing the Rules, and then entertain a motion to adopt them as a package.

**Vice-Chairman Heinrich** then recognized **Leah Clark**, Trade Specialist, Idaho State Department of Agriculture (ISDA), to present Pending Rule 02.0104.0701.

**DOCKET NO.  
02.0104.0701**

**Rules Governing the Idaho Preferred® Promotion Program - Pending Rule**

This Rule clarifies product qualification requirements for processed products. Its purpose is to specifically identify and promote Idaho food and agriculture products.

**Ms. Clark** explained the text of the rule.

**Senator Corder** asked how the proposed Rule changes were going to change the industry itself. He asked if we are going to be allowing more people to register under Idaho Preferred® now, as a result of this change.

**Ms. Clark** responded that, previously, the qualifying was based on per cent of wholesale price or wholesale value. With this Rule, the ISDA is trying to make sure the ingredients, as a percentage of weight, were grown in Idaho rather than as a percentage of wholesale value that can be set anywhere. The IPC is trying to be as inclusive as possible and allow as many producers and processors to qualify and still maintain the integrity of the program that it is an Idaho product.

**Senator Corder** followed up, saying he believes the 20% is awfully low, either 20% of that product, or that it was processed in Idaho, qualifies it for Idaho Preferred®, and it seems to him we are selling our name cheaply right now. **Ms. Clark** answered, saying that one of the things the IPC wanted to do was be as broad as they could in all processed products. Because of our climate and our limited production of certain products, in order to qualify, the IPC had to make sure it wasn't exclusive because at some point, as they try to continue to promote Idaho Preferred® products, they need to make sure they have products to promote.

**Vice Chairman Heinrich** recognized **Tom Schafer**, Section Manager, Weights & Measures, Idaho State Department of Agriculture, to present Pending Rule 02.0214.0701.

**DOCKET NO.  
02.0214.0701**

**Rules for Weights and Measures - Pending Rule**

The proposed Rule incorporates by reference the 2007 edition of the National Institute of Standards and Technology Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices; incorporates by reference American Society of Testing and Materials (ASTM) D975-07a, Standard Specification for Diesel Fuel Oils and ASTM D6751-07a, Standard Specification for Biodiesel Fuel (B100) Blend Stock for distillate Fuels; adds definitions for Biodiesel and adds a new section containing identification and retail labeling requirements for Biodiesel; eliminates loaf size restriction for bread to harmonize this rule with Section 71-236, Idaho

Code.

**Tom Schafer** explained the text of the Rule.

There were no questions from the committee members regarding this rule.

**Vice Chairman Heinrich** again recognized **Tom Schafer** to present Temporary Rule 02.0214.0702.

**DOCKET NO.  
02.0214.0702**

### **Rules for Weights and Measures - Temporary Rule**

This temporary Rule adopts by reference of the date specific standard ASTM D 4814-07a, "Standard Specification for Automotive Spark-Ignition Engine Fuel." To state in rule that the specifications for gasoline blended with ethanol be no more restrictive than those adopted under the rules, regulations, and the Clean Air Act waivers of the U.S. Environmental Protection Agency (EPA). The temporary rule will facilitate ethanol use in the state.

**Mr. Schafer** explained the text of the rule.

**Chairman Gannon** asked why this is a temporary rule. **Mr. Schafer** responded that this is a temporary rule because the ISDA was approached, late in the year, by a refiner and a major retailer of gasoline in the state, wanting something specifically in the rule to address this clean air waiver and the vapor pressure reed for gasoline blended with ethanol. The state of Idaho has had ethanol-blended fuels for 20 - 25 years, and it has always been understood that the EPA waivers for the reed vapor pressure have been in place and took precedence. However, this particular refiner wanted something specific in the rules. Therefore, the ISDA did a temporary rule to get it in place immediately. Additionally, the ISDA made it temporary so that the Sub-Committee for Fuels at the National Conference on Weights and Measures, meeting at the end of January 2008, may revise some of the wording of the rule, if necessary.

**Vice Chairman Heinrich** recognized **Gary Bahr**, Section Manager, Water Program, Idaho State Department of Agriculture, to present Pending Rule 02.0301.0701.

**DOCKET NO.  
02.0301.0701**

### **Rules Governing Pesticide Management Plans for Ground Water Protection - Pending Rule**

This rule change specifies that the additional chemical-specific rules will be associated with steps to prevent Dimethyl-Tetrachloroterephthalate (DCPA) from impacting Idaho's ground water in the future. Additionally, to update the incorporation by reference and the abbreviations sections.

**Gary Bahr** explained the purpose and intent of the rule.

**Chairman Gannon** asked whether or not this particular chemical is only used in this area, because four square miles out of the whole state seems quite small. **Mr. Bahr** explained that the chemical has been used in this

area, as it has been used in other counties in Idaho. The particular area highlighted by the ISDA as the DCPA Area of Restriction was so highlighted due to the concentration of DCPA found in ground water as it was nearing the health standard as established by the U.S. EPA.

**Chairman Gannon** asked if this was common practice in rules where there is a particular area in the state and whether this is the only place in the state that any kind of a chemical is polluting water and we are isolating it, and whether there are other examples like this in the rules.

**Mr. Bahr** responded that this is the first chemical with this specific Pesticide Management Plan (PMP) that the ISDA has brought forward in rulemaking. There are other areas in the state where DCPA has been detected but not at this concentration.

**Chairman Gannon** said that, apparently, this begs the issue that, if it is used in other parts of the state and then we start detecting an over-use or a contamination of the water in other parts of the state, are we going to keep adding little sections of the state? He also asked why this wouldn't be a blanket rule for the entire state. **Mr. Bahr** responded that the ISDA did work through a process to establish this rule through their Inside Management Plan Advisory Committee, made up of industry and agencies. The Advisory Committee suggested that the ISDA focus their efforts of restriction in the area where they have the highest concentration. If the ISDA does find concentrations of elevated levels in other areas, they would have to entertain additional areas of restriction.

**Senator Hill** asked **Mr. Bahr** to pronounce what DCPA stands for. **Mr. Bahr** responded: Dimethyl Tetrachloroterephthalate.

**Senator McGee** asked what commodity DCPA is used on. **Mr. Bahr** responded that, in this area, DCPA is used primarily on production onions.

**Senator McGee** stated that he has similar concerns as **Chairman Gannon**. He wonders if the same producers are still in the area or has the ISDA had discussions with the producers and do they know this is coming? **Mr. Bahr** responded that the ISDA has been working in this area for five or six years, monitoring the ground water. The ISDA has also been holding workshops and public meetings with landowners, the private applicators, the commercial applicators and the dealers in the area. The ISDA feels it has a very good working rapport with those landowners and applicators.

**Senator Corder** expressed his concern that we are picking something out here. He asked if the occasion of the rulemaking was that people just came and said that their groundwater chemical levels are too high, and then the next occasion would be if there was another chemical that was in their water that was too high, then promulgate rules every single time? He queried whether or not that was going to be the focus . . . will the ISDA promulgate rules every single time that chemical levels in ground water, in any particular part of the state, get too high in any one thing; will that be sufficient occasion to promulgate rules? **Mr. Bahr** responded that the ISDA will follow their PMP Rules 02.0301 in that process to potentially

promulgate additional rules related to the specific detections that have occurred where we are nearing the drinking water standard for that pesticide in groundwater. The ISDA would look at detections that are 50% to 100% of the drinking water standard. He stated that the ISDA is trying to be preventative in order to not lose the use of the chemical within a particular area and within the entire state.

**Senator Corder** asked why we don't just do this in the PMP rules rather than have to promulgate other rules to tell us how to implement the PMP. Also, were there label violations in this area in order to get to these levels? **Mr. Bahr** responded that the ISDA does not know of any label violations within this area; additionally, they are implementing the pending rules as additional sections being added into 03.0201, Inside Management Plan Rule, first established by the Legislature in 2005.

**Senator Corder** asked if the ISDA is terming all of these rules as the PMP and whether or not there is any other plan to deal with situations like this other than these rules. **Mr. Bahr** stated that the ISDA does have other mechanisms to help prevent pesticides from getting to higher concentrations in groundwater. When detections are found at lower levels, they follow their PMP rules, as established, to conduct education, and in outreach with applicators throughout the state, especially in areas of focus where the ISDA has had detections. When the concentrations have gotten to the point where they're nearing the drinking water standard, the ISDA's rules allow them the opportunity to develop pending rules to add restrictions, hoping that the concentration will not go above drinking water standard and, also, use of the chemical they allow.

**Senator Corder** asked why the ISDA does not do this with temporary rules so that if this situation disappears next year, the temporary rule can go away. **Mr. Bahr** stated that the ISDA has a protocol of conducting negotiated rulemaking and working with the industry and agencies and the public to implement this type of rulemaking. He said the ISDA could potentially, if the situation related to drinking water concentrations was of concern, do temporary rules.

**Chairman Gannon** asked about the portion of the rule that states one must be trained if one is going to use the chemical; however, the rule also states that if one is going to be a certified applicator, the person must be trained to do that, too. **Senator Gannon** asked if this is true. **Mr. Bahr** responded, "Yes."

**Chairman Gannon** followed up, saying he is bothered by the issue that if the ISDA is training and certifying people that apply pesticides, herbicide, etc., and the training program would be such that they have to do label compliance, where is the restriction regarding application? The rule basically says do what you're supposed to do and we're going to train you to do that. Isn't the ISDA doing that with the application of any chemical under the PMP program? **Mr. Bahr** answered by saying that the ISDA is training applicators, in general, throughout the state, related to their pesticide management plan processes; in this specific rule, what the ISDA is saying is that they are going to require training for those applicators

who will apply the product within that area of restriction. The restrictions are within the DCPA PMP document that the ISDA references; therefore, that document is separate from what is seen in the rule being discussed today. It is an incorporation by reference document, listed on page 14 of the 2008 Rule Book. Section 004.01 references that document. The restrictions are contained within that DCPA PMP. This was done upon direction and advice of their PMP Advisory Committee.

**Chairman Gannon** asked if that wouldn't apply to everyone applying this product anywhere in the state? If the ISDA is going to reference that document, why wouldn't they want it to apply to every place in the state?

**Mr. Bahr** said that, in the stated area, the groundwater is highly vulnerable and the soils are fairly sandy, so the ISDA feels this area has been very vulnerable. They would like the restrictions to be followed within the area outlined.

**Chairman Gannon** asked if the ISDA doesn't want the restrictions followed anywhere else. **Mr. Bahr** responded that the ISDA would not institute the restrictions anywhere else in the state; however, in their PMP document, they are looking to promote voluntary best management practices throughout the state. The ISDA has not found the chemical to be at that high of a level of concentration in other areas of the state.

**Chairman Gannon** inquired if this chemical is the only chemical, out of all the chemicals that are used in the state of Idaho, and this particular four-mile area, where we have endangered groundwater that requires us to go beyond our normal rules because our normal rules don't protect our groundwater. **Mr. Bahr** responded that the ISDA does have other detections besides Dacthal where the ISDA may have to conduct an inside management plan rulemaking. Currently, the ISDA's PMP committee, which meets quarterly, would like to hear from the ISDA's department staff as it relates to other pesticides that they have detected, which are Atrazine, Triallate, and 2,4-D, which are three other pesticide active ingredients that have been found to potentially approach drinking water standards. The ISDA committee will be working on these topics in the future.

**Senator Stennett** asked **Mr. Bahr** to enlighten the Agricultural Affairs Committee on how the ISDA discovered these chemicals in the groundwater. **Mr. Bahr** said that the ISDA conducts groundwater monitoring at domestic wells throughout the state. They conduct these regional monitoring efforts per aquifer and they randomly select those wells. Therefore, this first detection of Dacthal (DCPA) was found about six years ago through their monitoring efforts.

**Senator Siddoway** asked **Mr. Bahr** to tell them what the common name is that DCPA is sold under. **Mr. Bahr** said it is called Dacthal and it's made by AMVAC, and the representative from AMVAC was on their committee.

**Senator Siddoway** requested **Mr. Bahr** to tell the committee what pests they attack, and then for **Mr. Bahr** to tell the committee, regarding the

Reference Dose (RfD) rules that come up with the 70 parts per billion, what affect it has on a 70 kilogram person who drinks two liters of water per day, every day, for the rest of his life. **Mr. Bahr** responded that DCPA is a pre-emergent herbicide to control broadleaf, plants and weeds in onions, in particular, as well as in other crops. It has also been used on non-crop and turf. Mr. Bahr stated that the ISDA did address the health affects in their PMP. The health advisory, as set by the EPA, is at 70 part per billion. The EPA has determined that concentration in drinking water could cause chronic or sub-chronic type effects to the lungs, liver, thyroid and some other organs in animals, mammals and, potentially, in humans. It is considered to be non-carcinogenic but could have some detrimental effects.

**Vice-Chairman Heinrich** welcomed **Rick Killebrew**, Section Manager, Feed & Fertilizer, Idaho State Department of Agriculture, to address the committee regarding Pending Rule Docket No. 02.0601.0701.

**DOCKET NO.  
02.0601.0701**

**Rules Governing the Pure Seed Law - Pending Rule**

The purpose of this rule is to add a definition for the term "condition."

**Mr. Killebrew** explained the text of the rule.

**Vice-Chairman Heinrich** welcomed **Dr. Bill Barton**, Bureau Chief, Idaho State Department of Agriculture, to address the committee regarding Pending Rule Docket No. 02.0429.0701.

**DOCKET NO.  
02.0429.0701**

**Rules Governing Trichomoniasis - Pending Rule**

This rule adds Polymerase Chain Reaction as an official test for Trichomoniasis, requires V branding of bulls infected with Trichomoniasis, approves retesting of bulls as a result of inconclusive Trichomoniasis test results and makes typographical and grammatical corrections.

**Dr. Barton** explained the text of the rule.

**Senator Hill** asked for confirmation that the branding procedure is being changed by replacing the V brand with the T brand, and whether or not they are the same animals with the same problems he is talking about. **Dr. Barton** replied that early in their rule making process, the ISDA heard from the task force that the ISDA needs to identify the bulls that are positive for Trichomoniasis with more than the bangle tag that the bulls had on their ear. The ISDA initially started with a V brand, but in the public hearing process and in talking with some of the producers, there was concern that brand was registered in quite a few instances where it might be confused with a previously-registered brand. Therefore, the ISDA switched to a T brand and applied by paint, which should not interfere with any previously-registered brands in the state.

**Senator Corder** heard from some producers that it is their belief that bulls, at the original producer, have to be tested even though they are

going to slaughter; that does not appear to be what the rule says, however. The rule seems to say that as long as they are going to slaughter, there is no need for a test. **Dr. Barton** replied that Senator Corder's interpretation is correct. Bulls destined for slaughter do not need to be tested for Trichomoniasis.

**Senator Corder** stated that he and **Senator Siddoway** have been talking about some other parts of the rule that are not before us but are in the sections that the committee does not have before it, and that **Senator Corder** and **Senator Siddoway** have not been able to speak with **Mr. Stevenson** about that. **Senator Corder** asked **Vice Chairman Heinrich** if the committee could postpone any further discussion on this rule until they have talked with **Mr. Stevenson**.

**Senator Siddoway** stated he has spent quite a bit of time out at the ISDA, talking over some of the rules with "**Bill**" and others. In looking at the rules, it seems to **Senator Siddoway** that there are some inequities. The dairy industry is the largest agricultural entity in the state of Idaho; yet, dairy cattle are not required to be tested for Trichomoniasis, even though it sounds like the dairy industry has a problem, perhaps a minor problem right now, but a potential problem on the way. Furthermore, **Senator Siddoway** asked if the committee can just do the rules that are in front of them or does it have the opportunity to do the other rules; is there no opportunity to do the other rules through this process this year?

**Vice Chairman Heinrich** deferred to **Dennis Stevenson**, Rules Coordinator, who replied that the EPA does allow us to go into the Administrative Code during the review process, but one would be restricted to simply reject those parts of the rule that did apply. There would be no opportunity for one to go back and add anything to the language of the rule, but one can go into the rule and take pieces of that out. That is basically what one would be limited to, although one does have the opportunity to go beyond what was before one in the pending rule or in the rule books, but that person has to ask for copies of that so that the committee could actually look at the entire chapter and then make the determination of what is going in and then take pieces of that out through the rejection process. Those rejections would have to be done through the standard process of going to the House Committee and having them agree to reject through a Concurrent Resolution.

**Senator Siddoway** likened Trichomoniasis to a venereal disease; the bulls carry it but the cows can slough it off after they cycle; however, the bulls still carry it. To test the bulls is not done by a casual blood draw; they must be confined and have a tube run up the sheath. **Senator Siddoway** continued that the bulls on the north side of the Salmon River are exempt from this and he doesn't know why. There are some herds confined to private property and they are not exempt. **Senator Siddoway's** small herd of buffalo are not exempt from Trichomoniasis testing even though they are behind a fence; therefore, he is bringing these points up for continuity of rules but acknowledges this issue may have to wait for another year if the rules are going to be applied evenly. He pointed out the dairy industry is doing very well and there is a lot of

trading that goes on in that industry, and he is not sure how the assurances are applied to make sure that Trichomoniasis doesn't cross the fence.

**Dr. Barton** relinquished the floor and **Vice Chairman Heinrich** welcomed **John Chatburn**, Animal Industries Deputy Administrator, Idaho State Department of Agriculture, to give a historical background. **Mr. Chatburn** stated that Trichomoniasis is not a programmed or regulated disease by the USDA. Idaho is one of the first states in the country, at the request of the cattle industry, to develop a Trichomoniasis testing and eradication program. Trichomoniasis is a disease that is extremely economically harmful to the livestock industry. Originally, the rules covered the entire state. After a few years, because the cattle industry felt the issue was virtually cleared up in Northern Idaho, north of the Salmon River, the rules were amended to exempt testing except for bulls imported or bulls sold north of the Salmon River. The cattle industry felt strongly that we needed to continue the Trichomoniasis testing and eradication program in Southern Idaho. Dry lot dairy bulls, which are kept within the confines of the dairy, were exempted from testing at the request of that section of the cattle industry. If/when any dairy bull is turned to a grazing situation on pasture, it has to be Trichomoniasis tested, just like the beef bulls do. Trichomoniasis testing has always applied to bulls who are on private property as well as to bulls on public grazing lots. All of the changes to the Trichomoniasis rules over the past nine years, at least, have been done at the request of, and in concurrence with, the ISDA's Trichomoniasis advisory task force which is composed of producers, cattle organization representatives and private practice veterinarians from across the state.

**Chairman Gannon** asked **Senator Siddoway** if, rather than put them on hold, would he be comfortable with proceeding with just these sections and then handle the larger issue as a separate issue. **Senator Siddoway** responded that he is comfortable with that suggestion. He is interested in knowing what the protocol is, if there are some concerns, how are we going to go about addressing those concerns to make sure that we don't have a spread of Trichomoniasis in the state.

**Vice-Chairman Heinrich** welcomed **Karen Ewing**, Management Assistant, Board of Veterinary Medicine, to address the committee regarding Pending Rule Docket No. 46.0101.0701.

**DOCKET NO.  
46.0101.0701**

**Rules of the State of Idaho Board of Veterinary Medicine - Pending Rule**

The proposed rule changes delete an outdated requirement for additional schooling and evaluation at an accredited college of veterinary medicine; incorporate a change in national examination procedures; change when certain documents need to be sent to an applicant for licensure; delete a military waiver provision for licensed individuals that is more restrictive than an applicable statutory provision; clarify filing deadlines for submission of continuing education requirements; increase by two months a licensing eligibility provision; change application procedures for technicians to be more consistent with those for veterinarians; add a

clarifying time-frame for animal examinations; add a requirement that the animal patient's name be included along with the owner's name on a prescription; require surgical rooms to be separate, single-purpose rooms to minimize contamination; eliminate unnecessary or redundant information in medical records; add language to incorporate changes in diagnostic testing; establish criteria for a valid veterinary/client/patient relationship in administering drugs to herd animals; change an incorrect citation to a statutory provision; eliminate unnecessary provisions on verification of death of animal; and add a requirement that law enforcement certified euthanasia technicians provide a form signed by the supervising veterinarian.

**Ms. Ewing** explained the details of the rule.

**Chairman Gannon** inquired regarding the 90-day rule for examination of an animal prior to immunization as it relates to the stricken word "clinical."

**Ms. Ewing** replied that the current Board was not sure when the word "clinical" was put into the rule and they did not feel that the word "clinical" added anything and were not sure what was meant by the word.

**Senator Hill** inquired about the time in which one is able to take the licensing examination and asked what kind of educational requirements are necessary in order for a candidate to sit for the exam. **Ms. Ewing** replied that the person must at least be in their senior year of veterinary school in order to take the national licensing exam. The student normally would already have their bachelor degree and would be in their fourth year of veterinary school.

**Senator Hill** expressed his concern in that, on a national average, it takes three sittings at the Certified Public Accountant (CPA) exam to pass it. His concern is for the veterinary student who has spent eight years in college getting a degree, and then there can be circumstances that come up, i.e., they may sit for the exam once and fail it, then they go into the military, then they come back and take some refresher courses five years later. The rule, as it is presented to the committee, says the student cannot take the exam later than five years after they failed it the first time.

**Senator Hill** said he is concerned about taking a person who has invested thousands of dollars and so much of his/her life, and saying, ". . . we are going to give you five chances to pass the exam, and if you don't, you're out, so go spend eight more years of your life pursuing some other profession." **Ms. Ewing** replied that the concern of the Board is that repeated exposure to the exam may create security problems, with the advent of the Internet. **Ms. Ewing** stated that if a person doesn't pass the exam after five tries, that person needs to go back to school. **Senator Hill** responded that the Veterinary Board is prohibiting the person from doing that because the rule says that if they wait five years from the first time they fail, no matter what their life circumstances, i.e., military service, etc., the rule now infers that the Board doesn't care how qualified the person is, he/she cannot sit for the exam because five years had elapsed.

**Senator Hill** also asked how much leeway the Board has for waiving the rules for certain candidates in certain circumstances. **Ms. Ewing** replied she thinks, according to the rules, the Board would have no leeway. The

question was asked if there is an appeal process through which one could go. **Ms. Ewing** replied there is no appeal process through the Idaho Board; however, there would be through the National Board on a case-by-case basis.

**Vice Chairman Heinrich** turned the gavel back to **Chairman Gannon**.

**Chairman Gannon** welcomed **Senator Corder** to address the committee regarding RS 17516, and stated that this is a print hearing.

**RS 17516**

**Relating to Weights and Measures Standards**

**Senator Corder** received this concern from one of his constituents, and he subsequently reviewed the matter with **Tom Schafer**, Section Manager, Bureau of Weights & Measures, Idaho State Department of Agriculture. There exists an exemption in the state statute that allows minerals to be bought and sold and no scale tickets have to accompany them. Given the price of steel currently, there are a lot of farms that are cleaning up their scrap steel and when that steel is weighed, the company that is buying the majority of this has viewed the steel as a mineral; therefore, it wasn't producing scale tickets. **Mr. Schafer** agreed that this is an old lingering problem and that clarifying this in the code would be acceptable to the ISDA; in fact, **Mr. Schafer** had something to do with the original language of this RS that **Senator Corder** then had drafted. If the committee chooses to print this legislation, it will make the clarification to require scale tickets anytime those kinds of transactions take place.

**MOTION:**

**Vice Chairman Heinrich** made a motion, and **Senator McGee** seconded, that **RS 17516** be sent to print. The motion carried by **Voice Vote**.

**ADJOURNMENT:** Chairman Gannon adjourned the meeting at 9:49 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

Any sign-in sheet(s)/guest list(s), testimony, booklets, charts, graphs and attachments will be retained with the minutes in the Senate committee's office, Room 114, until the end of the 2008 Legislative Session and then will be on file with the minutes in the Legislative Services Library.

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** January 17, 2008  
**TIME:** 8:00 am  
**PLACE:** Room 117  
**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, and Sagness  
**MEMBERS ABSENT/ EXCUSED:** All present

**CONVENED:** **Chairman Gannon** called the meeting to order at 8:03 a.m.

**MINUTES:** **Chairman Gannon** then turned the gavel over to **Vice-Chairman Heinrich** for the purpose of reviewing the Rules.

**Vice-Chairman Heinrich** welcomed **Dr. Greg Ledbetter**, Administrator for the Animal Industries Division of the Idaho State Department of Agriculture.

**DOCKET NO:** **Relating to Rules Governing the Animal Industries** (Pending)  
**02.0403.0701**

**Dr. Ledbetter** explained that this rule updates the incorporation by reference section, adds sections to list reportable and notifiable diseases by name, and makes typographical, technical, and grammatical corrections. It is necessary to protect the public's health, safety, and welfare. They held a public hearing in July with no comments.

**Senator Hill** asked about the *Office International des Epizooties* (OIE). All references to it have been stricken, and yet on page 26 there is a list of diseases notifiable to the OIE. Are we just not working with that organization at all any more? **Dr. Ledbetter** said we do not notify them directly from the State of Idaho, we notify the United States Department of Agriculture (USDA) and the USDA notifies the OIE. **Vice-Chairman Heinrich** asked if this list is all-inclusive? **Dr. Ledbetter** answered at this point in time, in consulting with all the veterinarians within the Department as well as other veterinarians and the Health Department, we think this is the best listing of what is important to us. This list will change as new and emerging diseases happen throughout the globe, and the Division will bring those changes back to the Committee as they occur.

**DOCKET NO:** **Relating to Dead Animal Movement and Disposal** (Pending)  
**02.0417.0701**

**Dr. Ledbetter** explained that this rule clarifies the rules governing the

movement and disposal of dead animals to make it clear that livestock that are harvested may not be left to decompose and any variance from the rule must be approved in writing. This rule is necessary to protect the public's health, safety and welfare. Negotiated rulemaking was not conducted, however this rule has been discussed with the affected livestock industries. Public hearings were held in September with no comments received.

There were no questions from the committee regarding this rule.

**DOCKET NO:  
02.0419.0701**

**Relating to Domestic Cervidae (Pending)**

**Dr. Ledbetter** stated that this rule updates and clarifies the domestic cervidae rules including the following sections: Official Identification, Inventory Verification, and adds a new section for Visible Identification. This rule is necessary to protect the public's health, safety and welfare. Negotiated rulemaking was not conducted; however, this rule was developed with input from the domestic cervidae industry. A public hearing was held in September with no comments received.

**Senator Stennett** asked if there was a reason this rule eliminates Domestic Cervidae Approved Feedlot? **Dr. Ledbetter** said this concept was brought forth by Elk breeders many years ago. The idea was that they might want to have a true feedlot where cervidae would be imported from other states. They would be fed in these feedlots for slaughter only, and could only leave that feedlot going to slaughter. Similar to approved feedlots for cattle, there would be no testing requirements on those because it would be an approved feedlot going to slaughter. That has never been used, so the Division is cleaning up the rule and deleting it. **Senator Stennett** asked if someone wants to do that, what happens? **Dr. Ledbetter** answered if this is deleted from the rule those folks would have to follow all the disease importation requirements on the rest of the Cervidae industry. The Cervidae industry could still import animals to be fed for slaughter, but those animals coming in would have to meet the import requirements of all the rest of them.

**Senator Corder** stated that when people represent that they're from the Elk Breeders Association it seems as if that representation changes from time to time, almost monthly. The concern is that a group from the Elk Breeders Association says they are approving these, but we have another group now voicing concern. It seems the Committee may get caught in the middle again. Has the Division received comments since the comment period? **Dr. Ledbetter** answered that they have not, and the individuals they worked with were all members of the Board of Directors of the Idaho Elk Breeders Association.

**Senator Hill** asked if this would require almost all Elk to be re-identified and have tags added in addition to what they already have. Also, regarding color, the rule says "no visible identification shall have a primary color of brown, black, pink, tan, or silver." Number one, those colors aren't primary colors, and wouldn't it have been easier to say what color they could be? **Dr. Ledbetter** responded that the answer to the first question is no, they will not require any re-identification. Animals that exist now are

identified per the rules. What the Division is trying to do is to clarify what that meant and how they would like to see any future animals identified. Regarding the rainbow of colors the tags are printed in, it was far shorter to list the colors they really didn't want. They didn't want to see tags that would blend in with the animal's natural hair color, ear pigment, or whatever. They want bright colors that are clearly visible. **Senator Hill** said one of the concerns some of the Elk Breeders have had is that it isn't too exciting to have someone come from back East and pay a large amount to hunt an Elk that has a big yellow tag on its ear that can be seen from 150 feet away. Do these have to be worn all the time, can you take them off just when they're shot, or what is the deal? **Dr. Ledbetter** said this is permanent identification. However, the section on page 44 describes the minimal size that the identification must be - it is two square inches - it can be seen readily from 150 feet, but it isn't like they have a big giant tag. Some breeders do go with big tags and that makes the Division's job easier, but that isn't what is required.

**John Chatburn**, Animal Industries Deputy Administrator with the Idaho State Department of Agriculture, stated that the other reason for setting aside colors is so when the Department of Fish and Game traps, tests and eartags wild elk, they aren't using the same colors going forward as the Department of Agriculture is using on domestic Elk. Right now there are yellow ear tags on domestic Elk, yellow ear tags that the Fish and Game have used, blue ear tags on domestic Elk and blue ear tags that the Fish and Game have used. They are working with the Department of Fish and Game to try to have the colors divergent so that in the future a pink ear tag would identify a wild elk that the Department of Fish and Game had tagged for some reason.

**Senator Siddoway** stated when his Elk were run for inspection and tagging that is required to be done before December 31, out of 103 calves, 13 calves were killed during that inspection and tagging process. They have to feed during the winter time. If this could be changed another year to get those tags in annually before calving and after those animals have been fed during the winter and the calves have grown a little more and the animals have calmed down more because they're more used to being around humans and machinery, that death toll might be cut in half or even less. While this isn't in this set of rules, he wants the Department to consider making that change for another year. **Dr. Ledbetter** replied that they will be happy to work with the industry later on this year on this issue.

Regarding Dr. Ledbetter's description of 202. Inventory Verification, wherein he said if the animals have a large, easily identifiable tag they don't need to be caught individually to read the small tag, **Senator Gannon** said he thought Senator Siddoway's concern was the young ones that hadn't been tagged yet. **Dr. Ledbetter** said the young ones do have to be tagged, but in the process of inventory identification they all have to be run through the chute, and the less they have to do that, the better.

**Kristy Sternes**, President of the Idaho Elk Breeders Association, stated in response to Senator Corder's concerns, they had elections in March of

2007 following the legislative session and a new Board was elected. Their goal was to improve communication to eliminate any problems like those they had last year. They are doing monthly newsletters and that sort of thing. They met with the Department of Agriculture and they sent out the rules that were being proposed to the membership, asked for the memberships comments and concerns to be sent back to them, and received three minor things back. The Association tried to bring in the individuals who might not have agreed with what happened last year, and the Association has done their best to work together to encourage their participation.

**Senator Hill** asked if Ms. Sternes is saying that the people who are contacting the Committee and complaining about these rules now have not contacted the Association?

**Ms. Sternes** said she is not aware of any complaints otherwise she would have relayed them to Dr. Ledbetter and his staff. She has encouraged that regardless of the differences people have regarding last year, the main goal is shared. The Association has done their best to encourage participation.

**Senator Hill** thanked Ms. Sternes for that and for the work she has done to keep that communication open.

**DOCKET NO.  
02.0420.0701**

**Relating to Brucellosis** (Pending)

**Dr. Ledbetter** explained that this rule repeals certain requirements on cattle exported from Idaho to reflect the change in status of Idaho's brucellosis from "Class A" to "Class Free." Negotiated rulemaking was not conducted, however, this rule has been discussed with Idaho's cattle industry. A public hearing was held in October with no comments received.

**DOCKET NO.  
02.0421.0701**

**Relating to Importation of Animals** (Pending)

**Dr. Ledbetter** said this rule updates the rules for the importation of animals into Idaho, including the Trichomoniasis, Domestic Cervidae, and Rabies sections, adds sections for the importation of fish, and makes typographical and grammatical corrections. It is necessary to protect the public's health, safety and welfare. Negotiated rulemaking was not conducted. However, this rule was developed with input from the industry segments affected. A public hearing was conducted in August with no comments.

**Senator Gannon** asked if the testing of rodeo stock (in 240. Tuberculosis Test Requirements, 07) is something new to the rodeo industry, or is this pretty common practice - they move stock all over the country? **Dr. Ledbetter** said it is new because in his understanding when they first discovered this, within the last 12-18 months, this was the first time that an outbreak in the State had been traced to infected rodeo stock. So, at that point, numerous states added this same provision that rodeo stock must be tested before it can come into the State.

**Senator Stennett** asked don't they generally keep them confined with each other? How is the cross pollination with the rodeo stock? **Dr. Ledbetter** responded while the rodeo stock is somewhat confined and each rodeo stock contractor has control over them, when they come into a rodeo, there may be rodeo stock from more than one contractor and local roping calves that come into that. Tuberculosis is a very communicable disease, so the Department prefers to know that they are not infected before they come into the State.

**Senator Sagness** asked about hemorrhagic septicemia virus (HSV) - is that a virus the native game fish are potentially affected with? **Dr. Ledbetter** answered that they know of no fish in the western United States at this time that have the HSV. The native fish are susceptible to it and that is why there is the concern, the Department wants to be sure that the fish that are imported don't inadvertently import HSV.

**Vice Chairman Heinrich** asked about the wording of 660. Certificate and Permit intones that someone else other than the Director can authorize it but the Director has to give the permit. Who else is authorized? **Mr. Chatburn** answered any fish coming in must have an import permit from the Idaho State Department of Agriculture. But, if they are coming out of the Viral Hemorrhagic Septicemia Virus (VHSV) positive area, which not every facility in that area would necessarily have, they must have a permit from the Department of Agriculture and a permit from the Director of the Idaho Department of Fish and Game.

**Senator Siddoway** asked about 600. Importation of Domestic Cervidae, 02. Parasiticide, why does that have to be given by an accredited veterinarian? **Dr. Ledbetter** answered that he is not familiar with the efficacy of products, that is why they put accredited veterinarian down there so they can do the research to make sure which products are the appropriate products to deal with this parasite; then the Department, as the regulatory body, has some assurance that indeed this was done. **Senator Siddoway** said that it seems to him that if the owner would certify just a written note on the shipping permit that they were vaccinated with whatever product to make sure that the giant liver fluke was taken care of, he doesn't see why that product has to be administered by a veterinarian. Even though this is talking about importation into the State from other places, but it is almost standard to give them a shot for parasites when they leave a ranch. **Senator Siddoway** stated the only time he has picked up Elk when the veterinarian had to give the injections was in Montana; the rest of the time it is just the ranch owner. If they call a veterinarian out it costs \$15 but a rancher can give the injection for \$2. There are so many rules that have to be complied with to move animals anyplace, and this one seems like overkill to him. **Dr. Ledbetter** said, keep in mind that this would not be the rancher, but would be whoever the rancher is buying the animals from. It would give the Department a higher level of confidence if this was done on the order and under the supervision of an accredited veterinarian because unfortunately, all livestock owners are not as conscientious and their integrity may not be quite as good as **Senator Siddoway's** is.

**Senator Corder** said that he sympathized with **Senator Siddoway's** point.

On the other hand, the Department is required to make sure these animals are good when they come into the State and we can't hold them accountable without that kind of certification.

**Dr. Ledbetter** also reminded the Committee that this was discussed with the Elk Breeders Association before it was included with this rule.

**DOCKET NO.  
02-0421.0801**

**Relating to Importation of Animals (Temporary)**

This rule updates and clarifies the import requirements for Canadian cattle and bison imported into Idaho including individual animal identification, CAN branding and import permit requirements. This rule brings the Department's rule in concert with the USDA rules. This rule is necessary to protect the public's health, safety and welfare.

**Senator Stennett** asked how many cattle are coming in from Canada to be killed?

**Dr. Ledbetter** answered that there are a large number coming directly to slaughter, but an even larger number coming to feedlots in the State to be fed for slaughter. Many Canadian cattle have come in during the last two years and they came in under very rigorous controls where they were tracked to the feed lot and then to the slaughter plant. Now those controls have been relaxed, but the Department is still notified when they come across the border and then they are branded with a CAN brand so the Department can find them, and they are coming across with a health certificate.

**DOCKET NO.  
02.0428.0701**

**Relating to Livestock, Dealers, Buying Stations, and Livestock Trader Lots (Pending)**

**Dr. Ledbetter** explained that this rule establishes facility, recordkeeping, and movement requirements for livestock dealers, buying stations, and livestock trader lots. Negotiated rulemaking was not conducted; however, this rule was developed with input from cattle producers and livestock dealers. These changes are required by USDA in order for Idaho to regain brucellosis class free status. Meetings were conducted throughout the State and industry concerns were addressed. The rules were printed and sent to those who had attended the meetings for comments. No written comments were submitted.

**Senator Siddoway** stated that he cannot support this rule. He said he knows the Federal government is holding a club over our head on the brucellosis class free status, but the testing requirements and all of the movement for vaccination, some is just repetitious. He said it is asking the dealers and traders to keep track of things that many times they don't have the information for. The problem with individual animal identification (ID) is where the animals are traded within the State; there is a small lot here and a small lot there and while the animals are going down the road on a truck, the deals are being made. So, no one knows which animals are going to end up where. This begs the question of the whole national animal ID system. We haven't been able to come up with the technology and the ability to trace where every animal is all the time. We must be

able to do that at the speed of business. We don't have the technology that will function on the range lands that will give us the ability to make everything in RFID frequency available to us. Even if we did, it would mean everyone who got one or two cattle here or there would need to have a reader so he could get his animal ID. Senator Siddoway feels they are getting the cart before the horse with all the traceback. The brand inspector comes out with all this information except the telephone number of the contact person of where they came from. It seems that the brand inspector, with the addition of a line or two, could keep track of that. The State gets the health inspections on all those done that way. We lost our brucellosis class free status and we were able to get control of it. Now we have our status back, but part of getting it back is that we will do a better job of tracking. If we can't track it, and we're making rules and regulations here that we aren't going to track, why can't we somehow get that information and have the State compile it to alleviate this burden from dealers and traders who are sending animals everywhere.

Senator Siddoway stated this rule also has instructions on what to do in case of emergency and states that if there is an emergency the Department of Agriculture can come on your premises and go through all your records. That just doesn't seem right. Also, it sounds like if the animals hit an auction yard they have to be tested even though they were tested in the last 30 days. What he heard in the meetings is that if this happens, the State will end up in a lawsuit with the auction yard owners. Also, there are no Concentrated Animal Feeding Operations (CAFO) in Idaho, so why is this rule needed to address them?

Senator Siddoway said if the traders are defined as owners of seven days or less, then if they keep those animals for a month or two, it looks like they become an owner and are alleviated of all the rules we're trying to watch here. So, we must have a time frame on when this information is no longer required on an animal; for instance, say an absolute maximum of 15 days. He said he attended the Pocatello meeting and heard the comments, but doesn't see any changes incorporated into the rules from that meeting. If it was easy to do, we would have a National animal ID system right now. We just don't have the technology. Senator Siddoway said he is opposed to this docket and will vote to reject it.

**Dr. Ledbetter** replied that first of all there is no requirement in this to the National Animal Identification System or Electronic ID. That is not a part of this rule. There are no testing requirements to this rule. That was one of the things that was in the initial draft that they presented to the Pocatello meeting but it was deleted. There is no reference to number of days of ownership for any individuals in this rule. To clarify the issue of brands, the Brand Department has a very specific role to play in the State and that is to prove ownership and the change of ownership and to make sure that people get paid for their livestock. The Brand Department has no animal health jurisdiction or responsibilities whatsoever. With that said, they work very closely with the Brand Department, and use brand information to help in the disease traceback information. All animals imported into this State are not affected by these rules because they have health certificates coming in. The Department gets a copy of those health

certificates and import permits on those animals already being tracked. If they subsequently get resold within the State, the Department needs to know where they were resold to. If they came to a dealer and the dealer resold them, and where they went was not on the original health certificate, the Department needs to know where they went. Regarding the CAFO information in the rule, that comes back to the Department's goal of putting in the rules any information that could pertain to that facility. At this time we don't think we have a dealer that is over a thousand head capacity, but we don't know that for sure, so we included it in the rule just in case.

**Senator Siddoway** stated regarding the National animal ID, we just can't get it done. We do not have the technology to do it, but that is exactly what you're asking for. Then when these individuals can't do it, they will be made out to be crooks when they trade animals and lose track of them, their head will be on the chopping block. **Dr. Ledbetter** said all they are asking for is for any dealer or livestock trader or buying station follow these rules and let the Department know where the animals came from and where they went. The Department isn't asking them to provide information from birth to plate as the National Animal ID System wants to do, they aren't asking for official electronic ID or for them to track it by that means, just what animals they buy and where they broker or sell them to, that's all. Then the next step in the chain will record the same thing. This is nothing different than livestock markets have done all along. **Senator Siddoway** asked what information is on a brand inspection? **Mr.**

**Chatburn** answered that he isn't sure. He shared the story of an illegal import into Idaho last summer. He stated that if a livestock dealer takes a lot of cattle and splits it up ten ways, in his records he needs to show which ten places those cattle went. That is all this rule requires. This is information most livestock dealers already keep these records off the sales sheet. The Department has to have the ability, because of tuberculosis and brucellosis popping up around the country, to track animals. **Senator Siddoway** stated that he still feels the Department is asking the livestock dealers to do the State's job for them. There are some people who bring animals in illegally and there always will be. He is speaking up for all those cowboys around the State who just don't think this is right. **Mr. Chatburn** stated that what this rule does is give the Department one more tool to help make those who don't follow the law, either follow the law or receive the appropriate punishment. **Senator**

**Corder** asked if there is a representative from the Idaho Cattle Association (ICA) here? **Josh Tewalt**, Executive Vice President of the Idaho Cattle Association, said that he appreciates much of what Senator Siddoway has offered concerning potential problems with these rules, and said that there is some pain that accompanies them, but that pain is far outweighed by having our class free status back. That is a universally held sentiment in the cattle industry right now, and unfortunately, this was a requirement to doing that. Mr. Tewalt stated another thing the cattle industry looks at is getting our class-free status back as just a first step. We are still vulnerable to wildlife and cattle interactions that could put us back to where we were before. We're also vulnerable because of some of the problems we've had with buying stations where cattle of unknown disease status, instead of going to slaughter, are getting shipped back out

into the countryside. That is a problem for our industry and these rules are at least an attempt to resolve that. Mr. Tewalt said one more point that has been stated is that the State is trying to push the responsibility onto the producer for the record keeping. He stated that on behalf of the cattle industry that there are a lot of members who would be very uncomfortable with the State Department of Agriculture being a custodian of all the records of all the cattle they buy and to whom those cattle are shipped. He believes the most appropriate place for those records to be kept is in the hands of the individual producer so if there is a disease outbreak or there is some traceback requirements, the animal health regulators can work with the individual producer to track those cattle. He stated he can't say that the industry is 100% supportive of these rules, but they put together a work group to look at the dealer rules and coordinate with the State Department of Agriculture, Idaho Department of Fish and Game, and USDA to make sure ICA got the brucellosis back as timely as possible. The version of the rules here is significantly different from the first version they saw, so their comfort level is significantly higher with these.

**Senator Corder** asked if, in the ICA, there is a separate representation for the livestock auction owners? **Mr. Tewalt** stated that there is a separate Livestock Market Association and they have separate representation. ICA represents cow/calf producers, purebred operators, and supporting businesses. They do have some crossover.

**Senator Siddoway** asked Mr. Tewalt if he can see any reason why the Department of Agriculture would have to enter your premises to do an inspection of your books on an emergency basis? **Mr. Tewalt** said he will let the Department respond to why, but would say that he can't see any reason why you couldn't deny them access and make them go through the process of getting a search warrant or whatever is required by statute to gain access to your property. **Mr. Ledbetter** said that the emergency provision is aimed at if we were to have some really nasty disease in the State of Idaho. Literally, every minute we delay in not finding and containing all those animals who have been exposed can literally lead to thousands of additional exposures. In looking at outbreaks in other states, within seven days of it being introduced models have shown that it is in over half of the states and some models show it is in every state. Every minute counts, and that is the kind of emergency referenced in these rules.

**Mr. Chatburn** stated that the members of the Livestock Market Association are not in support of these rules. They believe these rules are not tough enough on livestock trader lots which they believe are people functioning as public livestock markets without having a charter. Some dealers think they shouldn't be as tough. The largest operator of the livestock trader lot in the State at the Pocatello meeting stated that they already keep these records and would be in compliance the day the rules went into effect.

**Senator Hill** asked, referring to Senator Siddoway comments under Inspections on page 75, how many other divisions do we have in the rules that allow an emergency entering of premises and inspecting records

without notification of the owner? Also, have you talked to your attorney about any constitutional problems with a rule that says you can do that? **Mr. Chatburn** replied that some of the facilities have an owner who is an out of state entity. There may be someone operating that facility who is an employee and registered under the dealer license of this entity, or the dealer may be out of state. In those instances the Department always tries to notify the owner. If they can't get in touch with the owner, then the manager at the facility would be the person that the Department contacts. To the question of how many other rules have similar provisions, nearly every rule that they have has a provision that says we will attempt to notify the owner. In an emergency, we may not. **Senator Hill** responded that he has complete confidence that the personnel today in the Department would be so considerate; but, we're setting up a rule to say that the notification requirements are completely null and void and not required, regardless of whether its an operator or anyone else; It doesn't have to be during regular business hours. The rule just says the notification requirements of this section are not required in the case of an emergency. He said he isn't as confident in some department head who may come later. **Mr. Chatburn** said depending upon the type of person you're dealing with, and some are not as scrupulous as others, you may be dealing with an out of state owner who you can't contact, and rather than wait until the animals leave the premises you may want to talk to the manager. If they say you can't come on the property, you have to have a court order. **Senator Hill** said he disagrees, it doesn't say they have to have permission. The Department already has a vehicle through the constitution to get a search warrant and do these things in emergency situations if they feel the public health is in danger. **Mr. Chatburn** said he agrees that it doesn't say that they have the right to deny the Department access.

**DOCKET NO.  
02.0430.0701**

**Relating to Nutrient Management (Pending)**

**Dr. Ledbetter** explained that this rule is a new chapter that establishes certification of soil samplers for nutrient management purposes on cattle operations; criteria for soil sample collection; and penalty provisions. This rule is necessary to protect the public's health, safety and welfare. Negotiated rulemaking was not conducted; however, these rules were developed with input from beef cattle producers and dairy producers. Public hearings were held in October on this rule with no comments received.

**DOCKET NO.  
03.0603.0701**

**Relating to Commercial Feed Law (Pending)**

**Mike Cooper**, Deputy Administrator of Plant Industries with the Idaho State Department of Agriculture, explained that this rule change will update the incorporation by reference section to reflect the 2008 edition of the Official publication of the Association of American Feed Control Officials (AAFCO), published in January or February each year. This is a standard reference manual for feed control officials for the registration of

animal feeds.

**DOCKET NO.  
02.0606.0501**

**Relating to Planting of Beans (Temporary)**

**Mr. Cooper** stated that this temporary rule is needed because there is less farm ground in Idaho being irrigated under rill irrigation as more is being converted to sprinkler irrigation. The current rules for the planting of kidney and garden beans require a two year history of rill irrigation planting in Idaho prior to a planting under sprinkler irrigation. The proposed changes are to amend *IDAPA 02.06.06 Section 200.09.b* to read "All other beans" and eliminate *Section 200.09.c.* due to the constraints of the planting irrigation history requirement of two years under rill irrigation prior to a planting of one year under sprinkler irrigation. Also, a requirement for serology testing after the planting under sprinkler irrigation will be added.

**DOCKET NO.  
02.0610.0701**

**Relating to Potato Cyst Nematode (Temporary)**

**Mr. Cooper** stated that this rule will incorporate by reference the U.S. Department of Agriculture Animal and Plant Health Inspection Service, interim rules and regulations for the potato cyst nematode as published in the Federal Register on September 12, 2007. The rule will specify its purpose, the regulated articles and quarantined areas, the restrictions governing the regulated articles and conditions governing the movement of the regulated articles, inspection and disposition of the regulated articles, and the penalties for violation of quarantine rules. These rules must be promulgated to prevent the further introduction and dissemination of potato cyst nematode into other states and areas of Idaho not included in the quarantined area, as outlined in the rule, through the movement of infested plant material, plant products and soil.

**DOCKET NO.  
02.0612.0701**

**Relating to Idaho Fertilizer Law (Pending)**

**Mr. Cooper** stated that this rule change is to be consistent with the Official Publication of the Association of American Plant Food Control Officials, to correct an incorrect citation and to allow the name and address of the manufacturer or guarantor to appear on the fertilizer label. Negotiated rulemaking was not conducted because of the simplicity of the changes.

**Senator Corder** asked if, in the event that there was a problem with the label, does the company on the label become a guarantor? **Mr. Cooper** answered that they assume some of the responsibility for that, but in Walmart's case they have contractual arrangements with the restaurant. The Department has run into this, they are immediately referred to the restaurant and the restaurant will bend over backwards to get it fixed.

**DOCKET NO.  
02.0633.0701**

**Relating to Organic Food Products (Pending)**

**Margaret Misner**, Organic Program Manager with Idaho State Department of Agriculture, explained that the incorporation by reference

section *IDAPA 02.06.33.004* is being amended to reflect the changes to 7 *CFR part 205, National Organic Program*, effective June 21, 2007. The four definitions: Handler, Livestock, Person, Producer, are being amended to align them with *Title 22, Chapter 11, Idaho Code* and 7 *CFR part 205, national Organic Program*. Negotiated rulemaking was not conducted because the changes are to the incorporation by reference and alignment of definitions that were changed in *Title 22, Chapter 11, Idaho Code* by the 2007 legislature.

**Senator Stennett** asked why the reference to wild or domesticated game is included in the definition? **Ms. Misner** replied that this definition is word for word out of the National Organic Program rules, and those are for any kind of elk or deer that might want to be included in the organic program.

**Senator Corder** asked how do you certify wild? **Ms. Misner** said they can't certify wild game because to certify livestock we have to have control over the feed, it has to be certified organic feed. She thinks the wild game and domestic game refers to wild animals that have been domesticated.

**DOCKET NO.  
02.0636.0701**

**Relating to Karnal Bunt Disease of Wheat, Rye and Triticale**  
(Pending)

**Mr. Cooper** explained that this rule is to repeal the rule in its entirety because it was promulgated in the 1990's as a result of the Karnal Bunt outbreaks in Arizona, New Mexico and Texas. This rule was made obsolete by the Federal Plant Protection Act of 2000 that grants USDA regulations primacy over state rules or quarantines for a particular pest. Since USDA has regulations governing Karnal Bunt, the Idaho rules are preempted.

**Senator Stennett** asked if the Idaho rule was more stringent than the Federal rule? **Mr. Cooper** replied that it was at the time. It had more restrictions requiring equipment to be cleaned and not allowing seed to come up out of Arizona and some of the states where it had been found. On the plant side of things we are not allowed to exceed Federal requirements. There is a provision in the Act for a state to allow under special need to be stricter, but they have never put those rules into place and to his knowledge no state has ever been allowed that privilege.

**DOCKET NO.  
02.0639.0701**

**Relating to Minimum Standards for Planting Uncertified Seed Potatoes in Idaho** (Pending)

**Mr. Cooper** stated that the proposed rule will set forth seed potato recordkeeping requirements for compliance with the USDA National Seed Potato Harmonization Plan, change the title, and make technical corrections.

**Senator Corder** asked if the controls in place assess nematode trump the ability of a grower to plant his own uncertified seed if he lived within that area? **Mr. Cooper** answered that right now in the Federal rules you cannot plant potatoes of any kind on an infested field. The associated fields that are not infested, can be planted with whatever they want.

**Vice Chairman Heinrich** asked in 060. Enforcement, 02, the last

sentence says "These records shall be made available to a Department representative upon request." It may be a project for the Department to go through these rules and make a consistent statement on how to request records, because this is not nearly as harsh as to the cattle people. **Mr. Cooper** said he will take this into advisement and take it back to his oversight committee.

**DOCKET NO.  
02.0641.0701**

**Relating to Soil and Plant Amendment (Pending)**

**Mr. Cooper** explained that this change will update the incorporation by reference section to reflect the 2008 edition of the Official Publication of the Association of American Plant Food Control Officials (AAPFCO), published in January or February each year and the 14<sup>th</sup> edition of the Merck Index. These are standard reference manuals for fertilizer control officials for the registration of soil and plant amendments.

**RULE SLIPS:**

**RS 17385**

**Relating to Animals**

**Dr. Ledbetter** explained that the purpose of this legislation is to create an \$800 per company fee on the manufacturers of animal drugs and veterinary biologics. This fee will allow the Idaho State Department of Agriculture to maintain the level of animal disease surveillance and control provided to Idaho's livestock industry and animal owners by providing a broad-based dedicated funding source to stabilize the livestock disease control and T.B. indemnity fund. There will be a positive fiscal impact of approximately \$200,000 to the livestock disease control and T.B. indemnity fund.

**Senator Stennett** asked if there is a minimum level that you would not charge somebody - if there is a homeopathic individual out there making rugs, selling directly to individuals - is that person eliminated from paying?

**Dr. Ledbetter** responded that this is only for companies that hold a licensing permit with the USDA, so a person manufacturing a homeopathic product or a veterinarian compounding a product specifically for an individual client are not included in this.

**Senator Siddoway** said he was on the committee for this RS and wants the Committee to know that predictions he has heard from some veterinarians are that only 67 - 75 companies will be affected by this RS. At \$800 each that only generates \$60,000 and we're asking for \$200,000. He doesn't want to have a bill next session for an increase to make up the difference. If it happens, he will have real reservations about supporting any increase next year.

**Celia Gould**, Director of Idaho State Department of Agriculture, stated that their balances are going down because of a loss of brand fees. They have lost 30% of their Federal funding and have made cuts. They aren't going to cut the heart out of any budget. They are trying to lay off where it cuts the least and do that diligently. In the past they haven't done a good job of tracking but that has changed. They are asked to get this money out of dedicated funds to take care of part of it and then they will come in

with a trailer bill for \$200,000 to take care of the \$400,000 they need. They need this passed first and are willing to work with the Committee how ever they can so that they can forecast accurately what will come in to this fund. They are also willing to discuss specifically where this money will go, but it is essentially to maintain their current operations in that division.

**Senator Kelly** stated she and Senator Siddoway served on a committee this summer that dealt with this issue. She doesn't have any questions right now, but will definitely be able to talk about any remaining concerns she has.

**MOTION:** **Senator McGee** moved to print RS 17385. The motion was seconded by **Senator Hill**. The motion carried by **voice vote**.

**ADJOURNMENT:** **Chairman Gannon** adjourned the meeting at 10:13 a.m..

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

**NOTE: Any sign-in sheets/guest list, testimony, booklets, charts and graphs will be retained in the Committee Secretary's office until the end of the session. After that time the material will be on file in the Legislative Services Library Annex 5<sup>th</sup> Floor.**

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** January 22, 2008

**TIME:** 8:00 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, and Sagness

**MEMBERS ABSENT/ EXCUSED:** All Present

**GUESTS:** Please see sign in sheet.

**CONVENED:** The meeting was called to order by **Chairman Gannon** at 8:00 a.m.

**MINUTES:** **Chairman Gannon** welcomed **Laura Wilder**, Executive Director, Idaho Beef Council.

**GUEST SPEAKER:** **Ms. Wilder** gave the committee an update regarding the Idaho Beef Council, stating that this is the Council's 40<sup>th</sup> anniversary year and that their mission is to maintain and grow consumer demand for beef through integrated state, national and international programs to enhance the image of beef and the beef industry, as well as to provide the opportunity for profitability and return on investment for producers. Even though there is a state statute for an Idaho beef checkoff and an Idaho beef promotion program, with the passage of the 1985 Farm Bill, the Idaho Beef Council and Idaho Programs operate under the Federal Beef Checkoff program. It, structured like Idaho's checkoff program, is a producer-controlled, producer-funded, self-help program, returning value to cattle producers. **Ms. Wilder** referenced a referendum in 1988 that made the checkoff mandatory. Seventy-nine percent of producers nationally and 87% of Idaho producers voted in favor of the mandatory checkoff program. The Beef Council has had some litigation regarding the constitutionality of the Beef Checkoff program; it went to the Supreme Court and in May 2005, the Supreme Court ruled in favor of the constitutionality of the checkoff as non-voluntary yet refundable program.

**Chairman Gannon** expressed that, to his knowledge, as it stands now, a person can still ask for their money back, and that the program is voluntary in that sense. He asked for verification of that understanding from **Ms. Wilder**. **Ms. Wilder** stated that the state law has a refund clause, but the Federal program is not refundable; therefore, the Idaho Beef Council operates under the rules of the Federal program and there is no refund at this time. She continued that the reason the refund clause was put back into the state law is, in the event the Federal program was found unconstitutional, the Council could still operate the state program as

a voluntary program; however, since the Federal program was upheld, that clause does not apply.

**Ms. Wilder** continued that when the Idaho program first started, the checkoff was 10¢ per head; the Council increased it to 25¢ per head in 1981, and 50¢ per head in 1984. The checkoff was raised to \$1.00 per head, with the passage of the Federal program in 1985, with that price being implemented in 1986. The \$1.00 per head is assessed each time a bovine animal changes hands (a beef or dairy animal); also, a comparable assessment is made on imported beef on a per-weight basis. Nationally, there are approximately 800,000 beef producers who contribute \$72 million - \$74 million per year, with about 20% of that income being from dairy producers, and about 16% of that being from dairy beef, fed dairy cattle, and approximately 6% being from cul cows. Importers invest about \$7.5 million on a national basis.

**Ms. Wilder** stated that Idaho collections last year ending June 30 were \$1.65 million and, again, dairy is a significant portion of that in Idaho. Idaho Beef Council is one of 45 qualified state beef councils that oversee the \$1 per head collection in our states; it controls 50¢ of every dollar in the state, and 50¢ goes to the Cattlemen's Beef Board to fund national programs. All checkoff programs, whether they're state or national, must meet the requirements of the Beef Act and Order which has oversight by the U.S. Department of Agriculture (USDA). The Cattlemen's Beef Board that administers the Federal program consists of 104 volunteer producers who are appointed by the U.S. Secretary of Agriculture.

**Ms. Wilder** said although the Beef Council operates under the Federal program, there is one component of Idaho's state law that applies. In Idaho, as mandated by state law, the council pays five cents to the brand department to collect, and an additional 20% of the net in-state income goes to national programs, which equals about nine cents. Therefore, there is about 36¢ remaining of every dollar that was spent on Idaho programs. The Council has an eight-member Board of Directors which consists of three cow-calf producers, two feeders, two dairymen, and an auction market representative. The Board of Directors are recommended by industry organizations and appointed by the Governor for three year terms. They develop the market plan and set the budget. The Federation of State Beef Councils is the organization of all the state beef councils. It is the checkoff division of the National Cattlemen's Beef Association (NCBA). It is a unified body representing Beef Council interests. The Federation of State Beef Councils is totally separate from the policy side of the National Cattlemen's Beef Association.

**Ms. Wilder** stated, as part of the Council's 20% they send for national programs, the Council invests that through the Federation of State Beef Councils for outreach to high-population states and development of materials that the Council uses in state. Again, it is an integrated state and national program.

**Ms. Wilder** said the NCBA was formed in 1996 from the merger of the National Cattlemen's Association and Beef Industry Council of the

National Livestock and Meat Board; however, there is a strict firewall between the policy side and the Federation side. The Council also has representation on committee's that help develop national programs. State beef councils then decide how to invest the checkoff dollars at the local and state level and manage in-state programs. They decide whether to invest in national programs, and they have input and the direction of national programs. The Council is accountable for the state's share of the dollar and for communicating with producers about the programs. The council also produces an annual statement that is audited by a Certified Public Accountant.

**Ms. Wilder** stated the national programs are funded through the operating committee that works with the Cattlemen's Beef Board. The operating committee is a separate entity and they review the programs on a national level. It is made up of 10 producers from the Beef Board and 10 from the boards of State Beef Councils. They choose the projects to fund through contractors who are paid on a cost-recovery basis only. Idaho has two of the twenty members of that committee and plays a huge role on the national leadership of checkoff programs. Checkoff dollars on both the national and state level may only be invested in promotion, research, information, or in marketing and producer communications activities. The checkoff dollars cannot be used for influencing government policy such as lobbying; however, **Ms. Wilder** stated she was permitted to be at this committee's meeting today to provide an update to the committee, provide information about the Council's programs and finances.

As to whether or not the checkoff program is making a difference, **Ms. Wilder** stated that there is a lot of evidence that it is. Beef demand is up 15% since 1998; building demand increases consumer expenditures for beef and improves profit opportunities for cattlemen. There is an independent study by Ron Ward at the University of Florida, wherein he has concluded that for each \$1 invested by the producers, they get a return of \$5.50 as a result of the increasing demand and the increased value of cattle. *Cow Facts* estimates about \$200 per head gain as a result of work by the checkoff and other factors.

**Ms. Wilder** said the Idaho Beef Council has formed partnerships with many different organizations to make the dollar go further. Research has also been a major funding priority since the Beef Council was established in 1967. Another top priority of the Council is development of international markets. At this time, however, there are many challenges to the Beef Checkoff Program, i.e. other countries such as Canada and Australia who are increasing their efforts to get the same export markets that Idaho hopes to regain. Australia has raised their checkoff program to \$5 per head, which is equivalent to USD \$4.22. That, of course, gives Australia an advantage against Idaho. There are also anti-beef and anti-animal agriculture activist groups that have close to \$500 million that they are using to try to put the beef industry out of business. There are many other challenges to the beef industry that make them look very hard at how they are spending the money and to try to do as much as they can with it; however, the council is losing ground due to inflation. The Beef Council is at a time when it is not going to be possible to maintain the same level of

programs without an adjustment to the checkoff rate.

**Senator Siddoway** inquired as to what the programs are as referenced by the nine cents that goes to additional national programs. **Ms. Wilder** said one of the programs is “Health Influencers” and one is “Product Development in Culinary Initiatives.” Fifteen thousand dollars of that goes to The Federation Initiative Fund, which is to direct outreach to high-population states.

**Chairman Gannon** stated that we are making strong headway in developing the research center in Magic Valley, and wanted to know whether or not the Beef Council has talked with their Board about how they may possibly participate in that project. **Ms. Wilder** stated that, under current checkoff law, they can only fund research projects in nutrition, beef safety, beef product enhancement, or consumer market research. One of the things that is being looked at by industry groups in seeking a possible raise to the in-state collection rate is so that the state would have control over that additional dollar which might allow some latitude in some research areas that are outside the realm of Federal beef checkoff programs that would be more production related.

**Senator Siddoway** inquired as to who sets the areas of research. **Ms. Wilder** responded they are outlined in the Federal law. All states are required to follow those parameters right now; however, if there was an increase that was state controlled, the state would be able to set other areas and those could be outlined in the law where they could be an expression of the Idaho Beef Council Board that makes the funding allocations.

**GUEST  
SPEAKER:**

**Chairman Gannon** welcomed **Harold Johnson**, Commissioner of the Idaho Aquaculture Commission; however, **Mr. Johnson** was not in attendance because he was ill.

**Chairman Gannon** welcomed **Senator Corder** to speak regarding **SB 1276**.

**S 1276**

**Senator Corder** spoke regarding **SB 1276**, formerly **RS 17516**. He explained that this is somewhat of a unique situation. He said the Pro Tem had called it “a solution looking for a problem” in that there is an opportunity for certain entities to use loopholes in current law to not provide weight tickets. The steel recycler, taking loads in bulk, picks them up on location and hauls them in their vehicle to their facility, unloads them, and doesn’t have to, at this time, provide scale tickets. Therefore, after what could be 20 loads, the seller then is given a piece of paper that shows the total, the net, of those loads. Sellers are suspicious because that is the only occasion in the agriculture industry and in the trucking industry where a product can be delivered and sold and there is no requirement, specifically, for a scale ticket on that load. Everything else we deliver has to have a scale ticket. The purpose of this legislation is to close that loophole. **Senator Corder** stated he had been asked whether or not there might have been a different place to do that in the statute.

There is statute that has to do with weighmasters, and it is possible that certain other requirements could have been put on the weighmasters, but this is the most simple place to do this legislation. It still provides for the opportunity that, more and more, there are unattended scales; therefore, the legislators must be careful where else they put it in the statute. For example, if they had put the same requirement in the weighmaster statute, it only would have prohibited unattended scales and their ability to service such things as hay deliveries and grain deliveries, etc. that are delivered to dairies which are, for the most part, unattended scales; yet, a scale ticket is printed. Therefore, this is, **Senator Corder** stated, the appropriate place in the statute for the Legislature to close this loophole. It does it very effectively and it places no other requirements on the hauling of agriculture commodities that don't already exist. Prudent sellers require scale tickets and **Senator Corder** stated he thinks it is only fair that the Legislature ask steel recyclers to comply with the same law that all the rest of us have to comply with.

**Senator Hill** asked **Senator Corder** to explain to him what we use the scale tickets for. **Senator Corder** explained that if a person has a commodity to sell and in order for the person to sell it, it is sold in bulk, by the ton or by the pound; therefore, a person has to know how many pounds or how many tons there are. So, a truck picks the commodity up and delivers it to a location, to the purchaser. There is a scale involved on either end, either on the seller's end or on the purchaser's end. There is a requirement that one weigh the commodity. The seller is selling pounds, tons, or volume and needs to know how much of the product he is selling. Therefore, the product is put on the scale and the person weighs the gross weight and then the person weighs the light weight, and then you have a net weight. That produces a ticket that has that evidence on it: gross weight, tare weight and net weight. Then, that ticket is used to get paid, i.e., the recycler has delivered this many pounds of product and he wants this many dollars for that many pounds of product. Whether that be one load or a thousand loads, each load generates a scale ticket that has that weight on it for settlement. In this case, there was no weight ticket involved.

**Senator Hill** inquired of **Senator Corder** if that wouldn't just be prudent on the side of the purchaser to require to know how much they purchased without having the law telling them they must know how much they are purchasing. **Senator Corder** agreed that is really the purpose of closing the loophole. **Senator Corder** stated he does not profess to understand why steel recyclers did not do that, other than they would accumulate all those loads and produce one amount. They essentially knew how much they were buying but there was no evidence for the seller that they were accurate. The sellers had to trust that each of those loads was weighed accurately and that the purchaser was giving them the accurate number. **Senator Corder** said in the case of steel, it was understandable that, when a person is watching a load of scrap metal being loaded into a trailer as full as it can be loaded, and steel is so heavy, the seller is watching the full trailers pull out and figures that, since it is a two-axle trailer, and the truck weighed 80,000 pounds when it left, so it had to have 25 tons; however, that is not necessarily true. It was just a guess. It is

very difficult to get a full load of scrap steel on *any* trailer. So, the person called the purchaser and asked where the scale ticket was. The purchaser replied that they did not have to give the seller a scale ticket. The purchaser continued to say that, at the end of all the loads, this is the total, this is how much we bought, total net pounds, not by load even, just the one entry for total net pounds no matter how many loads were delivered. The purchaser then states the figure they are going to pay the seller is based on the total net pounds. That is where the distress and the confusion exists. There was no evidence that method of weighing was accurate.

**Senator Schroeder** asked where, in the statute, did we get the idea that the purchasers did not have to weigh each load. He asked where the loophole was. **Senator Corder** replied that part of it was in *Idaho Code, Section 71-402*, where there is a reference to minerals. That is what they were basing their exclusion on. **Senator Corder** said as he reads the statute, it says that reference is to minerals as one would deliver to a dairy or a feed lot. In this particular case, the recyclers have expanded that definition. There was no prohibition for them taking that liberty in statute. The recyclers said that steel is a mineral and scrap steel is steel, so they said they were exempted.

**Senator Schroeder** asked if there was a court case that the court said the recyclers could do that. **Senator Corder** responded that there is no court case. The recyclers have just taken that liberty; the recyclers have done that same thing for many years.

**Chairman Gannon** stated that **Senator Corder** cited one example and that **Senator Corder** continues to say, "buying and selling of steel." **Chairman Gannon** wonders whether or not (1) this is an isolated example; and (2) whether there are any other commodities to which this would apply. **Senator Corder** replied, "yes." He continued that this law, if enacted, would apply to everyone. There would be no mineral exclusion. Every other commodity is doing what this law would require. As to **Chairman Gannon's** question relating to an isolated example, **Senator Corder** stated it might have been five years ago, but with the price of steel these days, it is not an isolated example. It varies with the price of steel, but almost every farm yard in Idaho, within the last year or two or in the year or two to come, will be hauling every ounce of scrap steel they have because of the value of steel.

**Senator Schroeder** asked if someone were in Twin Falls and they hauled the load to Nampa, how does the seller keep track of whether the recycler is giving the seller the slip for that particular seller's metal or not. **Senator Corder** replied that might still be a problem; however, the tickets must be generated in more than one copy. They are designated that the person who is hauling the load gets one of those tickets and, if it is not the buyer's truck but, instead, was someone else's truck, that person would want a copy of that ticket. Then, one of those copies is designated to go to the seller. The seller can have them sent to him or wait until settlement day and go in and pick them up. There would be evidence that it was that person's load only if that person had identified the number of the truck

that hauled that specific load. If the seller was concerned about that type of dishonesty, the seller would track each load himself.

**Senator Schroeder** asked what the value of #1 steel as scrap is these days. **Senator Corder** responded that he is not certain what the value is, per pound, these days (and they are being very specific these days for what they call clean steel and dirty steel). Three hundred thousand dollars worth might be hauled out in 20 loads, perhaps. **Senator Schroeder** inquired what the price per ton would be for #1 scrap steel. **Senator Corder** replied that, possibly, it could be \$40, although he is not certain about that figure.

**Chairman Gannon** said that, for some reason, "minerals", in *Idaho Code, Section 71-402*, had been excluded from the ticket process and, at this moment, he will make the assumption there was a good reason for that. He now asked if this proposed legislation will perturbate that part of the code or will it still stand? He also inquired whether or not **Senator Corder** sees any unintended consequences with the mineral issue? **Senator Corder** responded that he does not see any consequences with that. He speculated that the original intent of legislation was, if a person was mining steel ore, he would not need a weight ticket on each one of those that is going to come out of the ground and go to the refinery. There is no sale involved in that so it would not need to generate a steel ticket. He believes that was the original intent because those mining enterprises would not have been in need of a scale ticket on each of those deliveries. It was just expanded beyond that original intent, so this legislation will cause no impact. For those people who are still mining and delivering to a crusher or a mill, that is not a sale delivery because the sale is on the end product. Therefore, there would be no delivery for sale with those types of loads, so this legislation would have no impact.

**Senator Hill** inquired regarding lines 19 through 26 of the bill (most of which had been stricken, which had to do with surrendering it to the bureau chief or inspector . . . he may retain it as evidence, etc.), asking why it had been there before and why it is not needed now. **Senator Corder** stated he believes the original intent was to try to keep from happening what, indeed, did happen. The original intent was to say, ". . . if it generates a scale ticket, this is what you do with it." That language has been preempted now by saying, ". . . there will be a scale ticket."

**Senator Siddoway** asked whether this bill was going to interfere with common practice in, for example, the purchase of alfalfa where a person has a bale count, maybe you are selling your hay to a neighbor, maybe the scale is 25 or 30 miles in the opposite direction, and when you and your neighbor make the deal, you agree that you will waive five out of the twenty loads, average the bales and make a payment for that. If you go ahead and weigh the first couple of loads out, and one in the middle and a couple on the end of the deal, does this bill say that you must weigh every load that is created by that sale? **Senator Corder** replied, "No, it does not." He continued, saying that whatever number of loads the seller and the purchaser had agreed to weigh, there would be a scale ticket generated on those loads, and that would be the basis of the

determination – that per bale amount. This would not require that every load be weighed, only that every load that is weighed will generate a scale ticket. **Senator Corder** continued that he does not think that portion of the proposed rule is any different than the rule is currently.

**Senator Schroeder** inquired whether or not there was anyone present at the meeting to testify on the bill. **Chairman Gannon** asked the members of the audience if there was anyone present who had signed up to testify on the bill. No one responded.

**MOTION:** **Senator Schroeder** moved that the committee send **SB 1276** to the floor with a do-pass recommendation. The motion was seconded by **Senator Hill**. The motion passed by a **voice vote**. **Chairman Gannon** said that **Senator Corder** would be the sponsor of the bill on the floor of the Senate.

**RULES:** **Chairman Gannon** opened the meeting back up to rules review and handed the gavel over to **Vice Chairman Heinrich**. **Vice Chairman Heinrich** stated that the committee is at the point for further consideration of the proposed rules.

**Senator Siddoway** made a statement about what has happened since the last time the committee had talked about the dealers and buying stations and livestock trader lots. **Senator Siddoway** had received approximately 100 phone calls since the previous Thursday, had meetings with several of the cattle operators who are involved in that, and had a few discussions with **Dr. Ledbetter** and representatives from the Governor's office. **Senator Siddoway** said that, the previous evening in a meeting, it sounded like everyone pretty much came together and were willing to go ahead with these trader rules as presented and offer their support with the caveat that the Department of Agriculture would hold meetings this summer to try to come up with some better definitions and better rules, and close some of the holes they see in the rules.

**Senator Corder** stated that one of his constituents was in the audience and they were going to testify in favor of the rules. **Bill Davison, Senator Corder's** constituent, introduced himself, saying that his family owns The Treasure Valley Livestock Auction. **Senator Corder** interjected that, in addition to the livestock, the Davisons own a ranch in Elmore County, and they raise elk, and their granddaughter is **Senator Corder's** newest daughter-in-law. **Mr. Davison** continued, stating that his family owns Treasure Valley Livestock Auction in Caldwell and they ranch in Elmore County. **Mr. Davison** stated that they are not against the buying stations but they would like for them to live by some of the same rules that the Davisons have to live by. That's why his family is for the bill and the new rules that have been put before them. The people who met with **Senator Siddoway** the previous evening all agree with what **Senator Siddoway** expressed in today's meeting, i. e., the bill could make things work better for everybody.

**Senator Hill** stated that he is going to vote against that particular docket having to do with the inspections. **Senator Hill** thinks they are too harsh

and may even have some constitutional issues involved with reasonable search and seizure.

**MOTION:** **Senator Siddoway** moved that the committee adopt **Docket No. 02.0428.0701**. **Senator Corder** seconded the motion.

**Chairman Gannon** stated that the committee could handle the one rule that he believed **Senator Hill** excluded from a motion for general acceptance of the other rules. He is under the impression that almost everything else is alright except for that one rule and then **Senator Hill's** concern over this particular section of the rule. So, if the motion was withdrawn and the second was withdrawn, and the committee would have a motion for all rules with the exception of **Docket No. 02.0301.0701**, Rule 102, we could do it that way and dispense with having to vote on each one. **Chairman Gannon** suggested this would be the most expeditious way to vote on the rules.

**Senator Siddoway** withdrew his motion to adopt **Docket No. 02.0428.0701**. **Senator Corder** asked, if he were to withdraw his second of **Senator Siddoway's** motion, wouldn't **Senator Hill** have to vote "no" to all of the rules? **Senator Hill** stated that he only had two that he wanted to vote "no" on. **Vice Chairman Heinrich** asked that **Senator Siddoway** restate his motion.

**MOTION:** **Senator Siddoway** moved that the committee adopt **Docket No. 02.0428.0701**. The motion was seconded by **Senator Corder**. The motion carried by **voice vote**, with **Senator Hill** voting "nay."

**MOTION:** **Senator Corder** moved that the committee adopt **Docket No. 02.0301.0701**, with the exception of section 102, and that section 102 be rejected by the committee. The motion was seconded by **Senator McGee**. **Senator Schroeder** requested that **Senator Corder** explain why he made that motion. **Senator Corder** stated there are several places in the rule that they tried to be more definitive, i.e., the potato seed growing areas. However, **Senator Corder** thinks it is unique that they are trying to define chemical pesticide management plan areas so precisely. Everything that the committee is rejecting in section 102 is spelled out and that same information is in the Dacthal Pesticide Management Plan (PMP), the Dimethyl Tetrachloroterephthalate Pesticide Management Plan (DCPAMP). He believes that if the committee puts that information in the section, they would be taking the flexibility away from the Idaho State Department of Agriculture (ISDA) to adjust. Otherwise, the ISDA could take that same PMP that the committee said was a good idea and move it. It is flexible so that wherever that problem occurs, that PMP can apply.

**Chairman Gannon** stated that, to amplify what **Senator Corder** had said, following the original presentation of the rule being discussed, we were questioning how specific the rule had become and members of the committee met with the ISDA representatives. They verified the fact that the information in Section 102 of the rule is already in the PMP that this

section references. This section also references the federal standards. Therefore, this is just a second to what already is in existence in the PMP, but it ties their hands in terms of expanding it or releasing a particular area should the conditions change. For example, if drought brings about a condition and these conditions are recognized on the labeling of the product, this does not step outside the bounds of the labeling of the product, because the labeling of the product gives some space and recognizes that conditions will dictate different application methods, etc. Therefore, the committee felt, and the ISDA was surprised, this was being overly-restrictive. Where normally we feel the ISDA is trying to get away with as much as they can, in this particular case, we felt they had bent a little too far backward and had taken out some flexibility that they needed to react quickly to changing conditions. Therefore, the ISDA agreed this section won't change anything in terms of the actual on-the-ground usage of this particular product. The product is defined, the product is referenced, the PMP contains the limitations on its application for this particular location or this particular set of conditions with soil and water, etc., so they felt it was an unnecessary duplication that tied their hands unduly.

**Senator Corder** thinks the House side of the Legislature has already rejected Section 102 of the rule.

**Vice Chairman Heinrich** stated the committee can reject parts of a rule but it cannot change anything. The committee can take parts of a rule out but it cannot change any wording. We would then need to notify the House of any rejections.

**Vice Chairman Heinrich** asked **Senator Hill** if this was the other rule with which he was concerned. **Senator Corder** interjected again that he thinks the House may have already acted to reject this part of the rule. He had discussed this issue with all members of the sub-committee and several other members of the House Agricultural Affairs Committee, so this proposal is not news to them.

The Motion carried by **voice vote**.

**Senator Hill** stated he would like to vote against the pending rule for the veterinary medical examiners, page 134 of the rules.

**MOTION:** **Senator Siddoway** moved that the committee adopt **Docket 46.0101.0701**. The motion was seconded by **Senator McGee**. The motion was rejected by a **roll call vote**, with Senators Sagness, Stennett, Hill, Corder and Schroeder voting "Nay", and Senators Siddoway, McGee, Heinrich and Gannon voting "Aye."

**MOTION:** **Senator Hill** moved that the committee adopt **Docket 46.0101.0701**, with the exception of the amendments in Section 010, sub-section 03.a.ii. **Senator Corder** seconded the motion.

**Vice Chairman Heinrich** asked for clarification from **Senator Hill** as to whether he meant all of Section 03 or just sub-section ii within Section 03. **Senator Hill** replied that, either way, the outcome would be the same.

**Senator McGee** raised a point of order, asking whether the committee was still on the same rule, i.e., **Docket 46.0101.0701**. **Vice Chairman Heinrich** replied that was correct. **Senator McGee** stated that the committee had voted to reject it in its entirety already so the committee may need to take a vote to reconsider. **Senator Schroeder** stated that he believed the motion was to accept the motion and that motion was rejected. The committee members agreed with **Senator Schroeder**.

**Vice Chairman Heinrich** confirmed with the committee members that the new motion was to adopt **Docket 46.0101.0701, with the exception of the amendments in Section 010, sub-section 03.a.ii**. The motion carried by **voice vote**.

**Senator Hill** stated he was willing to make a motion and queried whether **Vice Chairman Heinrich** wanted him to list each docket separately in the motion. **Vice Chairman Heinrich** replied, "Yes."

**MOTION:** **Senator Hill** moved that the committee adopt **Docket Numbers 02.0104.0701, 02.0214.0701, 02.0403.0701, 02.0417.0701, 02.0419.0701, 02.0420.0701, 02.0421.0701, 02.0429.0701, 02.0430.0701, 02.0601.0701, 02.0602.0701, 02.0612.0701, 02.0633.0701, 02.0636.0701, 02.0639.0701, 02.0641.0701 and 29.0101.0701**. The motion was seconded by **Senator Siddoway**. The motion carried by **voice vote** and the dockets were approved.

**Vice Chairman Heinrich** turned the gavel over to **Chairman Gannon**. There was an inquiry regarding a vote on the Pending Fee rule, to which **Chairman Gannon** responded it had to be voted separately.

**MOTION:** **Senator Corder** moved that Pending Fee Rule, **Docket No. 29.0102.0701** be adopted. The motion was seconded by **Senator McGee**. **Senator Hill** inquired what the fee change was. **Laura Johnson**, ISDA, responded even though the rule changes were formerly explained by Pat Kole of the Idaho Potato Commission, the fee change has to do with raising the tax from an additional six cents per hundredweight on potatoes to an additional eleven cents per hundredweight. The motion to adopt Rule 29.0102.0701 carried by **voice vote**.

**MOTION:** **Senator McGee** made a motion that the committee adopt **Docket Numbers 02.0214.0702, 02.0421.0801, 02.0606.0501 and 02.0610.0701**. **Senator Sagness** seconded the motion. The motion carried by **voice vote**.

**ADJOURNMENT:** Chairman Gannon adjourned the meeting at 9:25 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

Any sign-in sheet(s)/guest list(s), testimony, booklets, charts, graphs and attachments will be retained with the minutes in the Senate committee's office, Room 114, until the end of the 2008 Legislative Session and then will be on file with the minutes in the Legislative Services Library.

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** January 24, 2008

**TIME:** 8:00 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, Sagness

**MEMBERS ABSENT/ EXCUSED:** All Present

**GUESTS:** Please see sign-in sheet.

**MINUTES:** **Chairman Gannon** convened the meeting at 8:01 a.m.

**Chairman Gannon** welcomed **Dr. Greg Ledbetter** to lead the discussion related to **S 1305**.

**S 1305:** **Dr. Ledbetter** explained that the Statement of Purpose (SOP) for this bill is to create an \$800 per company fee on the manufacturers of animal drugs and veterinary biologics that are sold in the State of Idaho. The purpose of the fee would be to generate dedicated funds for the Idaho State Department of Agriculture's (ISDA) livestock disease control T.B. indemnity fund. If successful, the fees should generate approximately \$200 thousand, annually, for the livestock and disease control fund. **Dr. Ledbetter** then referred to Section 25-4001 of the bill, reading the definitions listed for sub-sections (1) "Animal Drugs";(4) "Licensee"; (5) "Permittee", (with **Dr. Ledbetter** adding that the difference between a licensee and a permittee is that a licensee is someone who is licensed to manufacture those products, and a permittee is the original company or person who requested those products to be approved or did the initial research for those products; (7) "Sponsor", (with **Dr. Ledbetter** adding that there are two federal agencies that oversee veterinary drugs in this country: USDA does the biologic, vaccine, and diagnostic kit portion; the FDA oversees drugs that are used for therapeutic or treatment purposes); and (8) "Veterinary Biologic". **Dr. Ledbetter** continued reading each section and sub-section of the bill. As he referred to Section 25-4003, **Dr. Ledbetter** stated the ISDA feels it has addressed the concerns of the veterinary profession, one concern being that, under their veterinary license, they could not compound products or prescribe compounded products. That wording has now been excluded.

**Senator Corder** inquired of **Dr. Ledbetter** regarding when the committee voted to print the bill there was discussion about the number of companies that would result in the multiplication factor X \$800 that would

result in \$200 thousand, and that **Dr. Ledbetter** had told the committee he would check on that and verify there were that many companies. **Senator Corder** asked **Dr. Ledbetter** if he had a document that the committee could have that would support the \$200 thousand figure. **Dr. Ledbetter** responded the ISDA would be happy to provide the committee with the list. The original list, which was a compilation of all the companies registered with the FDA and the USDA, contained over 300 companies. He continued that, over the last five days, his staff had gone back through that list, cross-referenced each of those lists on the Internet, looking at the products that were registered, to confirm that the ISDA does have at least one product with each of those companies. They have also cross-referenced that list with the lists of products that are sold by NWI in Caldwell, which is one of the largest distributors of our products in the United States, and with Lextron, another very large distributor of veterinary products. In cross-referencing all of those, the ISDA was up to 242 companies that would help them meet their goal. **Dr. Ledbetter** stated the ISDA is finding new companies every day, and they feel they are going to be where they need to be.

**Senator Corder** asked **Dr. Ledbetter** again if the committee could have a copy of that list by Thursday. **Dr. Ledbetter** responded that he would absolutely have that list for the committee.

**Senator Hill** presented **Dr. Ledbetter** with a hypothetical scenario, i.e., an Idaho veterinarian hears about a product that is manufactured in North Carolina; the product is not available in Idaho but he just wants to try it out, so he contacts the manufacturer in North Carolina and states his desire to try the product out. **Senator Hill** queried whether or not that transaction will be prohibited under this bill, because that hypothetical North Carolina company has not opened up the market in the West yet. **Dr. Ledbetter** responded that type of transaction would not be prohibited in that veterinarians, under their license, have very broad abilities to prescribe products. A veterinarian could contact that manufacturer, even though the product is not currently sold in the State of Idaho, and obtain some of that product to be used in the animals they are treating. However, should that company, subsequent to that, see that there was a need in Idaho and wanted to start marketing the product through distributors in Idaho, then the ISDA would need to license them.

**Senator Hill** asked **Dr. Ledbetter** what the precedence is in Idaho regarding licensing for a person without a veterinarian license just wanting to sell product in the state. **Dr. Ledbetter** replied there is a precedence for that type of thing in the State of Idaho. The ISDA currently registers all pesticides that are used in the state, and charges a fee on that registration, which runs a large part of the ISDA's pesticide monitoring outreach. He also stated there are other states who are doing a similar type of thing to what the ISDA is proposing on the drug side as well.

**Chairman Gannon** said it is his understanding that the ISDA has received word that, if the committee approves this bill, it would enhance the probability of some state money breaking loose as a match to go into the regulatory effort. He asked **Dr. Ledbetter** if his understanding is

correct. **Dr. Ledbetter** replied that the Governor's office has given the ISDA assurances that, if this piece of legislation is successful, they will support a trailer bill for a \$200 thousand general fund appropriation to match the \$200 thousand the ISDA is proposing to raise, which would then raise the total package to \$400 thousand, which is what the ISDA's fiscal department has said the Division of Animal Industries needs to keep their growth going on now and out into the future.

**Chairman Gannon** asked if there was any indication of who would bring that bill forth. **Dr. Ledbetter** stated he is not aware, at this time, who would bring forth the bill.

**Dr. Ledbetter** turned the floor over to **Celia Gould**, Director of the ISDA. **Director Gould** stated the Governor's office has said they would help initiate the bill. **Chairman Gannon** asked **Director Gould** if it would be her department that would create the trailer bill, and whether it would be an appropriation bill that would go through the Joint Finance and Appropriation Committee (JFAC). **Director Gould** responded that is correct.

**Senator Corder** asked **Chairman Gannon** if there were people in attendance who might want to speak to this issue. **Chairman Gannon** welcomed **Scot Holt**, member of the Allied Committee and representing Idaho Cattlemen.

**Mr. Holt** stated that the ISDA approached the Allied Committee last year with a concept of requiring a per product fee to address budget shortcomings. The Allied Committee never disputed the need, but questioned the prescribed remedy and feared that a product fee could have some unintended consequences. The stated concept from the ISDA was rejected by the Senate Agricultural Affairs Committee last year. Subsequently, the Allied Committee and representatives on the Advisory Committee charged with looking into funding shortfalls, met. A revised concept that focused on a per company fee was floated within the Allied Committee and they felt this approach was more workable. **Mr. Holt** stated the legislation before the committee is acceptable to the Allied Committee, in that the ISDA worked with the Allied Committee over the summer to draft a bill that met their expectations, based on their concerns from last year. The Allied Committee's interest in this issue goes beyond the rule . . . their company might fund a portion of the program. The Allied Committee appreciates the ISDA's growing role in animal health and disease surveillance. According to **Mr. Holt**, the Allied Committee is willing to shoulder a portion of the load in order to help Idaho's livestock industry.

**Chairman Gannon** welcomed **Robert Naerebout**, Executive Director of the Idaho Dairymen's Association (IDA). **Mr. Naerebout** stated that last year, the IDA was neutral on this legislation and had concerns on legislation that was addressed through the Allied Committee. **Mr. Naerebout** continued that, this year, the IDA supports the proposed legislation and urged the committee to support the legislation, also. He continued that costs for the ISDA increased and ways had to be found to

fund those costs.

**Chairman Gannon** welcomed **Josh Tewalt**, Executive Vice President of the Idaho Cattle Association. **Mr. Tewalt** stated the Cattle Association is supportive of the proposed legislation, as they were last year. **Mr. Tewalt** stated that the Cattle Association was able to regain their Brucellosis Class Free status which had a huge benefit for all the producers in the State of Idaho, even though the Cattle Association still has a year and a half remaining on probation. The industry is at a critical place right now with regard to their ability to monitor their animal disease and health issues within the State of Idaho. The Cattle Association views this legislation as an equitable way to shore up some of the funding needs the ISDA has.

**Chairman Gannon** welcomed **Wally Butler**, Range and Livestock Specialist, Governmental Affairs Division, Idaho Farm Bureau. **Mr. Butler** stated the Idaho Farm Bureau definitely supports this bill and feels it is better legislation than what was presented last year. The Farm Bureau likes the idea of a set fee.

**Chairman Gannon** welcomed **Vicki Smith**, Executive Director of the Idaho Veterinary Medical Association. **Ms. Smith** stated the Veterinary Medical Association is neutral on this legislation this year as opposed to last year at which time they were fiercely opposed to the legislation. **Ms. Smith** stated the Idaho Veterinary Medical Association is supportive of this legislation.

**Senator Corder** told **Ms. Smith** it sounded as if the opposition was coming from the small-animal practitioners, but during the on-line survey her association conducted, if the large-animal practitioners who understood ISDA's concern and the mixed-animal practitioners who also understood ISDA's concern were the largest respondents, then it looks like her association would have been off neutral. **Ms. Smith** replied the vote was 37 in support to 26 in opposition, so it is not a huge disparity. **Senator Corder** continued with a question to **Ms. Smith**, asking if it is her belief that those in opposition to the legislation simply do not understand the ISDA issue. **Ms. Smith** responded that those opposition voters are still fiercely opposed, as they were last year, and they have not changed their position.

**Senator Hill** stated that he had heard the various people stand before the committee and say they appreciate the ISDA and what they are doing and this program is really beneficial for us and we think this is fair because we want someone else to pay for it. At least a couple of the people giving their testimony used the terminology that they think it is more fair.

**Senator Hill** asked for any of the people who used that terminology to please stand and say why they think it is more fair, besides saying that someone else is going to pay for it. **Josh Tewalt** responded by saying that when they look at the overall issue of ISDA funding and how the Animal Disease Indemnity Fund traditionally has been funded, it has been funded primarily by a portion of brand collections; so, the people paying the brand collections fees have been the ones who have been paying the

largest share to fund ISDA's work on those particular programs. Over the years, however, the number of brand inspections has declined and there has been a shift in the focus of ISDA, away from livestock issues, to an increasing role on assisting with animal cruelty issues, as well as being in a supportive role for other animal welfare type issues. **Mr. Tewalt** stated this idea is the only practical one that has been brought forward that is more equitable.

**Chairman Gannon** welcomed **Dr. Ledbetter** back to the podium for closing remarks. **Dr. Ledbetter** stated that this legislation spreads the costs over all the animal species that the ISDA and the animal industry deal with. Anyone who uses a veterinary or an animal drug or product in the state is going to pay a tiny bit into this program which does cover all of the animals in the state. Also, in addition to the support the committee has heard at this meeting, **Dr. Ledbetter** continued that the Wool Growers have been supportive of the legislation, as have the Food Producers.

**MOTION:** **Senator McGee** moved that **SB 1305** be sent to the Senate floor with a do pass recommendation. **Senator Corder** seconded the motion. The motion passed by unanimous **roll call vote**. **Senator Corder** volunteered to be the sponsor of the bill.

**Chairman Gannon** welcomed **Steve Miller**, President, Idaho Association of Soil Conservation Districts (IASCD).

**GUEST SPEAKER:** **Mr. Miller** said a presentation would be made on the Total Maximum Daily Load (TMDL) subject, after which he would speak to the committee about where the Association of Soil Conservation Districts is in terms of some strategic planning. **Mr. Miller** introduced **Wayne Newville** who handles the technical issues of the presentation. He is also the Director of OnePlan. **Mr. Miller** also introduced **Scott Cobert**, District Manager for the Ada District.

**GUEST SPEAKER:** **Mr. Cobert** presented information on the TMDL process, its background and where it is currently as well as what the Idaho Association of Soil Conservation Districts and the Commission are doing and have been doing in regard to this process.

**Chairman Gannon** asked whether the figure of 42% or \$14 million included in-kind contributions. **Mr. Cobert** replied the operator section does, typically, include in-kind contributions, i.e., producers tend to have their own equipment carry out certain aspects of the project. The IASCD implements many of the sediment basins that capture irrigation waste water runoff and drop the sediment out before discharging the cleaner water into the river or stream. In the past, it would run right off into the river or stream, containing sediment and anything attached to the sediment from the irrigated furrows. Therefore, an operator may take his own equipment and put up money to actually dig the sediment basin to the standards and specifications of the IASCD. Those standards and

specifications are rigid. This example does include in-kind contributions.

**Senator Sagness** asked where we are in terms of compliance with the coordinate. **Mr. Cobert** pointed out pictures of various coordinates from the PowerPoint presentation, showing “before” and “after” pictures. **Mr. Cobert** continued, saying compliance is one thing and implementation is another, and that the targets are very rigid. In Idaho, the IASCD is primarily looking at sediment, phosphorus, bacteria, and temperature. The IASCD has targets associated with those pollutants. **Mr. Cobert** believed the IASCD has gone a long way toward implementation but they are still a ways from the target to meet the TMDL goals.

**Senator Sagness** stated that a few years ago, the sportsmen and ranchers in the area were cooperating very well in terms of fencing and vegetation restoration. **Senator Sagness** queried if that cooperation is ongoing. **Mr. Cobert** stated that the cooperation is ongoing and that the IASCD is actively implementing Water Quality Programs for Agriculture (WQPA) funds in that area as well as federal funds. The IASCD also has a partnership with the United States Department of Agriculture (USDA) Natural Resources Conservation Service. **Mr. Cobert** stated the landowners have taken the cause on as their own and the IASCD is there to foster them with money, funding and technical support to get things done.

**Vice Chairman Heinrich** asked how much money is in the 319 Grant Program and whether or not the Program is going to carry on in the future. **Mr. Cobert** replied that there is currently about \$2 million in the Program and that there is a cycle open right now and grant applications are due February 8, 2008. The maximum amount an organization or group can apply for is \$250 thousand each cycle. The Program is still active even though some of the funding has dropped.

**Chairman Gannon** stated that at some point in the past, the issue of temperature was a real interesting issue because most of our streams are runoff, and the temperature gradient varied significantly between the spring runoff when there was the snowpack melt and when the summer seepage came and people were declaring it wouldn't meet the TMDL in the summer; however, that was just a natural phenomenon. **Chairman Gannon** asked if that issue has been resolved. **Mr. Cobert** replied that has not been resolved. It is difficult to reduce temperature aside from dumping ice into a water body. It is difficult to reduce the temperature of the water in the water column. The reason for that target is the cold water aquatic life. They don't sample for temperature now; they sample for shade. There are still temperature TMDLs. They have replaced the temperature target with what is called PNV, Potential Natural Vegetation. The IASCD is attempting to identify areas where there is exposure of a stream channel to a lot of sunlight. The IASCD identifies those areas for plantings, bank stabilization, etc. It is still an issue but it is now a shading target rather than a temperature target.

**Mr. Miller** introduced **Kent Foster**, Executive Director of IASCD. **Mr. Miller** said that the TMDL anticipates there is much implementation that

needs to be done. The total implementation to meet what the planning is could be up towards \$1 billion. One of the IASCD's concerns is that when the implementation planning is done, another lawsuit might follow.

**Mr. Miller** said the IASCD has gone through a strategic planning process. Within its conservation districts and its annual meeting, the IASCD set up a task force to explore other possible funding alternatives, and a large portion of that is what happens back in the TMDL situation. Another part will be going out to the 51 districts in Idaho and finding out what their priority projects will be and their five top choices of things they would like to see happen in their district. After gathering and analyzing that information, the IASCD will then compare it to what is happening in the TMDL situation, compile it into a state-wide plan and figure out a way in which to obtain funding for that plan. Another very large issue of concern to the IASCD is the sagebrush issue.

**Senator Corder** inquired about the reduction of the identified segment from 962 to 700 and whether that is the best that can be done. Is IASCD still working at reducing that number of segments and, with regard to the lawsuit, if this is going to be a \$250 million lawsuit, it would still be filed against the EPA (Environmental Protection Agency). How will that trickle down, i.e., will the EPA produce the \$250 million for Idaho or will they pass the buck? **Mr. Cobert** responded by saying the IASCD has done better since then to reduce the number of segments and, typically, how that is done is with water quality monitoring. It is called delisting a segment. If there is monitoring that is conducted, the IASCD coordinates their monitoring efforts with the Department of Agriculture monitoring staff. The stream segment monitoring is done, typically, twice monthly during summer months and once monthly during winter months. If the criteria is being met and supports the use, the IASCD can recommend it for delisting. Annually, there are many segments delisted. The other side of that is, although 962 or 700 sounds like a lot of segments, there are still segments that are proposed for listing every year that will be monitored. So, it is a fluctuating list. He said the situation sounds a bit worse than it is.

**Mr. Cobert**, in response to the second part of **Senator Corder's** question regarding funding from the EPA, said the answer is unknown. Mr. Cobert continued that the IASCD implements voluntary efforts with assistance and incentives. The IASCD likes to see it as voluntary implementation. If the EPA becomes involved, implementation occurs with fines, i.e., "You will do this, you will do that." The IASCD would rather see the money that would be paid in fines go toward actually doing something on the ground. The IASCD would like to keep it the way it is because they think the process works the way it is.

**Senator Schroeder** asked about the slide that showed a ditch where the IASCD enclosed a pipe and filled it in with dirt. **Senator Schroeder** wondered how the IASCD is allowed to do that, how they are allowed to take an open waterway and put a pipe down into it and fill it over with dirt. **Mr. Cobert** said that what had happened there is that was a waste runoff situation.

**Senator Schroeder** said that when the TMDLs were first instituted, some of the segments were actually in areas not inhabited by humans, and he asked if that was still the case and, if so, how many are there where there is no human activity. **Mr. Cobert** replied that those, in large part, have either been delisted or postponed. He could not answer precisely how many there are but stated the issue with them being listed is it ties it to the use. **Senator Schroeder** stated there were streams that were unacceptable TMDL loads that were just natural background conditions. **Mr. Cobert** responded that is still an issue, with the bacteria load from different animals and species being just one example.

**ADJOURNMENT:** There being no further business, **Chairman Gannon** adjourned the meeting at 9:30 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

**Note:** Any sign-in sheets/guest list, testimony, booklets, charts and graphs will be retained in the Committee Secretary's office until the end of the session. After that time, the material will be on file in the Legislative Services Library Annex, 5<sup>th</sup> Floor.

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** January 29, 2008

**TIME:** 8:00 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway and Sagness

**MEMBERS ABSENT/ EXCUSED:** Senator Stennett

**GUESTS:** See attached sign in sheet.

**CONVENED:** **Chairman Gannon** called the meeting to order at 8:01 a.m. and introduced **Representative Maxine Bell**.

**GUEST SPEAKER:** **Representative Bell** introduced **Joe Davidson** from Jerome, Idaho. **Governor Otter** has appointed **Mr. Davidson** to the State Soil Conservation Commission. Representative Bell said Mr. Davidson has run a business in Jerome County for many years. His business is in agriculture and most recently, he has been the Jerome County Commissioner. She is pleased that the Governor recognized his qualities and encouraged the Committee to accept him in this position.

**GUBERNATORIAL APPOINTMENT** **Joe Davidson** of Jerome, Idaho said that he has a farm background. He comes from a County of tremendous growth. They have a lot of development and a lot of livestock. The Soil Conservation Commission has an opportunity to really make a difference. He has recently learned about digesters and thinks this is a tool that can be used in the Magic Valley. He believes the Commission can make a difference in Idaho in the whole livestock industry.

**Senator Siddoway** said last year the Jerome County Commission had a controversy about allowing people who lived more than a mile away from an area that was going to be impacted by cattle, to testify. The legislature passed legislation regarding this, and it seems like it said the person had to be a land owner. Did you run into a conflict on the Commission with people who were not land owners coming in and testifying? **Mr. Davidson** replied that he doesn't believe so. It comes down to identifying people in that area. It is easy to identify land owners but is more difficult with tenants.

**Senator Hill** said he is not a farmer but has a lot of agricultural clients. He asked what do you feel the main responsibilities and the charge of the State Soil Conservation Commission is and what you expect they should accomplish in the next five years? **Mr. Davidson** said as he understands it, their responsibility is similar to their County Commission. They are

responsible for the flow of money and they are responsible to see that these projects get on the ground. As a Commissioner he recognizes that this is taxpayer money and that the people who vote for them have asked them to put the projects on the ground and track the flow of money. That is what he sees as his charge.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 1].

**Chairman Gannon** thanked Mr. Davidson and said, as is the custom, the Committee will vote at the next Committee meeting.

**Chairman Gannon** then introduced John Hammel, Dean of the College of Agriculture from the University of Idaho. He also introduced Garth Taylor, Professor of Ag Economics, who will present the Ag Economic Outlook.

**GUEST  
SPEAKER**

**Garth Taylor**, Professor of Ag Economics, University of Idaho, presented information on the Financial Condition of Idaho Agriculture. He acknowledged that the coauthors of this information are **Ben Eborn** and **Paul Patterson**. He stated that they produce a bulletin called the *Financial Condition of Idaho Agriculture: 2007 projections* (see attachment 3) which includes information about forecasts, trends and outlooks. He then will talk about the structure of agriculture in the State of Idaho and the impact of agriculture in the State.

**Chairman Gannon** asked regarding the fact that every year livestock are getting to be a bigger piece of agriculture, is it a result of dairy and the spinoff with the steers coming in to the beef market? **Mr. Taylor** responded that it is.

Regarding the slide concerning Outlook for 2008 & Beyond, Mega Trends, **Senator Hill** asked Mr. Taylor to explain about why stocks are so low at the present time. **Mr. Taylor** explained that there is no grain to be had. It is record high prices, but nothing to be sold. It is being used in other nations. It is an International situation, but it is also a situation here in Idaho because there is an increase in use and we've switched a lot of that ground to wheat and ethanol production.

**Senator Corder** asked how do we estimate the risk to that volatility? When agriculture loses its diversity, there is a risk that is going to make those cycles higher and lower. If we're going to be making statements about the strength of agriculture, how do we include that estimation? **Mr. Taylor** said it is not like a stock market where you can put all your eggs in one basket or you can diversify your portfolio. This is not an either/or situation. The farmers themselves are doing this because they're achieving that higher probability. They're becoming more specialized. This is a real problem because we're putting a lot of those eggs into the dairy basket. If milk prices go south on us, we're going to have some problems in agricultural health. It's not only that, but if dairy prices go south, and hay prices, silage prices, and grain prices - the problem is going to ripple. **Senator Corder** said that will increase the regional risk, there will be pockets that will be devastated for agriculture so we try to paint a picture of a positive overall for agriculture, and yet within that positive overall

prospect we will have pockets of tragedy where people simply could not adapt. Sugar beets is one of those examples. We have no way to indicate what the impact of negative capital is. We have a lot of beet growers where on their balance sheets with shares of beets that were worth \$550 that are now worth zero. We aren't really showing that to offset some of this positive story. **Mr. Taylor** said we will see pockets. He said he will address some of those questions later.

**Senator Hill** said, regarding the "Livestock & Crop Receipts" slide, that at 7% it takes 10 years to double in growth.

**Senator Corder** asked regarding the downturn in sugar beets, the introduction of roundup ready beets into the market will significantly alter that market. He asked whether Mr. Taylor believes that beets will make a bounce back with roundup ready? **Mr. Taylor** responded that last year we were down about 20,000 acres of sugar beets. The principle reason for this is that farmers found they could raise corn for silage and make more money. **Chairman Gannon** asked if the net on sugar beets increase considerably if they save on labor and won't that make them more competitive with grain prices? **Mr. Taylor** replied that it would.

**Chairman Gannon** said he talked to dairy farmers and they talked about the impending downturn in milk. They talked as if this was common knowledge. He asked Mr. Taylor if he has heard of this? **Mr. Taylor** said that milk prices are extremely volatile and change almost monthly. You can't store milk.

**Senator Corder** said that the cost of seed goes up almost at the same rate that labor goes down, but money on labor is spent in the local economy and money on seed goes outside the State. So we have an overall effect where we think everything is wonderful in the broad umbrella, but regionally it has significant negative impacts.

**Senator Schroeder** asked Mr. Taylor to talk more about immigration. If he was planning future operations, how would he proceed regarding manpower? **Mr. Taylor** responded that the milk industry is really dependent on immigrant labor. This is why the dairy industry is keyed to that situation. **Senator Schroeder** said if they rounded up everyone that didn't have legal status, what would happen to the dairy industry? **Mr. Taylor** replied that it would close down. **Senator Schroeder** asked about bio fuels and political regimes changing in Washington D.C., looking ahead, what does Mr. Taylor see? **Mr. Taylor** said he doesn't think we can maintain the subsidy levels on ethanol. There is weakening in the market for ethanol plants being built and ethanol prices are beginning to go down. There is no corn surplus at all. He said he believes we've already seen the peak in that market. But as far as the corn prices, the futures market shows that two years of corn prices are extremely strong. Here in Idaho we will see that the wheat, grain, and corn markets will be good and they will be thumbing their nose at potatoes and sugar beets and this will drive the price of potatoes and other commodities up.

**Senator Schroeder** asked regarding the world food supply stocks, famine changes the political structure of the world, so how close are we to having serious food shortages in the world? **Mr. Taylor** answered that we are

there now. In countries like Pakistan that are importers of wheat, the tortilla prices in Mexico that depend upon U.S. grain, the price controls and the cues are that the famine is already there. This is a result of ethanol which has driven up the price of grains throughout the world and this will transmit throughout the world food system. **Senator Schroeder** asked what we can do about this? **Mr. Taylor** replied, “. . . not subsidize ethanol.” Senator Schroeder said some countries like Argentina and Brazil make ethanol from sugar cane instead of corn.

**Chairman Gannon** asked if Mr. Taylor sees anything pending before this legislature that would significantly change the agriculture world or possibly have unintended consequences? **Mr. Taylor** said with agriculture going up and down like it is we will see some problems with our tax revenues in the State. How will this volatility affect state budgets? As agriculture becomes a bigger component and one of our real main strengths in the State, it is one of our big economic forces in the State and when it is volatile he said he is worried about how it will affect our economy.

**Senator Schroeder** said that he is intrigued about the simplicity of Mr. Taylor’s explanation as to the cause of impending famine, and on the other hand, as a policy maker on a national level, energy security has to be important to him. Protecting our energy supplies gets us into some very costly situations. He asked if someone has done a scholarly analysis of the pluses and minuses? **Mr. Taylor** answered that he doesn’t know of anyone who has done that. He will follow up on this. **Senator Schroeder** said he doesn’t like being held hostage by people who have energy supplies around the world, so there is an impetus there for producing our own energy. However, there are some other ramifications. He said he is just looking for some analysis to show that there might be some guidance other than simply don’t produce ethanol.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 2 and 3].

**GUEST  
SPEAKER**

**Dean John Hammel**, Agricultural Research & Extension System in the College of Agricultural & Life Sciences, University of Idaho, thanked the Committee for their support. He then brought them up to date on where they are strategically within the college to meet the needs of the changing flow of agriculture within the State and the college’s equipment and infrastructure issue.

**Chairman Gannon** asked about the Cummings Center. When they talked about the Magic Valley Research Center, part of the operation was an operating dairy, generating income to offset the cost of operation. Is there any income coming from the Cummings Center to make it self-supporting? **Dr. Hammel** answered that all Centers (except the Cummings Center thus far) have a base budget from the R & E appropriation. With that, they also raise commodities that go into a service account which comes back in to help fund the operation. With the Nancy M. Cummings Center they didn’t want a black hole for dollars. As part of that they were on a rigorous budget with a ten year run out. After ten years they came out very well with a 400 head cattle operation with the sale of steers and heifers off that to go back in to fund the operation. In all

research centers research pays as it goes. The impact on the operation has to be offset by cost allocated through the research venture.

**GUEST  
SPEAKER**

**Dr. Hammel** introduced Rich Garber with the Idaho Center for Livestock and Environmental Studies. **Rich Garber** updated the Committee on this facility. They are updating the business plan to reflect changes in the market. They are looking at locations within the Magic Valley for this facility.

**Chairman Gannon** asked if Agriculture Research System (ARS) is still enthused about this Center? **Mr. Garber** said they are and will place scientists and researchers within the Magic Valley in this facility.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 4].

**Chairman Gannon** introduced Kristy Sternes, President of the Idaho Elk Breeders Association.

**GUEST  
SPEAKER**

**Kristy Sternes** thanked the Committee and gave a brief time line of the Association. In 2007 they held elections for a new Board. Their most important goal was to address the concerns and issues brought up during the last legislative session, and she feels they've done a good job of doing that.

In April of 2007 they created a system of three different goals for their industry. First was the funding system to promote the industry and inform the public.

Second was communication and they have since sent out a monthly newsletter to members. They are trying to increase and encourage everyone's involvement in participation in the industry. In May and June they held two regional workshops to bring everyone together to give them tools for participation.

They also discussed proposed rule changes. In June they met with the Department of Agriculture and invited members to participate. In July and August they addressed financial issues to create a system so they can adequately fund the industry and promote it. Their focus is education and involvement. They have met with the Department of Fish and Game and have open communication with them. This has been very beneficial. She said things have been going extremely well.

**Senator Hill** said last year this Committee spent many days talking about the Elk industry and they came up with what they felt was a good solution. There hasn't been much talk since then. He asked Ms. Sternes what involvement she had in that last year and where is the Association concerning the protections discussed last year between the domestic and the wild cervidae? **Ms. Sternes** answered that as a result of the rulemaking process during the summer they addressed the issues of fencing requirements and the escape prevention. They will be having meetings with the ranches that might pose a potential risk of elk breaking out of fences and coming in contact with wild elk. They are doing their best to

make sure these animals are brought down during a certain time so they don't have the issue of snow bridges. That way they can be assured that there is not the ingress, egress issue. They have also enhanced the disease testing regarding the liver flukes on top of the chronic wasting, TB and Brucellosis surveillance they already have in place. They feel they are doing their part to make sure their animals are not a risk to the wild population. They are doing this internally working with the Department of Agriculture and the producers in order to self-regulate. The issue of licensing was controversial and she thinks they can work with the Department of Agriculture to explore ways to enhance the existing rules to increase their enforcement. **Senator Hill** asked if she feels any legislative solution is necessary? **Ms. Sternes** replied not as far as enforcement is concerned, she feels the changes they have made this summer and the tools they have in place they will see a great improvement regarding the problems they have had in the past.

**Senator Corder** asked about fencing requirements. He said he doesn't remember any rule they looked at that had any changes in fencing. **Ms. Sternes** said there wasn't anything specific regarding fences in the rules. What she was referring to is the issue of ingress, egress because when snow builds up it creates snow bridges. They are working with producers and the Department of Agriculture to make certain those animals are brought down by a certain time of the year so they aren't present when the snow bridges occur. They have strong, eight foot fencing and obviously there is no such thing as escape-proof fencing, so they are doing their best to adhere to the Department's restrictions regarding fencing requirements. **Senator Corder** asked how are you going to enforce this without rule or statute? One of the objections from last year was that some felt they were too hard and too strict. **Ms. Sternes** said she thought the concern last year was the wording in that bill regarding site specific fencing requirements, which translated into double fencing. They are meeting with the Department this summer to possibly adjust the rules or regulations regarding the things she is talking about today. It is high on their priority list to make sure they can enforce this.

**Senator Schroeder** said there is a cervidae bill this year. It wasn't referred to the Agriculture Committee, it was referred to the Resources Committee.

**Chairman Gannon** asked do you still plan to work on a check off bill? **Ms. Sternes** replied that it is in the office of the Governor now and they are looking to pursue it.

**ADJOURNMENT** **Chairman Gannon** again extended his thanks to the presenters from the

University of Idaho and **Ms. Sternes**. He then adjourned the meeting at 10:00 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

Note: Any sign-in sheets/guest list, testimony, booklets, charts and graphs will be retained in the Committee Secretary's office until the end of the session. After that time the material will be on file in the Legislative Services Library Annex 5<sup>th</sup> Floor.

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

- DATE:** January 31, 2008
- TIME:** 8:00 am
- PLACE:** Room 117
- MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Thorson (Stennett), and Sagness
- MEMBERS ABSENT/ EXCUSED:**
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- GUESTS:** See attached sign in sheet.
- CONVENED:** **Chairman Gannon** called the meeting to order at 8:05 a.m. and welcomed Senator Thorson to the Committee. He then introduced Robert Naerebout.
- GUEST SPEAKER:** **Robert Naerebout**, Executive Director, Idaho Dairymen's Association, gave a presentation on the Idaho Dairymen's Association - the expansion and oversight, issues and functions.
- Chairman Gannon** asked about the water study line - on consumptive water is it not only the water that the animal consumes, but water used for cleaning cows as well? **Mr. Naerebout** responded that it would be included and part of that is trying to measure what it is. Washing down facilities and flush operations have different water consumptives than other operations, so this is trying to take all those factors into place. The vast majority of their costs for this is setting up equipment needed on operations. The Association's proposal is looking at doing 12 operations. The other thing they're looking at is the cheese plants.
- Chairman Gannon** asked if there is much movement in the dairy industry in the niche markets? He noted a couple of dairies advertising organic milk. **Mr. Naerebout** said that there are but it depends on how you define niche market. There is one in Buhl, Smith's Dairy; and Ballard Cheese in Gooding that makes their own cheese. There are three dairymen in the Magic Valley who are investing in their own plant that will sell milk protein concentrate. They are looking at a market that has value as a growth market and trying to break into that market. That growth market is an international sales market more than a domestic one.
- Senator Corder** asked, "In looking at the page titled Idaho Dairy Industry showing Treasure Valley, Magic Valley and Eastern Idaho, does Mountain

Home fit in between those two?" **Mr. Naerebout** said Mountain Home fits into the Magic Valley, by their size; but by location they would be closer to the Treasure Valley. **Senator Corder** said he is assuming Mr. Naerebout is calling the smaller dairies family dairies. As he looks at the statistics for the Magic Valley, he also knows that there are several dairies in excess of 5000 or 6000 cows. So there must be a lot of these 100 head dairies left in the Magic Valley. Are they diminishing as well? So it isn't just location, it is actually the size that is the problem. **Mr. Naerebout** said Senator Corder is absolutely correct. There are several of those in the Magic Valley and they are more vulnerable than the ones in Eastern Idaho strictly from a competitive point of position. A small dairy (under 750 cows) competing with someone with 5000 cows for the same block of land because the nutrient management plan requires that they have to have additional land to go to within the county, they will lose that battle.

**Senator Corder** asked what the Legislature can look forward to doing to assist those other than what you've already said - be watching the regulations to make sure we don't overburden that segment? But we don't have a lot of choice when it comes to regulations and picking who that might apply to. What other things might the legislature do? **Mr. Naerebout** said the Gooding County lawsuit is based solely on who regulates the dairy industry. The Legislature has put in place, in Statute, nutrient management plans that say we have to attain. Gooding County has now come in and said they have to attain that plus a whole lot more. That is why they had to challenge it. The court ruling will tell them whether or not they have to proceed further with it and if they should look at State Statutes and ask for a determination of who regulates the dairy industry. At the State level you have resources to make sure regulations are based on solid science and not emotion.

**Senator Siddoway** asked about the 84 dairies that have 2000 cows or more, making up 13% of the industry, what percent of production those would make up? **Mr. Naerebout** said everyone says the 80/20 rule holds true - that the top 20% of dairies produce 80% of the milk.

**Chairman Gannon** asked if the funding for the Gooding lawsuit is coming out of the Idaho Dairymen's Association legal defense fund? **Mr. Naerebout** said it is.

**Senator Corder** said Dr. Taylor's assumption of things happening in agriculture don't coincide with this. He talked about a 100,000 acre decrease, but the use of that 100,000 acres is important and Senator Corder isn't sure he was factoring that in his representation.

**Senator Schroeder** asked if the milk from Latah is going to Lewiston. **Mr. Naerebout** said he isn't sure, it could be going to Spokane. **Senator Schroeder** asked the same regarding the Boundary and Bonner milk. **Mr. Naerebout** said it could be. Milk in this State moves. The biggest concern is distressed milk coming in from California to be processed here. It comes at a very cheap price which kicks Idaho milk out of Idaho to plants East of here.

**Senator Schroeder** asked Mr. Naerebout to talk about immigration. **Mr. Naerebout** said immigration is extremely important to agriculture. They

are in the process of forming a business coalition for responsible immigration reform because we must have a strong workforce for agriculture. The bottom line is that we do have options. One is you can import food or you can put a good immigration package together to legally get workers to do a job. **Senator Schroeder** said that he asked Dr. Garth Taylor how it would impact agriculture if we send all undocumented workers back to where they came from and he said we would be milking cows. He asked Mr. Naerebout to comment on that. **Mr. Naerebout** said as far as they know all of their workers are legally documented. This will be a huge issue for many industries, not just agriculture. **Senator Schroeder** said some businesses are seasonal in nature and those workers never file for unemployment so they won't be investigated. If we stepped up investigation there would be a worker shortage. **Mr. Naerebout** said one of the studies his Board approved is to look at the labor force and their impact. **Senator Schroeder** said immigration policies are a study of market forces and a statement that central planning doesn't work. Theoretically workers can get documentation from the Government to be here, but it is so cumbersome and slow that crops rot in the field before documentation is received. We have to work through this because the process isn't working now.

**Senator Thorson** asked about the use of animal waste in the production of natural gas. **Mr. Naerebout** said they are supportive of it, but you can't break even on it now. There are four or five operations in the State but none are up and running and economically feasible now. Also, it does nothing for the nutrient side of the equation. The case could be made that it will increase ammonia emissions.

**Brent Olmstead**, Executive Director, Milk Producers of Idaho, was introduced. **Mr. Olmstead** said there are some multinational corporations that have developed digester technology that is coming into the State and negotiating with dairies to put the digester up and run it for the dairy.

**Senator Schroeder** asked Mr. Olmstead how much money they hope to realize on carbon credits and how that works. **Mr. Olmstead** said they aren't sure. This is a new, emerging market. He said the Board of the Milk Producers of Idaho has not come forward with a formal position, but personally, he thinks in the future all the carbon credits will be used up and more controls will have to be put on the industry.

**Senator Corder** said he appreciates the dairy industry as a whole because they are facing the problems and offering solutions.

**Chairman Gannon** asked whether the Scheffield Study is dead and gone because Ron left? **Mr. Naerebout** said it wasn't. A graduate student will carry on. **Chairman Gannon** asked about the Memorandum of Understanding (MOU). Does that look like it will be back for negotiation? **Mr. Naerebout** said it has been extended for a year. The concerns he heard are from the Environmental Protection Agency (EPA). The MOU with the dairy industry has been in place since 1995 and that whole system has national recognition. Al Gore has given Idaho awards for the structure of it. He thinks it is worth saving but they must make sure the checks and balance within the MOU also stand. **Chairman Gannon**

asked if there is any research being done with the quality of beef? **Mr. Naerebout** said none of their dollars have been requested for this kind of research. But since this is a national program there is always research going on.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 1].

**Mr. Olmstead** gave a presentation on this industry.

**Senator Schroeder** asked about the current seven month peak in the milk market when they traditionally last five months. Are the peaks because when production increases the price goes down? **Mr. Olmstead** said yes, it is a capitalistic system.

**Senator Corder** asked what is happening with ultra pasteurized milk? **Mr. Olmstead** said it is still being tested and worked out. **Mr. Naerebout** said one company does a lot of ultra pasteurization, much of it for the military. It is predominant in third world countries because of the lack of refrigeration. It is a valuable product.

**Senator Corder** asked about personal property tax talked about by Mr. Olmstead. What would be his alternative for removal of personal property tax? **Mr. Olmstead** said it is the opinion of his Board of Directors that there shouldn't have to be anything offered to replace it. When the personal property tax was removed in the 60's there was no replacement until sales tax came along. They filled it with the surplus that was there.

**Senator Corder** asked are you talking about taking the one time budget surpluses and using them to pay for an ongoing property tax relief? **Mr. Olmstead** said they also feel that, under basic economic theory, the money being returned to businesses and the investment will increase the monies paid into the State of Idaho.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 2].

**Josh Tewalt**, Executive Vice-President, Idaho Cattle Association, gave a presentation on the Idaho Cattle Association and the Country of Origin Labeling.

**Chairman Gannon** asked about the Cattle MOU. He said DEQ strayed from the MOU last year - disregarded the Department of Agriculture and took over. Does the MOU allow for that? **Mr. Tewalt** said there were some issues in the last couple of years in dual enforcement actions. People were inspected and enforcement proceedings were initiated by the State. Then the EPA came and levied their own fines and enforcement related actions. The MOU is designed to get the regulators to cooperate and work together; however, you can't deny that EPA is ultimately responsible.

**Chairman Gannon** said they have primacy. **Mr. Tewalt** said that is their justification for stepping in. When you have a document to prevent those types of events from occurring and then they happen anyway, you have to question the value of the document itself. The cattle industry sees great

value in having the MOU and thinks that the regulatory compliance efforts that have been launched to date are necessary and extremely important. They also want assurances that they aren't going to be subject to duplicate enforcement actions if problems do occur. That is the remaining challenge in getting that renegotiated and resigned. **Chairman Gannon** asked if Mr. Tewalt thinks they do need to renegotiate the MOU? **Mr. Tewalt** said yes, they are in the process of trying to renegotiate it. **Chairman Gannon** asked if they are getting any support from the Governor's office or the State Department? **Mr. Tewalt** said they are getting support from the Department of Agriculture, Governor Otter's office, and the DEQ and this has been tremendous. The support has been less enthusiastic from the EPA. There are still some unresolved questions that are holding up the process right now, but trust is the biggest obstacle they have to overcome.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 3].

**Stan Boyd**, Executive Director, Idaho Wool Growers Association, presented a report on the Idaho Sheep Commission which is funded by an assessment on wool, and the Wool Growers Association.

**Senator Schroeder** asked what is the average pounds per sheep when they are sheared? **Mr. Boyd** said the State of Idaho is number two in the nation for average weight per pound - 9.9 per pound. The State of Alaska is number one at 10.2 per pound.

**Vice Chairman Heinrich** asked what percentage of their total budget is the three cents that goes to animal damage control? **Mr. Boyd** said in the State of Idaho we look at cooperative funding. The Federal Government comes in with about half of the program, and the total program is \$1.7 million. The State cooperative monies are half and are derived from tax on the wool, five cents per head from the cattle industry (collected at the time of the brand inspection), \$150,000 General Fund monies, \$50,000 from Fish and Game, \$70,000 - \$80,000 from the Counties, and \$35,000 - \$40,000 from the District Grazing Board. Altogether it comes to half of the program. The sheep industry itself comes up with around \$40,000 per year.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 4].

**Stan Boyd**, General Manager, Rocky Mountain Sheep Marketing Association, gave a report on "Big Horn Sheep Update." He said the Big Horn Domestic Sheep issue has been around for 20 - 30 years. There has been a lot of speculation about how pasteurilla transfers between wild Big Horn Sheep and domestic livestock, as well as cattle, deer, elk, and moose. Everything carries pasteurilla and there are about 30 or 40 strains of it. In Big Horn sheep, it is kind of like a common cold. Then, when the animal gets stressed, it develops into pneumonia and causes death. Even if you take all the domestic sheep in the world away, there will still be die offs in a wild Big Horn herd. There are different strains

among different animals. There is a lot of speculation that a strain that is carried by domestic sheep could more easily develop into pneumonia in a wild Big Horn sheep. Research on this is very inconclusive. It doesn't matter which side of the issue you are on, there is a researcher out there that has research that will tell you exactly what you want to hear. This issue came to a head in 1996 when the Forest Service removed the last domestic sheep operation from Hells Canyon. Oliver Wentz had an operation on the banks of the Snake River in Hells Canyon. It is now a museum that you can go through.

**Chairman Gannon** asked when they removed Mr. Wentz, did they just disallow his allotments or what? He said he assumes this was public ground. **Mr. Boyd** said it was private in 1972, but the federal government, by Imminent Domain, took the property but still let the wool grower have his operation. Then some 24 years later, by an amendment to the Forest Plan, they terminated the allotments. That's how it came about.

**Chairman Gannon** asked what the reason was behind the Imminent Domain? **Mr. Boyd** said it was right after Congress declared the Hells Canyon a National Recreation Area when they came and foreclosed on the property. In 1996 they did away with the last domestic sheep allotments in the Canyon based on the premise that there could be something with the disease issue. The Idaho Wool Growers protested that they knew what was coming - they would bring in Big Horn sheep and they would scatter to the four winds, and the Wool Growers could be in a real problem. The very next year, a joint effort by the Forest Service, the Bureau of Land Management (BLM), Idaho Department of Fish and Game, Oregon Fish and Game and Washington Fish and Game wanted to do a massive transplant of the Big Horn sheep into Hells Canyon. On page two of Attachment 5, is a letter from the Department of Agriculture. The last five lines tell the story. This agreement stood for eleven years. They all had a policy of live and let live, die and let die. Wool growers welcomed the transplant and thought they would all work together to solve these problems.

This went very well until last June when Western WaterSheds filed a lawsuit in Federal Court against the U.S. Forest Service stating that domestic sheep were not compatible with the Big Horn, even though there are no sightings of Big Horn in the allotment of the wool grower on the rim above Hells Canyon. The Department of Justice, who represents the Forest Service, went to the Forest Service and said they didn't think they could win this suit and advised them to capitulate to the environmental community - just accept what they are proposing, which is a termination of those allotments. The Forest Service agreed. The wool grower went to Federal Court and requested a temporary restraining order on the Forest Service decision. Judge Windmill in Boise denied that. With less than ten days notice, that wool grower was not allowed to turn out two of his three bands. Usually, if you're going to take away a person's allotment, you would give him a year's notice.

Right now most of these allotments have been terminated over the years as they become vacant. The Forest Service has taken those allotments off the books as they've done their new forest plans. But this man, Ron

Shirts, was given two weeks notice. He had to sell his lambs in June rather than in August, he suffered about a \$100,000 loss on the sale of those lambs because they only weighed about 89 pounds when they usually would weigh 120 - 125 pounds in August. The Forest Service could not find him additional range, so the State of Idaho finally found him a vacant cattle allotment, but it is a very low allotment and the feed dries out quickly.

Six months later, in November, Western Watersheds filed a lawsuit in Federal Court against the Forest Service. A wool grower up by Riggins, Idaho, named Mick Carlson had been on the allotment since 1922. His family had been on that allotment 86 years. The same scenario happened. This happened November 4, his turnout date was November 15, so he had eleven days notice. He is now feeding his sheep in the landing camp which is right in the middle of that allotment right on the banks of the Salmon River. He owns 160 acres of deeded ground. One month ago Mr. Boyd took a tour of that area and Mr. Carlson showed him a letter from a real estate firm in Vermont stating that he could sell that property by the square foot. He doesn't want to sell it, he wants to raise sheep. He appealed the decision through the Forest Service to the Forest supervisor, she denied it and it went to the Regional, they denied it. Now he has appealed it to the Chief of the Forest Service. Mr. Boyd doesn't expect much to happen there.

About two month's ago Western Watersheds wrote a letter to the Sawtooth National Forest, rattling their chain about the Big Horn sheep thing down there. That will affect families there. This has been very frustrating.

The Industry is working very closely with the Governor's office and asked the Governor to write letters to the Department of Agriculture and the Department of Fish and Game and create a Big Horn/Domestic Sheep Working Task Force to see if they can work out an acceptable program. That group has met three times now. It is co-chaired by Brian Oakey, Department of Agriculture and Jim Unsworth with the Department of Fish and Game. Mr. Boyd said he thinks they are beginning to come together with some basic guidelines. They invited everyone, and Western Watersheds is at the table with more than one representative, and they are very disruptive. Mr. Oakey and Mr. Unsworth will have to come from these meetings, draw up what they hear from both sides and try to get a policy that everyone can live with.

In the interim, the Association is working closely with the Governor's office. The Governor has come forth and stated that by February 15 he will come out with a policy to address this. Mr. Boyd has asked David Hensley, an Attorney with the Governor's office, to come to the Committee meeting today to answer questions.

**Senator Siddoway** said this really has the affected producers pushed into a corner. Most of the people in the sheep and cattle industries share the common bacterias and viruses. This puts them almost into a Ruby

Ridge type scenario. These operations have been together for generations, and now some government agency or some environmental group says it is over. He said this is about as serious a threat to ranching in this State as we've ever had. Those in the livestock industry are really looking for a resolution here. He believes the State agencies and the Governor's office understand and are willing to do whatever they can to help the situation, but when it comes down to it the Courts are the ones that are making the decision and the federal government is the one that is swinging the hammer.

**Mr. Boyd** said the entire Western United States is watching this and he doesn't know that this issue will spread. Right now the stars have aligned for the environmental community in the State of Idaho. The Department of Justice Attorney, Debra Ferguson, refuses to defend the Forest Service program. The Federal judge, Judge Windmill, appointed by the Clinton administration, is a judge that the environmental groups love to go to. They pick their judge, they never pick Judge Lodge.

Working with the Governor's office has been great. They are taking a look at some policies that will keep separation so the disease issue isn't an issue. They look for a successful outcome from the Big Horn/Domestic Sheep Working Group. The Wool Growers, Washington State University, and the University of Idaho are meeting in March with the major participants nationwide who have studied the pasteurilla issue to examine the research to see if we can get a handle on this. The goal is to find out what is killing the Big Horn sheep. Once they know that, they can cure it. One thing that causes stress on the Big Horn is that they carry lung worm. Then if there is a hard winter, their body weakens and the pasteurilla develops into pneumonia. Big Horn like mashed apples, so one thing that could be done is to put medication into those apples.

**Senator Corder** asked if the Committee can hear from Mr. Hensley to get his perspective to find out if anyone has talked to the Tribes. They have a lot of experience in working with the government that breaks their word on agreements. Maybe we could get some advice from them. **Chairman Gannon** said they haven't done too well, though. **Mr. Boyd** said the Tribe has been very involved on the Hells Canyon issue and the Salmon River, and basically the Tribe has advised the Forest Service to terminate the allotments.

**David Hensley**, Legal Counsel to the Governor, reported that the Governor agrees that this issue is important. He has directed the Department of Agriculture and the Department of Fish and Game to work on a State wide policy for how Fish and Game will manage Big Horn across the State in lieu of the issue of domestic sheep allotments. What they learned very quickly was that they needed an interim strategy to present to the Forest Service as a potential option to allow turnout this season. As Mr. Boyd alluded to earlier, February 15 is the date when the Governor wants to have the interim strategy to present to the Forest Service. In the process the Governor established through the Departments of Fish and Game and Agriculture, he didn't want the interim strategy to deal with disease transmission. The reason for that is that he wanted to leave that discussion to the larger State wide policy

development as we work through this over time. The other thing set out for the group is that the State is trying to do what it can on issues it controls. That is what the interim strategy and the State wide policy will speak to - the management of Big Horn species and the management of domestic. We can't control the Forest Service. All we can do is provide them with information and what the State is willing to do and hope that will provide enough assurance that they will let these people back out on the land.

**Senator Schroeder** asked about the directive that the Department of Fish and Game issued to its employees not to interact with Mr. Marvel. **Mr. Hensley** answered that the Fish and Game directed its employees to interact with Mr. Marvel in writing. This grew out of an incident that happened at a Wolf meeting where Fish and Game was taking public comments on the Wolf proposal. This came from the Director.

**Senator Siddoway** asked what the liability to the State is after the Fish and Game signed on? **Mr. Hensley** said the Governor understands potential liability. But, more important for the Governor is for the State to keep its word. The State understands it has an obligation to manage the species and oversee the industry. What the Governor would rather talk about instead of liability is what can we do today with the resources we have. This is an important issue. The Governor is engaged in finding a solution.

**Senator Siddoway** asked about the State's Constitutional Defense Fund, what is it used for, if that could fit here, who is authorized to use it and what the mechanism is? **Mr. Hensley** said it is set up for the State of Idaho to engage in litigation and to defend itself in litigation. Some of the members on the Constitutional Defense Fund are the Governor; the Pro Tempore of the Senate and the Speaker of the House. In the past it has been used to pay the legal fees of the State in certain litigation. It is a very public process, but the concern is that it is only invoked when the State is sued, or the State is suing someone. For example, it was discussed whether or not it could be used to intervene on behalf of permittees in a federal lawsuit as we've seen in the past. In our opinion that is probably inappropriate. That doesn't stop the Governor from intervening on behalf of federal agencies and others in other cases. We have other means for that.

**Chairman Gannon** asked how practical is it to maintain spatial separation? **Mr. Hensley** said this is obviously one of the issues the committee has been looking at. One of the concerns is in maintaining spatial separation or temporal is what happens when you don't. At that point, what tools are on the table for the Fish and Game to manage the situation? There are really two steps to the equation: can you create enough of a buffer between the two to prevent them from intermingling, and if you don't what is the response that the State will have in that situation? **Chairman Gannon** asked if this has gathered steam because of the number of Big Horns that have died because of pasteurella? He said he can see this mushrooming into the beef industry where you want to maintain separation between elk and beef. What's the limit? **Mr. Hensley** said that question will be best presented in the longer forum

discussion we will have on the policy. Right now the Governor has directed him to work fast and furious on the interim strategy. As we do that and work with agencies and groups, we will take that to heart and understand the broader implications of what we do.

**Mr. Boyd** said there was a big sheep die off in Hells Canyon in 1996 that preempted the closure of those allotments there. It was first speculated that it was caused by domestic sheep. It took ten years to get that research paper published - it was published just last month - and it showed that the Big Horn died of their own strain. For ten years the industry was charged with that, but the research just came out.

**Vice Chairman Heinrich** asked if there is any discussion of the increased fuel load in these areas and the danger of fire? **Mr. Boyd** said there is. The industry has developed what they call the prescribed grazing program and they look at all of that. They look at the management of land by utilizing livestock for fire load. As allotments are being closed the government then, two or three years later, pays for goats to come back in to reduce noxious weeds. It kind of comes full circle.

**Senator Siddoway** said he received a phone call from someone who goes out with a powered parachute to hunt coyotes. The Fish and Game apparently confiscated his parachute. He said he knows that **Mr. Boyd** issues permits to hunt coyotes from a powered parachute. He doesn't know if this person had a permit, but if he didn't, is it legal for the Fish and Game to keep his parachute, gun and equipment? Is there just a general fine for hunting without a permit? **Mr. Boyd** said regarding confiscation and enforcement, he will need to look at the Code for the penalty. For enforcement, it would be any law enforcement officer. That person should seek counsel.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 5].

**MOTION**

**Vice Chairman Heinrich** moved to approve the January 14, 2008 minutes. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT**

**Joe Davidson** of Jerome, ID was appointed to the State Soil Conservation Commission to serve a term commencing September 13, 2007 and expiring July 1, 2012.

**MOTION**

**Senator Schroeder** moved to send the appointment of Joe Davidson to the Senate floor with a Do Pass recommendation. The motion was seconded by **Senator Corder**. The motion carried by **voice vote**. **Chairman Gannon** will sponsor this appointment.

**ADJOURNMENT**

**Chairman Gannon** adjourned the meeting at 10:06 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 5, 2008

**TIME:** 8:00 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Vice Chairman Heinrich, Senators McGee, Corder, Hill, Siddoway, Thorson (Stennett) and Sagness

**MEMBERS ABSENT/ EXCUSED:** Chairman Gannon; Senator Schroeder

**GUESTS:** See attached sign in sheet.

**CONVENED:** **Vice Chairman Heinrich** called the meeting to order and introduced Frank Muir, President & CEO with the Idaho Potato Commission.

**GUEST SPEAKER:** **Frank Muir**, President & CEO, Idaho Potato Commission, presented information about the budget of the Commission.

**Senator Siddoway** asked how much money came from the increase in the potato crop and how much came from the increase in the tax assessment. **Mr. Muir** said they are spending about \$4 million this year in an ad campaign, and about \$2 million of that is coming from the tax increase. The Commission has taken over the responsibilities of the Potato Growers of Idaho (PGI) who voted to disband their organization except for work as a Political Action Committee (PAC). The Commission also created three committees and hired a new person to work full time on the Eastern side of the State. \$500 thousand is going into the three committees including salary, offices, benefits, travel and communication devices and the PAC responsibilities. **Senator Siddoway** asked how much of that was just the increase on the yields? **Mr. Muir** answered the yield is not budgeted in this. That would be another \$1.3 million on top of what is here in the budget. The intent is not to build up reserve but to have a three month reserve.

**Vice Chairman Heinrich** asked if the yield per acre is about the same. **Mr. Muir** responded that the yield per acre they've been using is a five year average. The last couple of years have been higher than the five year average so it makes him wonder if they shouldn't be a little more aggressive in budgeting. However, the one year they budget the other way they may end up with a shortfall. With the heat of last year, many were projecting a shortfall in yield; so, to have extreme heat and then a bumper crop is unusual. What resulted was a lower pack out, which means lower number one's, which is a more difficult crop to manage because you don't have as high quality and it is more difficult to market. The positive thing is that advertising is moving this crop that isn't considered to be the best crop.

**Senator Siddoway** asked if they have discussed anything about developing more water storage such as the Teton Dam or the Minidoka Dam? **Mr. Muir** answered that this will be one of the issues discussed at the new Agriculture Affairs Committee meetings beginning in the next couple of weeks. The Potato Commission in the past has not been involved in the water issue, but because of the change in the responsibilities of the PGI, the Commission will now be more proactive in that area. The reason this is a sensitive area is because they have people on all sides of the issue. It isn't a clear cut issue even within the growers or the processors. The Commission will try to get as much consensus as they can so they can communicate a clear position from the industry.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 1].

**GUEST  
SPEAKER:**

**Russ Qualls**, Professor, University of Idaho, Department of Biological and Agricultural Engineering and Idaho State Climatologist, shared a presentation on Climate Change Impacts on Southern Idaho's Surface Water Resources.

After the presentation of the 2030 Model Scenario Precipitation Changes slide, **Senator Hill** asked if this is the Northwest we're talking about. **Dr. Qualls** said it is. **Senator Hill** asked for a definition of perturbation. **Dr. Qualls** said it is a percentage change, a deviation from the historical mean. These climate scenarios are based on a historical period from around 1980s through 2000.

**Senator Sagness** asked regarding the assumptions that undergird the wet scenarios if it is simply that they are saying, in terms of their computer simulation, if this occurs and they adjust the variables to reflect the wet model and flow it through to see what it looks like, or does their research lead them to believe that it is likely and that really drives it? **Dr. Qualls** answered that each of the models came from a different modeling group. There was the National Center for Atmospheric Research model, the Noah Geophysical Fluid Dynamics model, and the Canadian Center for Climate Modeling model. These are numerical climate models that each of those groups have put together. They have built physics into them, certain input criteria such as what the carbon dioxide content of the atmosphere is going to be in a given year, the physics of certain understandings of what cloud behavior is going to do to things, and other factors such as the impact of sulfates on reducing temperature increases. Each modeling group put together a model and took the inputs that the Intergovernmental Panel on Climate Change (IPCC) projected. There are a lot of assumptions built into these. The National Center for Atmospheric Research (NCAR) looked through all the models and found one in which the model data output lay central to the collection of models that existed. That doesn't say that it is most accurate, it just lies in the middle. The wet and the dry models were the tails of the model as opposed to lying in the center. **Senator Sagness** asked is there a trend within the scientific community as it relates to these different scenarios? **Dr. Qualls** replied that a lot of scientists will agree that there is change occurring. Whether they are saying that is predominantly the result of anthropogenic carbon

inputs or natural variability with solar variations, or other things, you need to carefully define what it is they are talking about.

**Senator Corder** said Dr. Qualls offers compelling evidence that there will be a time when we won't have the storage capacity. It is his understanding that we have always felt like we had enough and we generally couldn't fill what we had. To the extent that we're able to develop recharge and capture that down below, it would appear that the only way we will see that on this model is the impact to those juniors on the tail end. Is that accurate? **Dr. Qualls** said that the costs for storing water below ground are substantially lower than building new reservoir capacity or increasing the height of current ones. There may be reduced impacts on the juniors in terms of the costs, but you may also be able to even out the supplies to have greater buffer during the dry years if you can store water across years. There are other groups dealing with conjunctive use issues. It may be necessary to couple the work Dr. Qualls is doing with the surface and subsurface interaction research that they are doing to look at the impact of storing this water on the Snake River Plain and ability to even out the dry years. **Dr. Qualls** said he doesn't have an answer right now, but this is a significant issue to look at. **Senator Corder** asked whether that study will also indicate what the implications are downstream if every upstream state were to begin to capture and only the minimum stream flows established went on? **Dr. Qualls** said the end result of the storage in Brownlee Reservoir shows the water flowing out of the system. He isn't aware if the MODSIM has been extended down to the mouth of the Columbia or not. They could certainly project storing this excess water and how much is being released from the Brownlee Reservoir, then downstream states and water right holders could take that information and use it. Within this system we could only retain what we had rights to. **Senator Corder** said that is the point . . . when we get to that recharge, that will be the war. We already think we understand the rest of it. We'll be fighting over the excess.

**Senator Sagness** said the Governor proposed \$20 million to do research on the aquifers. Senator Sagness said he would be very interested to find out more about what is currently known about the aquifers and what will be looked at if we do this study. **Vice Chairman Heinrich** said there are three or four bills coming forth and part of this discussion will probably ensue. He asked Dr. Qualls if all of his models are making the assumption that the vegetation in the water shed is going to be the same? **Dr. Qualls** answered that his model is a relatively simple model. There is a relationship between the annual precipitation and the volume of runoff. Over the 25 year historical measurement picture there is a tight correlation between the annual precipitation and the annual volume of runoff. So to the degree that those vegetation characteristics are the same, that implicitly carried through into his model.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 2].

**GUEST**

**Richard Allen**, Professor of Water Resources Engineering, University of

**SPEAKER:**

Idaho, Departments of Biological and Agricultural Engineering and Civil Engineering, spoke about the types of research they are involved in relating to agricultural water supply.

**Senator Sagness** asked how far back Mr. Allen has records about the aquifer and spring discharges? **Mr. Allen** said they have records for the Thousand Springs area dating back into the 50's and have hydro graphs back to 1890 of what they think are the gains to the Snake River and the Thousand Springs area. Starting in the 1900's the spring flow increased by more than 30% or 40% because of all the recharge on the aquifer coming from the canal systems. It reached a peak in about 1950 and since then has been in a bit of a decline. But the detailed modeling began about 1985.

**Senator Corder** asked about the Governor's \$20 million request to do research on the aquifers, and said it looks like Mr. Allen has already done that research. Does he have any idea how the Governor is going to spend that \$20 million? **Mr. Allen** answered that he only knows what he reads in the newspapers. The Snake Plain system has the most highly developed model because that's where their focus has been, but the technical committee he is on has a host of questions being posed by some of the various stake holders just on places within the model that can be refined. For example, can we come to the point where if a farmer switches on his pump can we see the reduction in the Crystal Springs? We haven't gotten to that point yet, but those are some of the questions being asked and the challenges that we have. So, there is still a lot of work to be done. In other parts of the State there is not a lot of modeling done to date. **Senator Corder** said it seems that Mr. Allen would have a better idea because one would think the Governor would ask them how much was needed to solve the problem. The other question has to do with the center pivot technology. He knows it works very well in some areas of the State, but there are other places in the State where it doesn't. He isn't convinced that they are getting enough help in the engineering technology with those pivots to help growers use them effectively in the places where they don't work well because they're wasting a lot of water. There are still hundreds of these things with end guns on them and there are pools of water everywhere they're being used because it's running off. They just aren't working effectively. What is going on at the University that is actually helping people do better at that? **Mr. Allen** said they have a whole list of information and guidelines to help center pivot users manage their systems better. It is always a challenge to get users to listen to their recommendations. They developed an automated soil water monitoring system to help schedule irrigations in Eastern Idaho about ten years ago. A particular farmer was asked by a researcher what he would really listen to in helping him schedule. He said he had so many center pivots to manage he wanted something he could drag down the road in his pickup truck at 60 miles per hour and not slow down to get the information. That is the challenge. They have good information but have to package it so that the user can absorb it well enough and easy enough to make it part of his routine operation. Regarding the end guns, it is probably good to turn a lot of those systems off. The prep program is helping that. Returning to the question on the Governor's desire to invest in ground water monitoring, they represent the agricultural supply part but there are

others at the University who are ground water modelers and its possible that those questions were posed to them.

**Senator Corder** asked about the studies being done on crops to try to use less water. Twenty years ago at Parma there was significant research being done on sugar beets. They researched at what stage they could be stressed and then harvested without minimizing sugar content or tons. Then that just went away. Is that being renewed so that we can actually determine the impact that goes beyond what the farmer wants to look at and see? **Mr. Allen** said that in the case of sugar beets one of the findings was that there are so many inputs besides water that at this point in time it is better to fully irrigate sugar beets to maximize net profit. Regarding the impacts to water resources, that is a different question. They are doing work now on dried beans, using very old Mexican beans that were very drought tolerant. They are mixing some of those genetics with beans that are disease resistant and highly productive, trying to see if they can develop a bean that can do more with less. Other places to save water are in early irrigation and late irrigation on wheat - places where they can save by better management and still have maximum yield and no stress.

**Senator Sagness** said he is very appreciative of the cooperation between Universities in this State. He asked how much development is going on particularly in the association of cities, not just in terms of development or restoration of wetlands, but in general, as it applies to the retention of water. **Mr. Allen** said in Idaho most of our wetlands are incidental because of irrigation. As we get more efficient in irrigated agriculture we may see some wetlands decreasing rather than increasing. Part of the question was if they impact groundwater. A lot of our wetlands tend to be at the downstream hydraulically of the ground water system because they are fed by outflow from the aquifer. They are not so useful as a water supply or retention. We are seeing cities like Twin Falls developing wetlands in the Snake River Canyon more for polishing their effluent, but also just as mitigation, a way to take phosphorous out of the water. One issue that hasn't come to the surface yet is that the increase of wetlands will consume water and whether there are water rights for that.

**Vice Chairman Heinrich** asked if some of these studies could be used to supplement or speed up the requirements of EIS studies? **Mr. Allen** said a lot of their work is used in the EIS's. For example the evapotranspiration map. You can't manage what you can't quantify and you can't look at environmental impact without good input data. A lot of the water quality monitoring program has gone into the EIS's.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 3].

**ADJOURNMENT** **Vice Chairman Heinrich** adjourned the meeting at 10:02 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

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Note: Any sign-in sheets/guest list, testimony, booklets, charts and graphs will be retained in the Committee Secretary's office until the end of the session. After that time the material will be on file in the Legislative Services Library Annex 5<sup>th</sup> Floor.

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 7, 2008

**TIME:** 8:00 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Thorson (Stennett) and Sagness

**MEMBERS ABSENT/ EXCUSED:**

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**GUESTS:** See attached sign in sheet.

**CONVENED:** **Chairman Gannon** called the meeting to order.

**RS 17870** Domestic Cervidae Promotion Assessment Act

**Judy Boyle**, Idaho Elk Breeders Association, stated that this legislation amends *Idaho Code, Title 37*, to add a Domestic Cervidae Council and promotion assessment allowing producers of domestic cervidae to assess themselves for the promotion and preservation of their industry. The legislation includes a refund provision for producers who do not wish to participate.

**MOTION** **Vice Chairman Heinrich** moved to print RS17870. The motion was seconded by **Senator Hill**.

**Senator Corder** asked how many members are in the Elk Growers Association? **Ms. Boyle** said 46. **Senator Corder** asked how many elk growers are there in the State? **Ms. Boyle** said 86. **Senator Corder** said only half of the elk producers in the State are represented by this legislation which calls for the membership of the council to be only members of the Association. The check off would apply to everyone who grows elk because the check off is per head determined by whoever is overseeing the count. If it is on January 1 of each year, it is based on every animal that has been on that farm the previous year. The inventory has to be maintained by someone. Is that inventory going to be maintained at the State level by the Idaho State Department of Agriculture (ISDA) through the rest of their cervidae program? Then, is a non member of the Association taxed but can't have representation on the Board because it is not possible for them if they aren't a member of the

Association, even though they are taxed accordingly? Please clarify. **Ms. Boyle** answered that about half of the people who grow domestic cervidae in this State belong to the Elk Breeders Association. It is similar to the Idaho Cattle Association who brings forth the check off legislation. This really is not considered a tax when you can get all your money back. This is a refund. It's true that they would not be part of this Council. This is to encourage them to become members. If they don't wish to become members and they don't wish to participate in this program, they will get all their money back. None of it is held for administration. As for the inventory, every year the Department of Agriculture requests an inventory. They actually go out to make sure it is correct. They do keep a record just as the producer keeps a record. That is why the Association went to the Department of Agriculture to see if they would also collect the Association's assessment. **Senator Schroeder** said everyone is going to be assessed and the Department of Agriculture is going to collect the money for the Association, correct? **Ms. Boyle** said that is correct.

**Senator Hill** said one reason he agreed to be the floor sponsor for this bill if it comes out of this Committee is because there were lots of problems last year and they tried to mandate this and mandate that. It ended up not going anywhere. It seems that the elk breeders are trying to get together and manage themselves as other industries in agriculture do, so that there aren't so many problems. A lot of the problems they have is a result of a lack of education and proper understanding by some of the elk growers. He said he thinks it is a positive step forward for an industry to take responsibility for themselves and try to get themselves in order so they don't have to have special mandates. He applauds them for that and believes the Committee should at least print this bill to get views from different points and decide as a Committee what to do. He thinks the Committee owes it to the industry to let them try to govern themselves; that is good, sound policy.

**Senator McGee** said he will probably vote to print this bill but he has some concerns and questions. He said he is still a little bent out of shape about last year and the efforts that this Chairman and these Committee members made to come up with a compromise agreement, only to have that agreement not have a hearing in the other Chamber. He said he will vote to print the bill, but has a lot questions about the actual legislation.

**Senator Corder** said that Senator Hill has made some valid points, and he commends the half of the industry that is here as well. It is the other half that bothers him. He would like the two halves to come together before they come with a piece of legislation, because that's what happened last year. One-third of the industry stopped the two thirds of the industry that the Committee thought they understood. Now we have half and half. The odds are getting worse, and he would like to see them resolve their differences before they come and ask the Committee to resolve it for them. He isn't sure three dollars a head at 85 growers is enough money anyway. They need to be realistic about that. Remember that this is the same group who didn't want to increase the fee that the Department proposed to cover the cost of operating that program specifically as it had to do with escapes. Yet, now they want it increased in a different place where they have the flexibility to use that money.

These are issues that must be resolved before they come here.

**SUBSTITUTE  
MOTION**

**Senator Corder** moved that RS17870 be returned to the sponsor. **Senator Schroeder** seconded the motion. **Chairman Gannon** called for a roll call vote on the substitute motion. **Senator Sagness** passed, **Senator Thorson** Nay, **Senator Siddoway** recused himself, **Senator Hill** Nay, **Senator Corder** Aye, **Senator McGee** passed, **Senator Schroeder** said he understands this vote is to send the bill to the sponsor because the bill represents a fee charged on the whole industry when only half of them agree to the bill. For that reason he will support his second and vote Aye. **Vice Chairman Heinrich** Nay; **Chairman Gannon** Nay; **Senator Sagness** Aye; **Senator McGee** Nay. **Chairman Gannon** said the Nay's have it and the substitute motion fails.

**Chairman Gannon** asked for a roll call vote on the motion to print RS 17870. **Senator Sagness** Aye; **Senator Thorson** Aye; **Senator Siddoway** recused himself; **Senator Hill** Aye; **Senator Corder** Nay; **Senator McGee** Aye; **Senator Schroeder** Aye; **Vice Chairman Heinrich** Aye; **Chairman Gannon** Aye. The motion to print carried by roll call vote.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 1 and 2].

**GUEST  
SPEAKER:**

**Kelly Olson**, Administrator, Idaho Barley Commission, gave a presentation on the Idaho Barley Commission.

**Chairman Gannon** asked if any barley is going into the Biofuel system, or is it just corn going in and driving the barley? **Ms. Olson** replied that the majority of U.S. grain based ethanol is corn feed stock. There are a couple of projects on the drawing books in Idaho that would use barley as a feed stock.

**Senator Corder** asked about the yield increase on the winter barley, if you increase the yields almost a third and they are already selling to the brewers all they want to buy, it would seem to him they would have to reduce the acres or increase the production of beer. Which one of those will it be, or a combination? **Ms. Olson** replied that they are not supplying sufficient quantities to all of the companies in Idaho today. One of those companies, for various reasons, has had to import quite a bit of their barley this year. That company is G Modelo Agriculture, Inc. They have had lots of challenges in Eastern Idaho with their contract programs. They hoped to buy 7 million bushels of barley in Idaho this year but will be lucky if they get 3 million. Much of this is their own fault because they treated growers in Idaho quite poorly in previous years and, when the prices rose sharply after harvest, a lot of the growers did not deliver on their contract. The company is not processing at full capacity and are importing barley from North Dakota and Canada. If the winter malting barley becomes established they could reach into the Magic Valley pretty easily. They think there will also be export opportunities if the productivity is higher. However, the reality is that Idaho is one of the highest priced producers in North America because of the contracts and irrigation. Our cost of production is quite high compared to our neighbors in Montana and Canada who are all dry land producers. We need to be able to get a good

return in the market. The International market is quite volatile. The only way we can compete in the future is to increase productivity. Our growers can make a lot more money and we think we can compete on world prices with this kind of barley.

**Senator Corder** asked how many contracts were not fulfilled and what will be the consequences to those growers for not honoring their contract? That is not a good story to tell. **Ms. Olson** said it isn't a great story to tell. Here is the issue with malt barley contracts. They are different than most other forward contracts in the commodity world. They have Act of God clauses which basically say that if you are unable because of production reasons to fill your contract, you aren't legally required to go and buy replacing grain. If you had forward contracted wheat last year and you had a drought and couldn't fill your contract, that is exactly what a lot of Idaho wheat farmers faced. They had to go into the market during rising prices and buy replacing wheat to fill those forward contracts. That is not true in malt barley. In most years growers perform well and the companies perform well and everyone is relatively happy. This year was an extraordinary year. Because of this Act of God clause she doesn't think Modelo can really go after those folks. In some cases the grower never even planted the grain. It reflects as badly on the company as it does on the grower because the company didn't have a field program - they weren't checking and they weren't monitoring. They had no idea what was going on. They have treated their producers quite poorly in the two recent years, so she is not surprised by the reaction they got. They have offered some extraordinary price incentives this year. They are the most aggressive company in 2008 in offering contracts and are trying to revoke some of that Act of God clause and will punish the growers who won't deliver full contracts. She is worried about growers who aren't paying close attention to all of that language in those contracts.

**Vice Chairman Heinrich** asked about the Overview of 2007 Idaho Barley Crop slide, it shows 59% graded #1, compared to 71% last year. Was that due to the heat or can you explain #1? **Ms. Olson** said it was from the heat. About 70% of our crop is irrigated, 30% is dry land and we saw losses anywhere from 20% to 100%. We saw a lot of barley that was what we would call very thin kernels. That would be the plumps very low and the thins very high. That is the primary reason it graded lower than in most typical years. **Vice Chairman Heinrich** asked what market does that go to - instead of going to malt barley, does it then go into the feed? **Ms. Olson** said that is correct. The companies that are the first point of delivery will try to blend as much as they can to meet the plump spec for malt contracts, but if they are unable to, it gets screened off as feed barley. In some cases it gets sent down the river to export. Our exports to Japan are double what they were a year ago and North Idaho is a good source of feed barley exports to Japan.

**Senator Siddoway** asked **Ms. Olson** if her salary is correct in the proposed budget? **Ms. Olson** said that not 100% of the salaries are accounted for in administration. Since the Commission was started in 1988, the Boards she has worked for have chosen to allocate a portion of her salary to research, market development and growth services in proportion to the effort she puts into those categories. The proposed

budget does not reflect 100% of her salary, it only reflects 25% and then all of their administrative assistants.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 3].

**GUEST  
SPEAKER:**

**Rick Waitley**, State Director, Idaho Agriculture in the Classroom, gave a presentation about the program. He referred to the packet of information that they provide to teachers concerning the program.

**Senator Hill** asked if the great white northern beans used in the cookies Mr. Waitley brought came in a can? **Mr. Waitley** answered that no, they soaked them and cooked them.

**Senator Sagness** asked about research done on effectiveness of the program in the classroom. **Mr. Waitley** said it is difficult to measure. They know that when they educate an elementary teacher they are probably talking to 25 - 30 students. When they educate a secondary teacher they are talking to more than 90 - 100 students. They measure part of their success by the returning teachers and what they say to the program. They are finding a large number of young teachers that come from Idaho colleges and universities enter the classroom with a really green spirit. Last year the program featured a fish lunch from Idaho Preferred that served Idaho trout. They have worked with Idaho Beef Council in the past. Almost all the teachers at the workshop who say they don't eat meat and that they are a vegetarian, are teachers who have taught for less than three years. Through education they have been able to change some definite viewpoints of teachers in the areas of management of water in Idaho, smoke management in Idaho, immigration, and transportation. It is difficult to show a chart that shows the change this program makes, but it is his belief that if Ag in the Classroom had been started in 1955 instead of 1985, we would not be dealing with some of the issues we're dealing with today. Our County Commissioners, our Planning and Zoning, more and more people making public policy decisions would have an understanding of where food and fiber comes from. They would approach some of the issues differently that are right there for them in their communities.

**Senator Corder** said we are all aware of the impact of our mothers in our lives, and those of us who have been influenced by **Mr. Waitley** for a number of years refer to him as Mother Waitley. He commends **Mr. Waitley** for the impact he has had. **Mr. Waitley** shared that in 1994 when this program was at the Department of Agriculture (and this has no reflection on the current Director of Agriculture) it was assigned to a State employee to administer. The year-end balance of dedicated funds was \$700. It is pretty hard to deliver a program with a carryover of \$700. The carryover at the end of June of last year was \$84,700. This could present some challenges. His fear is that the right director down the road will end the program, so the industry needs to own the program, and he is confident that there are industry people who will step up and say they are ready to make a run with this.

Supporting documents related to this testimony have been archived and

can be accessed in the office of the Committee Secretary [see Attachment 4].

**GUEST  
SPEAKER:**

**John Hartman**, Chairman, Idaho Alfalfa and Clover Seed Growers Commission, presented information about this Commission.

**Vice Chairman Heinrich** noted that the Commission is bringing in about \$37,000 in assessments and only refund out \$112. He stated Mr. Hartman must be doing a good job because no one is asking for their money back. **Mr. Hartman** said there are always one or two who do not want to belong to anything, so the refund has to go out.

**Senator Siddoway** asked what Mr. Hartman foresees in the near future about the need for seed with the increased alfalfa prices. Does he see alfalfa and clover as being higher plantings, declining or stable? **Mr. Hartman** asked if Senator Siddoway is asking about forage or seed? **Senator Siddoway** said he expects Mr. Hartman will know about what will get planted before the forage folks will know about it. Do you anticipate demand for that seed or lesser demand for that seed because of the demand for forage products? **Mr. Hartman** said at this point the forage lags behind the commodity prices. It looks like everyone is racing to the grain cause today. He thinks it is taking acreage from the forage crops because it is a quick buck. A year later they will wonder where the hay is and will push for that. The greater picture is where the bean and carrot seed crops are. It is amusing, but sad, when a field man or company manager come to him and are trying to place these valuable seeds. They usually say they can't pay you for this because wheat is only worth \$600 and they can pay you only \$100 or \$200 more an acre. Now that those commodities are doubled or tripled in price they're saying this is too much, and wonder what to do now. They manage their inventories very tightly and now they are scrambling to keep up with these commodity prices, and he thinks they're very afraid. They are trying to get over the corn bubble.

**Chairman Gannon** asked if the court ruling on the Genetically Modified Organisms (GMO), is a done deal now. Where is that going? **Mr. Hartman** answered that is really complicated. The court ruling is done. The judge has said cease and desist and told the forage genetics that they can raise the roundup for the alfalfa seed that is in the ground and the roundup for the hay that is in the ground can stay there and expire. The court ruling asked for an environmental impact statement. Yesterday was the ending period for what they call a scoping process so they've asked the world what questions to ask. Then they'll pick the questions and study this until they come up with what to do. It is a long process. **Chairman Gannon** said it is earth shaking because this is the first time they've ruled that you needed an environmental impact study on the economics of a particular commodity. Is that correct? **Mr. Hartman** said that is what started it. A smaller producer said he has markets that require no presence of this modified organism. He is saying he is losing his markets, therefore this is infringing his rights. That is the basis. Mr. Hartman believes technology has kept American agriculture strong and technology is where it has to go.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 5].

**GUEST  
SPEAKER:**

**Betty Munis**, Director, Forest Products Commission, gave a presentation about the Commission's programs and activities, members, goals and funding.

**Senator Siddoway** said it seems as if conflicts between the forest service and the timber industry have subsided somewhat. Is that because of the great success of the Learning Tree Program in the classroom or is it because the logging industry has basically been run off the forests because all the regulations and lawsuits have stopped the harvesting efforts on public lands? **Ms. Munis** said there is value to having environmental laws protecting our resources. There are also consequences to making our demand go someplace else. There has been a lot less controversy now compared with the 70s, 80s and 90s. There has been legislation on this. Many people are concerned about the loss of our forests. She does believe Project Learning Tree has helped people understand that this issue is very complicated sometimes. It isn't just black and white. There may be a return to conflict in the future. Weyerhaeuser just signed an agreement to do some research on bio fuels. We'll see where that goes. There are a lot of exciting things ahead in this program.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 6].

**ADJOURNMENT** **Chairman Gannon** adjourned the meeting at 9:53 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 12, 2008

**TIME:** 8:00 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, Corder, Hill, Siddoway, Stennett, Sagness

**MEMBERS ABSENT/ EXCUSED:** Senator McGee

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**MINUTES:** **Chairman Gannon** convened the meeting at 8:03 a.m.

**MOTION:** **Senator Hill** stated he had read the minutes of January 15, 2008, and moved that the minutes of January 15, 2008 be approved by the committee. **Vice Chairman Heinrich** seconded the motion. The motion was approved by **voice vote**.

**MOTION:** **Senator Corder** stated he had read the minutes of January 22, 2008, and moved that the minutes of January 22, 2008 be approved by the committee. **Senator Sagness** seconded the motion. The motion was approved by **voice vote**.

**GUEST SPEAKER:** **Chairman Gannon** welcomed **Wally Butler**, Range & Livestock Specialist from the Idaho Farm Bureau. **Mr. Butler** made a presentation to the committee on the subject of "Rangeland Fire Considerations."

**GUEST SPEAKER:** **Chairman Gannon** welcomed **Ron Kay**, Range Management Division of the Idaho State Department of Agriculture (ISDA). **Mr. Kay** made a presentation to the committee on the subject of "Fire Rehabilitation."

**Senator Hill** inquired of **Mr. Kay** what the cost is, per acre, to reseed. **Mr. Kay** replied it depends on the seed and whether or not the ground is drilled.

**Chairman Gannon** asked what effect, if any, the weather we are receiving this winter will have on the success of the seeding. **Mr. Kay** responded that the ISDA is expecting a good growing season, depending on what occurs during the spring. **Chairman Gannon** confirmed with **Mr. Kay** that the ISDA is optimistic about the growing season this year.

**Chairman Gannon** inquired how much of the infrastructure, i.e., the availability of water so that a grower can get a better disbursing of the grazing, exists, or would the infrastructure have to come along in order to have a better grazing policy? **Mr. Kay** said in this part of the world, there is a lot of infrastructure in place.

**GUEST  
SPEAKER:**

**Chairman Gannon** welcomed **David Torrell**, Regional Manager of the Rocky Mountain Elk Foundation. **Mr. Torrell** made a presentation before the committee on the subject of "Stewardship of Range and Forest Lands."

**GUEST  
SPEAKER:**

**Chairman Gannon** welcomed **Lou Lunte**, Associate State Director of The Nature Conservancy. **Mr. Lunte** made a presentation before the committee on the subject of "The Role of Grazing in Conservation."

**GUEST  
SPEAKER:**

**Chairman Gannon** welcomed **Katie Fite**, Biologist with the Western Watershed Project. **Ms. Fite** shared her views concerning the subjects previously addressed by **Mr. Butler**, **Mr. Kay**, **Mr. Torrell** and **Mr. Lunte**.

**Senator Corder** inquired of the four gentlemen speakers how the committee can help address some of the concerns of the groups who want no grazing at all and who are convinced that the only species that is eligible is a native species, even though it costs much more money than a species we might be able to afford. **Mr. Butler** replied proper management of rangeland to minimize the invasions is the real key issue. **Mr. Torrell** addressed the part of **Senator Corder's** comment and question related to accountability and how they and the Agricultural Affairs Committee need to deal with it to insure that accountability. **Mr. Torrell** stated, in the world today, there is such a diversity of views, opinions and values that none of us are ever going to arrive at a consensus on anything on a global perspective. **Mr. Torrell** continued that the key to the future is effective communication, with respect. He continued that the future is going to require some key factors that have never been demanded before, those being: (1) effective leadership in all aspects of the various diversities and interests in existence; and (2) decision making, an on-going challenge that people struggle with. Groups with diverse and differing opinions and views need to come together and talk and listen, and develop strong collaborative partnerships. **Mr. Lunte** addressed the science aspect of the discussion, saying, "Science informs, it doesn't decide." **Mr. Lunte** continued as far as the science goes, they are looking more at a landscape level, trying to put what is happening at one point into context, and there are some great advances in the sciences now to be able to do that. **Mr. Lunte** said there are tools available today that can help inform them in that process to understand how an action at one point might affect, for instance, sagegrouse at a broader landscape. The tools did not exist 10 years ago, stated **Mr. Lunte**. **Mr. Lunte** continued that The Nature Conservancy is involved in some partnerships to help advance those tools and for landowners and agencies, both, to have access to those tools so they can better understand what is happening on

the land, and the trends. **Mr. Lunte** went on to address the issue of native versus non-native, saying native species have a place in the landscape and in post-fire, they are very important. Non-native stable eco systems are much more resilient to weed invasion by being managed appropriately. **Mr. Lunte** stated we do not have enough native seed. **Mr. Lunte** stated he would like to see more emphasis on growing our native seed so that it can be used when it is appropriate.

**Senator Schroeder** inquired regarding slides shown by **Mr. Butler** which indicated a possible mosaic of different grazing strategies and the importance of minimizing the effects of the catastrophic fires and whether or not that will produce sagegrouse in high enough numbers to keep them off the endangered species list. **Mr. Kay** responded sagegrouse rely on sagebrush so the more often there is a burn, the better it is in that the sagebrush step normally has a burn cycle of approximately 40 years. The problem, though, is with the cheatgrass coming in, the fire cycle is changing to one or two years. Therefore, the ability of the sagebrush to re-establish has been diminished greatly.

**Senator Schroeder** inquired if there is research on sagegrouse that supports what had just been said by **Mr. Kay**. **Mr. Kay** responded that the bottom line is that sagegrouse eat sagebrush, the fires are big, we are losing the sagebrush due to the fires, and the sagebrush takes two to three decades to re-establish, but **Mr. Kay** was not sure about research papers. **Mr. Torrell** responded that there are research papers available and he will get those papers to **Senator Schroeder**. **Mr. Torrell** continued that any one tool, such as grazing, is not a cure-all. He also brought up the possibility of the value of multi-species grazing systems in the near future.

**Chairman Gannon** asked **Mr. Torrell** what he meant when he referenced "treatment" of 14,000 acres. **Mr. Torrell** reiterated that the mission of his organization, the Rocky Mountain Elk Foundation, is to conserve habitat for elk and other wildlife via (1) land protection, and (2)stewardship of the land (habitat protection).

**Chairman Gannon** referenced landscape scale management and the leadership of Senator Crapo who was able to get all the players together. **Chairman Gannon** asked where the leadership will come from if the state is divided up into landscape management areas. **Mr. Butler** replied that type of project must be user-driven, either the landowners or the resource groups that utilize the lands. **Mr. Lunte** agreed that locally-driven works best. **Mr. Torrell** stated that the dynamics and complexity of the problems that are faced today within the industry are going to require multiple facets of leadership and decision making. **Mr. Butler** said that the other thing is that they have to be truly a collaborative effort. People have to be willing to set biases aside.

**Senator Sagness** questioned Mr. Torrell regarding landscape planning and systems thinking. He asked if government plays an important role in this and in policy formation, what does he see as the nature of that policy formation that can result in bringing people to the table to deal with this

type of planning which involves such a large scale of conflicting interests. **Mr. Torrell** replied that the Non-Government Organizations (NGO) pay particular attention to the policies and messages that the State Legislature sends as a result of their work, even in the form of recommendations, encouragement, etc. The Legislature sets the tone under which the various organizations can work to build the partnerships. He continued that the process of dialogue is often more important than the process of decision making.

**Senator Siddoway** directed his question to **Mr. Kay**. In the opinion of **Senator Siddoway**, there is only one way to stop cheatgrass and that is with crested wheatgrass, and he requested **Mr. Kay's** opinion on that. **Senator Siddoway** also asked **Mr. Kay** to tell him the difference in the landscape system between someone who owns 50 head of cattle on a 500-acre landscape, and someone who owns 1,000 head of cattle on a 10,000-acre landscape, i.e., if both of those are set up properly with the proper cross-fencing, rotation and water systems. Additionally, **Senator Siddoway** asked who put the fires out prior to the 1900's. **Mr. Kay** replied that cheatgrass and crested wheatgrass are both non-native. They are both from Asia. One does prevent the other one from spreading. Regarding **Senator Siddoway's** question concerning the landscape system, **Mr. Kay** replied that the more animals a person has on land that has traditional fires, there may be an opportunity for a person to bring in some livestock or do some type of chemical or mechanical breaks to break up the landscape. Also, generally, what puts fires out is the change of weather. Most often, the fires burn until the weather changes.

**Wally Butler** addressed **Senator Siddoway's** question about stocking. Using **Senator Siddoway's** example from his question, **Mr. Butler** said the success of a larger operation is the success of the herder or the range rider that keeps the distribution proper and makes the rotations work. With the smaller operation, it is easier to move a few head and be accountable for the entire amount and keep the pasture integrity correct. Theoretically, for the impact on the land, on a per acre basis, it should be equal with all the management being carried out equally. That is the biggest challenge with a larger operation.

**ADJOURNMENT:** **Chairman Gannon** adjourned the meeting at 10:04 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 14, 2008

**TIME:** 8:00 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Sagness

**MEMBERS ABSENT/ EXCUSED:**

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**MINUTES:** **Chairman Gannon** called the meeting to order at 8:04 a.m.

**GUEST SPEAKER:** **Chairman Gannon** welcomed **Dr. Ken Sanders**, University of Idaho Extension Range Scientist. **Dr. Sanders** spoke to the committee on the subject of "Range/Grazing Management After Fire", which included information on how soon to graze after fire, as well as if grazing can be used as a tool to reduce the incidence or intensity of fire.

**Chairman Gannon** asked if the requirement for the BLM and Forest Service to make a decision within a month after a wildfire as to whether there is a need to re-seed is dictated or is it just the practicality of it. **Dr. Sanders** replied that it is just their policy.

**Dr. Sanders** continued that native seeds are extremely difficult to get established, if one can even find the seed. **Senator Siddoway** asked the speaker to "underline and circle" that point because it is so important.

**Dr. Sanders** said there is reason to question a blanket policy of two years or more rest after a fire. Those opposed to grazing, of course, say "No." Common sense says "Yes" because anything that can be done to reduce the amount of fine fuel is going to lessen the chance of ignition and certainly reduce the spread and intensity of the fire. **Senator Hill** asked why some people would say "No", in that if logic says "Yes" and if the fuel is reduced, the fire will be reduced. **Dr. Sanders** replied that most of the people who say "No" are opposed to grazing.

**GUEST  
SPEAKER:**

**Chairman Gannon** welcomed **Dr. Neil Rimbey**, University of Idaho Extension Range Economist, who spoke to the committee regarding "Range Economics of Fire."

**Chairman Gannon** inquired how cheatgrass survives all the fires and regenerate so quickly. **Dr. Sanders** replied it is because the cheatgrass has the seedbank, and that the fire, unless it is an extraordinarily hot fire, does not destroy the seedbank.

**Vice Chairman Heinrich** asked how long the cheatgrass can stay in the ground to germinate. **Dr. Sanders** said three years is about the maximum.

**GUEST  
SPEAKER:**

**Chairman Gannon** welcomed **Wally Butler**, Range & Livestock Specialist, Idaho Farm Bureau. Mr. Butler addressed the committee on the subject of "Public Policy."

**Senator Schroeder** referenced the problem with sagegrouse and that if they are listed, grazing is affected. **Senator Schroeder** continued that the grasses are such that a lot of that ground is going to burn more frequently than it did historically. Therefore, if there are large areas of Bureau of Land Management (BLM) grass that burn every two or three years, sagebrush cannot re-establish itself; consequently, how do we prevent sagegrouse from being listed if we don't have habitat for them? **Dr. Sanders** stated that is why we should be looking at grazing as a tool to protect those areas and, through targeted cattle grazing enough cheatgrass, the seed supply could be depleted. **Senator Schroeder** asked regarding the big effort to replant sagebrush, if, in **Dr. Sanders'** opinion, is that effort just public relations or is it going to do some good? **Dr. Sanders** replied that, in his opinion, it was purely public relations. **Senator Schroeder** asked how the sagebrush is going to be brought back for the sagegrouse? **Dr. Sanders** replied that it does no good to plant sagebrush in a cheatgrass area because it is just going to burn again. **Dr. Sanders** continued that until a sprouting form of sagebrush can be developed or bitterbrush, we must plant what we know can get established, which are not the native seeds. **Senator Schroeder** stated that he sees the possibility as being: sagegrouse gets listed; we kick the grazing off the BLM land; because of the community of plants we have, it burns very quickly and we really never get anywhere. **Mr. Butler** replied that, not in this committee, but, nationally, it is politically correct that we must have native seeds. **Mr. Butler** continued that we cannot be shortsighted; we must look at what can be done in the future and what we can do to save what we have and, based on his and **Dr. Kay's** personal research and experiences, aerial seedings are failures. **Senator Schroeder** inquired if there are maps that show where the sagebrush is concentrated. **Dr. Sanders** replied the agencies have that information. At a presentation by Dr. Nancy Shaw at the Society for Range Management recently, in response to a question of whether or not the

government is throwing money away by aerial seeding of sagebrush, **Dr. Rimbey** said it was found that 23 out of 34 sagebrush seedings they reviewed were categorized as dismal failures. **Senator Schroeder** asked for a copy of the paper on that and **Dr. Rimbey** said he would get the reference to **Senator Schroeder**.

**Senator Siddoway** asked the three speakers what they perceive are the barriers that prevent the decisions from being made that need to be made about whether or not to seed, whether it's a waste of money or not. **Dr. Sanders** said under the Endangered Species Act (ESA), one is guilty until one proves he/she is innocent. There have been many attempts to amend the ESA to get it back to where it's the way the legal system is supposed to be, i.e., the burden of proof is on those that oppose the delisting. That is one of the big problems with the ESA, according to **Dr. Sanders**. Also, **Dr. Sanders** continued, another barrier is when the people who write the Environmental Impact Statements (EIS) put statements in the reports that they cannot support. If the people opposed to grazing can keep the matter tied up in court instead of these documents being completed, they're winning by default.

**Senator Hill** asked if there is a large range fire that covers federal land, state land and private land, and it comes time to re-seed, how is that coordinated? **Senator Hill** also asked if the private landowner can opt in or opt out of the contract, and how are the costs shared, and are there different requirements between the federal lands and the state lands? **Mr. Butler** said that when there is state land within a BLM area, it is a cost-share type of arrangement to use the same seed mix and the same contractors to seed across similarly managed pastures. He continued that it wouldn't make sense to seed one section of state land to different species within another seed mix. If the situation involves privately-owned land intermingled within BLM, because of management criteria later, the land has to be seeded similarly.

**Vice Chairman Heinrich** stated there is a process guaranteed but there is not a good result guaranteed. **Vice Chairman Heinrich** asked when the Environmental Impact Statements (EIS) are being done on the grazing and/or even on timber sales, are the potential facts of fire taken into account? **Dr. Rimbey** replied that he has never seen that scenario in the EIS. **Vice Chairman Heinrich** then asked how it would be possible to get that information in the National Environmental Protection Act (NEPA) process, since it is such an important issue. **Dr. Sanders** responded that NEPA and other legislation require not only the production but an economic component be included. Currently, in studies that have come out recently, those components are not in them. **Mr. Butler** interjected that the other mechanism that could be brought in is that those Acts are supposed to consider the local customer and culture. Also, the areas that are being impacted are supposed to hold public hearings; however, often that part of the process is skipped because county commissioners do not ask for the hearings in the counties where they are affected. One of the approaches that could be taken from now on is to insure the county commissioners ask for hearings open to the public. **Vice Chairman**

**Heinrich** said his understanding is if the county commissioners ask to be cooperating agency status, that requirement gets around because they can be at the decision-making process.

**Senator Sagness** asked if there is any research available on these issues that is contradictory to what they have said today. **Dr. Sanders** replied that one of the problems they face in range management is that there are so many variables. On rangeland, Mother Nature controls all the variables. Therefore, it is extremely difficult to replicate studies to the extent that, statistically, beyond any doubt, that this is actually fact. Because of the lack of control over the variables, it is almost impossible to determine absolutes so decisions eventually have to be made on the information gathered through research. **Dr. Sanders** also stated that as far as the Endangered Species Act is concerned, the burden of proof should be on those who want to list something to prove it needs to be listed, not on the rest of society to prove that it should not be listed.

**Senator Siddoway** stated that, in his opinion, for some places, seeding is good but in other places, it is a waste of time. Some way, some how, he continued, we must find a way to intervene in the senseless seeding of incorrect areas and get back to a common sense scenario. He queried what the State Legislature can do to help improve the seeding process and help determine whether Federal dollars will be put into rehabilitation or whether rehabilitation of certain land is going to do us any good. **Dr. Sanders** replied that one way is to make sure the county commissioners are aware they have an opportunity to participate. Legislative influence on state land policy would also be beneficial.

**Chairman Gannon** concurred with **Senator Siddoway's** question of whether there is anything the State Legislature can do to help remedy the situation. All the opposition to the range specialists has to do is to file another lawsuit and the rangeland people are tied up for years from doing anything. It seems there may be *some* consensus between the rangeland people and the environmental groups about what does and does not work in some cases, but what can the Legislature do to help? **Dr. Rimbey** replied that it just depends. It depends on a lot of different things; however, if folks, at a local level, can be brought together and some agreement about what the goals are can be accomplished, that would be the major thing that needs to happen. **Chairman Gannon** stated that perhaps the Legislature can foster developing those relationships, perhaps with some types of incentives. **Mr. Butler** said that a lot of the money from the Federal Grazing Lands Conservation Initiative (GLCI) goes to the National Resources Conservation Services. The bulk of that money is in salary for their range people. Concurrently, there was a state companion program where the State Legislature provided \$20 thousand to be used for grant money for the Soil Conservation Districts. It was money well spent but the program was short lived. This is an area that may provide an opportunity to get some things going at a local level through that GLCI process.

**Senator Siddoway** presented a scenario to the speakers and asked them if they could see a way to deal with it. **Mr. Butler** replied that is a shift in

paradigms they may be able to make, i.e., sell themselves as an industry that can enhance and help to either control invasive species or to enhance wildlife habitat. They need to sell the various agencies on that concept.

**Senator Schroeder** said that President White had told the Education Committee that the university had set aside some money for a new rangeland management initiative. **Senator Schroeder** asked the speakers if they could shed any light on what exactly that is. **Dr. Sanders** replied that he had been told there was a commitment for \$150 thousand over a five-year period. The university would need to come up with the other half of the money for two employees. **Senator Schroeder** stated, in his opinion, the expertise lies with the university. He asked how the Senate Agricultural Affairs Committee and the Legislature can tie themselves and the expertise of the university together to provide direction for the future of rangeland management. **Dr. Sanders** said they are not going to be combined with Forest Resources but if they were combined with Forest Resources, which is so much larger than the Range Department, the Forest Resources would probably get both employees. Currently, Oregon State University and the University of Idaho are the only two stand-alone range departments in the United States, rather than the 17 or 18 there used to be. It appears to be a trend to downsize and eliminate the range management departments or classes at universities. **Dr. Sanders** said they are struggling to maintain a viable program. There is no grant money in grazing research and there has not been for many years.

**Senator Schroeder** addressed **Dr. Rimbey** with the same question as above. He is a bit more optimistic than **Dr. Sanders** about the situation. With a long-term perspective, **Dr. Rimbey** believes there are going to be jobs for students. If there are jobs available, there will be more students coming into the grange program which should mean the range program and range department get more "pieces of the pie."

**ADJOURNMENT:** There being no further business, **Vice Chairman Heinrich** adjourned the meeting at 9:56 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 19, 2008

**TIME:** 8:00 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators McGee, Hill, Siddoway, and Sagness

**MEMBERS ABSENT/ EXCUSED:** Senators Schroeder, Corder, and Stennett

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**GUESTS:** See attached sign-in sheet.

**CONVENED:** **Chairman Gannon** called the meeting to order and welcomed the Committee's new Page, Austin Porter from Rexburg.

**MOTION** **Senator Siddoway** moved to approve the minutes of January 17, 2008. The motion was seconded by **Vice Chairman Heinrich**. The motion carried by **voice vote**.

**Chairman Gannon** introduced **Dar Olberding**.

**PRESENTATION** Idaho Grain Producers "Burning Issues"

**Dar Olberding**, Representative for the Idaho Grain Producers, gave a presentation on the Crop Residue Disposal Program - where they are today, where they came from and how they got there. He said it has been over a year since the Court put a stop to field residue burning in Idaho. They have worked this past year to try to re-implement burning. Last year the Governor asked for resolution by negotiation to arrive at an agreement to solve the problem permanently. He referenced the time line submitted as attachment 1. The legislation resulting from this rulemaking will move field burning from the Department of Agriculture to the Department of Environmental Quality (DEQ). The goal is to begin burning by August.

**Senator Siddoway** asked what the fee will be and the rules and requirements for it? **Mr. Olberding** said the fee is in limbo right now. They are trying to structure it so it won't cost the State anything. The cost to start the program will be somewhere between \$2 and \$4. The grower will sign a sheet to give location, acres and Global Positioning System (GPS) coordinates. The burning will be regulated by what the atmospheric conditions are. This program will be based on health not on economics, so there will be restrictions.

**Chairman Gannon** said there was a dividing line between Northern and Southern Idaho. Wasn't it in Northern Idaho that the Environmental Protection Agency (EPA) had jurisdiction for controlling burning? **Mr. Olberding** said the program was run by the Department of Agriculture (USDA) with Tier 1 and Tier 2 levels. Tier 2 was the restricted area - North Idaho. DEQ was responsible for the call on whether it was burn or no burn. **Chairman Gannon** said it was his understanding they had to have permission to burn in the Northern area, while in the Southern area they gave atmospheric conditions that lent itself to burning, but the land owner just notified the Department. **Chairman Gannon** asked if they are still drafting the legislation? **Mr. Olberding** said that is correct.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 1].

**PRESENTATION** Idaho Sugarbeet Growers Association

**Mark Duffin**, Executive Director, Idaho Sugarbeet Growers Association, gave a report on the sugarbeet industry. He discussed trends and forecasts for the industry and issues for the growers. These included water issues, the U.S. Farm Bill, and Roundup Ready sugar beets.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 2].

**Vice Chairman Heinrich** asked in what stage the sugar is being used in ethanol. **Mr. Duffin** answered that it is raw cane sugar. The excess raw sugar is being diverted to the ethanol process. **Vice Chairman Heinrich** asked are the marking allocation quotas transferable, can you buy and sell them? **Mr. Duffin** said they are transferable. This is spelled out in the Farm Bill in present legislation. Each company is assigned a percentage. The USDA estimates what consumption will be, what trade commitments are and then the balance is divided between domestic producers to tell them what they can market. It is a highly managed program.

**Senator Sagness** asked if the Association is planning to go into ethanol to a limited extent? **Mr. Duffin** said it will be very limited. **Senator Sagness** said he is worried about the amount of crop production going into ethanol and the long term implications of that. The question in his mind is the long term future of ethanol. He asked Mr. Duffin to comment on that. **Mr. Duffin** said he hears that concern. For the sugar ethanol program it will be the excess sugar. The domestic consumption will first be met, then if USDA determined there was a lot of excess sugar coming in that would severely depress the price, the USDA would buy up that sugar and sell it to the refineries.

**Senator Siddoway** asked how many co-ops are involved in the Beetgrowers' Association or the structure? **Mr. Duffin** said there is just one co-op in Idaho. Across the nation, except for California, the entire sugar production is in grower owned co-ops. **Senator Siddoway** asked what the obligation of the producers is to produce for those co-ops? Do they have to commit so many acres to raise the beets for that co-op, or

are they still open to go out and contract the acreage that should be used for the beet production for barley production? **Mr. Duffin** said each grower was able to purchase shares in the co-op. With each share they purchased they were obligated to grow one acre of sugarbeets. But the co-op also looks at the needs, so they adjust that one acre requirement. For instance, last year they lowered it to 85% for each share. If they don't grow it, there is a penalty. **Senator Siddoway** asked if, under this highly controlled system, there is demand this year for acreage. **Mr. Duffin** said that demand has varied by region in the past. The demand in the Treasure Valley has not been very high because of the alternative crops that are here, but farther East the demand goes higher. The Idaho Sugarbeet Growers Association supports, through the World Trade Organization (WTO), moving all sugarbeet growers world wide to the open, free market to get everyone playing by the same rules.

**Mr. Olberding** introduced the new Executive Director to the Idaho Grain Producers, Travis Jones. **Mr. Jones** said he is looking forward to getting to know the Committee and working with them and they can feel free to contact him with any questions.

## **PRESENTATION** Food Processing and Product Innovation

**Jeff Kronenberg**, Food Processing Specialist, Food Technology Center, Caldwell, gave a presentation about the Food Processing Extension.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 3].

**Senator Hill** asked if they get any dollars from the manufacturers they help or the existing manufacturers that are trying to promote the industry, or is it strictly public funding? **Mr. Kronenberg** said they are not fully subsidized, so they have a small fee for services from the manufacturers.

**Chairman Gannon** asked, referring to the Impact Metric slide, if the jobs retained are jobs that will end unless something is done? **Mr. Kronenberg** said that would be companies that are in a distressed situation and may be facing a layoff. If the Extension can help them increase sales, develop a new product line, and be more efficient, they won't be under financial duress and can retain these employees. Unfortunately, when companies are in financial trouble, they look at the workforce first thing. The Extension's approach is on how they can reduce other forms of waste.

**Chairman Gannon** said in working with people you have the potential to give them a market advantage over competition. He asked if this is an issue at all? **Mr. Kronenberg** said they really haven't had any problems with that issue. The Extension is available to help the competition as well. **Chairman Gannon** recalled an issue of confidentiality through the Public Records Act. They encountered this with the dairies where information is open to the public if they request it. Has that ever become an issue when the Extension is working with a particular company and knows some of their trade secrets, or is it helping them develop their trade secrets? Is that ever an issue at all? **Mr. Kronenberg** said they have never had

anyone file a Freedom of Information request with them. **Chairman Gannon** asked so it hasn't been an issue and the Extension hasn't had any special double blind studies to protect the companies? **Mr. Kronenberg** said they have confidentiality agreements that they sign, but haven't experienced any problems in that area.

**Vice Chairman Heinrich** asked what type of investment are we talking about for a Mom and Pop or something like the Ballards Family Dairy and Cheese, and is there a source of funding for that type of investment? **Mr. Kronenberg** said that is a little bit pricey to get into. In the past few years they have directed a lot of people to the United States Department of Agriculture Value Added Producer Grants (VAPG). There are two grants in that program. One is a planning grant, in which they can get \$200,000 to do business plans and marketing plans. The second grant they have is called a working capital, which is about \$300,000, for packaging material or for setting up their marketing. They can't buy equipment with it. **Vice Chairman Heinrich** asked what type of local land use or zoning problems do people experience by putting a commercial venture like that in an agricultural area? **Mr. Kronenberg** said he hasn't been involved with that so he doesn't have that information. **Chairman Gannon** said they probably don't ask as it is easier to apologize than it is to get permission.

**Senator Sagness** said it seems we hear about recalls a lot. Is this a matter of production and processing exceeding the capacity to monitor, or is it that the monitoring technique has become so sophisticated that we pick up things we didn't pick up before? **Mr. Kronenberg** said in general there are higher standards in food safety and there is more testing. We do have the safest food supply in the world, but still have about 5,000 deaths a year from food borne illness. We are becoming much more sophisticated. The market is driving that; there are much higher expectations. The other issue is about food imports from China because there is a huge disparity between their regulatory system and ours.

**Drew Dalgetty**, Food Processing Manager, Food Technology Center, Caldwell, gave a presentation on the Food Technology Center in Caldwell including the history, facility, funding, and programs and service.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 4].

**Chairman Gannon** said he was very impressed with his operation when he was there last summer.

**ADJOURNMENT** **Chairman Gannon** adjourned the meeting at 9:29 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 21, 2008

**TIME:** 8:00 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Sagness

**MEMBERS ABSENT/**

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**MINUTES:** **Chairman Gannon** convened the meeting at 8:03 a.m.

**GUEST SPEAKER:** **Chairman Gannon** welcomed **Gretchen Hyde**, Executive Director, Idaho Rangeland Commission.

**Ms. Hyde** gave the annual update on the activities of the Idaho Rangeland Resource Commission, saying the Commission has stayed true to its goals, the past year has been quite productive and they are doing very well.

**Chairman Gannon** inquired about the publicity drive mentioned by **Ms. Hyde**, asking specifically about the sagebrush restoration project and collection of the seeds. **Chairman Gannon** asked where that particular initiative came from, i.e., making that project a publicity opportunity. **Ms. Hyde** said that after a couple of brainstorming sessions with different entities, the Commission felt it was an opportunity to explain what it is ranchers do and how they will, with management, impact the land. **Chairman Gannon** pointed out to **Ms. Hyde** that the statistics and projections and beliefs of the people who have spoken to the Agricultural Affairs Committee this session regarding rangeland restoration differ greatly from what **Ms. Hyde** and the Idaho Rangeland Commission presented to the Committee. The previous speakers said sagebrush restoration comes about by Mother Nature. **Ms. Hyde** replied there are many different kinds of species and they grow in different areas and they are very particular and difficult to regenerate.

**Senator Sagness** asked what sort of followup is done on the Rangeland Commission's workshops after the teachers return to their respective homes? He also asked whether there is some type of assistance provided to them over a period of time, because research in this field

shows an organization can have a lot of impact at the outset, particularly if it is quite emotional and visual. However, if there is not some type of followup over time, the impact diminishes rapidly. **Ms. Hyde** agreed with **Senator Sagness** and said that is why the Commission hired a part-time Education Co-ordinator. She also stated the Commission received a grant with the University of Idaho last year to create modules for high school agricultural and science teachers because of the exact concern **Senator Sagness** just voiced about followup.

**Chairman Gannon** asked **Ms. Hyde** if the Commission had ever been featured in *Range Magazine*. **Ms. Hyde** replied it has not been featured.

**Senator Schroeder** referenced an inter-agency group working on sagegrouse and range management, etc., and asked **Ms. Hyde** if she was participating in that effort. **Ms. Hyde** replied that she is not participating in that effort. She continued that the Commission has made a concerted effort to stay out of all of the controversies.

**Senator Corder** stated he feels the Commission is doing a remarkable job with teachers; however, he feels they are missing a segment with the administrators and Boards of Trustees. **Senator Corder** said it seems to him there is a movement toward referenced "prescriptive curriculum." **Senator Corder** believes such a curriculum could be extraordinarily dangerous to agriculture. He believes it is important that groups such as the Rangeland Commission be involved with that curriculum adoption process and with the administrations that are adopting such curriculums because they could prescriptively write agriculture out. He stressed that it is very important we keep an eye on that movement.

**Senator Schroeder** stated that **Senator Corder** should have been in the Senate Education Committee meeting a few days earlier when they were talking about a national curriculum and test which, he believes, they mean to take the whole program away from the individual states. **Senator Schroeder** said that if rural people ever had a reason to be afraid, the proposed national curriculum is one good reason.

**GUEST  
SPEAKER:**

**Chairman Gannon** welcomed **Jodi Johnson Maynard**, University of Idaho Associate Professor in Soil and Water Management. **Ms. Johnson Maynard's** research involves carbon and nitrogen cycling, primarily in agricultural systems. **Ms. Johnson Maynard** made a presentation to the committee concerning carbon sequestration.

To **Ms. Johnson Maynard's** statement that about three-quarters of our nitrous oxide emissions in the United States come from agricultural sources, **Senator Corder** inquired what exactly are the sources of nitrous oxide. **Ms. Johnson Maynard** said one of the major sources is a reaction they call de-nitrification which is a conversion of the nitrate, which is common in the soil, and it is generally carried out in soils that are limited in oxygen.

To **Ms. Johnson Maynard's** statement concerning tillage and the loss of approximately 30% - 50% of native soil organic matter in the Great Plains Region, with the carbon having been removed from those soils and put into the atmosphere as CO<sub>2</sub>, **Senator Corder** asked if the movement toward no tillage actually assisted in improving that problem and the movement toward detillage in certain areas of our state's agriculture, making the problem worse. **Ms. Johnson Maynard's** response was in the affirmative.

**Ms. Johnson Maynard** said carbon is currently trading in the United States for about \$4 per metric ton (pmt), quickly approaching \$10 pmt, at which time **Senator Schroeder** asked how the values are set and who ends up with the money. **Ms. Johnson Maynard** answered that within the state and on the Idaho Carbon Sequestration Advisory Committee, one thing that has been talked about is having a revenue stream, i.e., if we have a situation where trades are registered with the state where a part of a project will actually go into a funding stream that would help farmers start up new projects. That would offset costs they might have going into the new project. Monies left over would be returned to participants in the project, i.e., the farmers. Multiple farmers would be grouped together and they might have several hundred acres each, and all of those are aggregated together into one project and then traded. The money comes from the company that buys the project to offset their CO<sub>2</sub> emissions. That money is divided, minus some aggregator fee as well as a fee from the Chicago Exchange, among the project participants.

**Senator Schroeder** followed up with the statement that there is much skepticism in the Legislature about the process **Ms. Johnson Maynard** just described. The general feeling is that the process is driven by someone wanting to use the power of money and may or may not be necessary. The skepticism mentioned by **Senator Schroeder** includes global warming and climate change. **Ms. Johnson Maynard** replied she had separated the issue of climate change from carbon sequestration in that she had been asked to help develop the protocol and to get Idaho residents to participate in the carbon credit trading schemes. **Senator Schroeder** stated he understands the sensitivity of the position **Ms. Johnson Maynard** is in with respect to science versus public policy.

**Chairman Gannon** inquired about the companies which are buying the carbon credits and then using them to offset their production of carbon, specifically asking **Ms. Johnson Maynard**, "Who is instructing those companies they must do this?" **Ms. Johnson Maynard** responded that, currently, in the United States, it is a voluntary market; however, that may change soon with the legislation that is being introduced at the federal level. She continued it has not yet been decided the way in which each industry is going to determine what CO<sub>2</sub> amount each industry is going to be able to produce. **Chairman Gannon** asked who the mystical "they" are who are going to make that determination. **Ms. Johnson Maynard** replied that is being decided at the present time but she does not know who is being considered.

**Chairman Gannon** asked what the validation process is to make sure the

farmers are planting what they say they are planting. **Ms. Johnson Maynard** said one of the big issues is monitoring and verification. It is expensive and, at this point, no one is sure who is going to be responsible for the monitoring and verification. Another problem with all offset projects is the principle of additionality. All tradeable carbon sequestration projects must be able to demonstrate additionality, meaning the carbon is sequestered only because of this project and that without the project there would be an increase in carbon released. **Chairman Gannon** queried if **Ms. Johnson Maynard** was saying that there are things in existence currently that, unless something is done to enhance their carbon sequestration capability, will not qualify. **Ms. Johnson Maynard** replied that is potentially correct. Many farmers with whom **Ms. Johnson Maynard** has spoken are very concerned that agriculture may be eliminated from participating in a carbon credit trading program, depending on how the rules are written in the legislation that is being produced currently. Also, in response to **Chairman Gannon's** next question, **Ms. Johnson Maynard** said the forest industry would be even more at risk.

**Senator Stennett** stated the irrigated pasture is probably the best way there is to sink carbon versus plowing it up every year. He asked how that factors in to the additionality program and how is the value of that determined? **Ms. Johnson Maynard** replied, in that scenario, one option would be to go to that site, use the grid method and take a detailed measurement of soil carbon, and then take measurements every few years or at the end of the project and measure how much new carbon is there. Another option is modeling. There are currently sophisticated simulation models for carbon and nitrogen. **Ms. Johnson Maynard** believes that, at some level, there will be no way to get away from having to use models because of the labor and intensity and difficulty of taking soil carbon samples as often as necessary. **Senator Stennett** verbally surmised that the values are not going to be set for a farmer to be able to make those decisions up front; it appears to be a "roll of the dice" chance that a farmer will be participating in the project and that if a farmer is going to participate in the program, the farmer would need to have some idea of what his check is going to be at the end of the project. **Ms. Johnson Maynard** replied that **Senator Stennett's** point is related to quality issues. **Ms. Johnson Maynard** believes high-quality projects that have monitoring and verification, perhaps with a detailed map of soil carbon going in, should trade for a higher value than lower-quality projects. Additionally, it is a market-driven process. **Senator Stennett** asked about what determines the start date for a project. **Ms. Johnson Maynard** stated the date at which a project is started, or what is referred to as the "baseline" date, is extremely important to agriculture. **Senator Stennett** asked what the Idaho Legislature needs to do to make the carbon credit trading and additionality and modeling programs happen in Idaho. **Ms. Johnson Maynard** stated letters are useful, as well as to come up with funding. Most importantly, every bit of soil carbon data that is available for agriculture in the State of Idaho needs to be pulled together because if we do not have any viable data, none of the projects will work.

**Senator Stennett** stated he believes one of the better ways to accomplish management monitoring recognition that the project is not going to change would be to tag along to see our key projects. He asked if the carbon value could be added onto the payment from the government. **Ms. Johnson Maynard** believes no one would have an issue with that, so the credits can be traded and one can still get government payments for doing that practice. **Senator Stennett** stated that is a very recognizable way of monitoring no change of practice being made during that time.

**Senator Sagness** asked, "In terms of urbanization (an urban environment with urban soils) and the whole scheme of things, does it make much difference if you are looking at agriculture as far as the needs of the atmosphere and the release of carbon dioxide?" **Ms. Johnson Maynard** replied there is an urban project that is being developed (in the City of Post Falls), and she thinks there is a lot of potential in such a study and environment and there is a huge potential to store carbon in such an environment. **Senator Sagness** commented the modeling aspect fascinates him because of all the variables that are involved. He then asked about the energy production plants that burn coal, etc., asking if their practice of "injection" is being widely accepted or not. **Ms. Johnson Maynard** responded that the process **Senator Sagness** referred to is known as geologic carbon sequestration. There is an entity known as the Big Sky Partnership, of which the Idaho Carbon Sequestration Advisory Committee is a part of. The Big Sky Partnership is a Department of Energy funded project that involves multiple states and the Canadian Prairie Region. Part of that project is focused on terrestrial carbon sequestration and part on geologic sequestration. The members of the Big Sky Partnership feel there is huge potential to store carbon in geologic formations.

**Senator Schroeder** mentioned that we have a program to put water underground to store it and wondered how it is possible to do both of these things at the same time. **Ms. Johnson Maynard** did not know the answer to **Senator Schroeder's** question. **Senator Schroeder** then asked if someone sells carbon credits and someone else buys it, how much is the carbon in the atmosphere reduced? **Ms. Johnson Maynard** replied it is a way to not decrease CO<sub>2</sub> in the atmosphere but to manage it at a certain level. For example, a person may be emitting CO<sub>2</sub> in Idaho but can be paying a farmer in Argentina to sequester carbon. Therefore, on the global scale, one should get a net balance of carbon, if it ends up being a global system. **Ms. Johnson Maynard** stated the whole idea is all net. Their main concern is the net CO<sub>2</sub>. **Senator Schroeder** said it appears to him that, in the end, consumers are going to end up paying and that someone is going to make a lot of money on this scheme. **Senator Schroeder** believes there is no other reason to be in this scheme other than the lucrative return for someone. **Ms. Johnson Maynard** replied she thinks the Chicago Climate Exchange has received those same sentiments from many people in that many people think the Chicago Climate Exchange presents itself as trying to do something great for the environment but, bottom line, it is making money, which is the goal for many entities that are going to be participating. Therefore, she

continued, that is one of the reasons the standards should be in place because there is a potential to twist the system to one's favor. On the flip side, what would happen if an environmental group goes out and buys up all the credits? What is going to happen to the system in that event? Credits would become so expensive because there would be such high demand.

**Chairman Gannon** verbally applauded **Ms. Johnson Maynard's** presentation as being credible because she talked about the science behind it, and measuring, etc. He also stated he believes the Chicago Mercantile, in the end, does not care at all about carbon credits. He believes all the Chicago Mercantile wants to do is create a false market.

**Senator Stennett** stated **Ms. Johnson Maynard** had done a great job presenting the science behind what is available. **Senator Stennett** stated his original intent of doing this, and the Legislature's intent of supporting this, is to make sure that, if there is going to be a trading mechanism put together, that the citizens of Idaho benefit, that the farmers and producers and ranchers are in a position to take advantage of the "scheme", if it is a scheme. He continued that if the citizens of Idaho are not prepared to do that, they will be left out of that opportunity. He queried, "How close are we to being at the front of the line for when this comes together?" **Senator Stennett** would like to hear from an economist regarding this issue. **Senator Stennett** continued that \$150 million per year is not pocket change for Idaho producers and would be a substantial economic benefit for Idahoans.

**ADJOURNMENT** There being no further business, **Chairman Gannon** adjourned the meeting at 9:42 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

- DATE:** February 26, 2008
- TIME:** 8:00 am
- PLACE:** Room 117
- MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, and Sagness
- MEMBERS ABSENT/ EXCUSED:**
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- GUESTS:** See attached sign-in sheet.
- CONVENED:** **Chairman Gannon** called the meeting to order and introduced Celia R. Gould, Director of the Idaho State Department of Agriculture.
- PRESENTATION** **Celia R. Gould**, Director, Idaho State Department of Agriculture (ISDA), introduced Eddie Yen, Manager, Idaho-Asia Trade Office.
- Eddie Yen** said that Idaho has the best agriculture team in the Taiwan market because there have never been any communication issues or problems. This is a great international team.
- He told of his visit last year with an organic grower in Idaho who had a blueberry grape and was ready to place orders for Taiwan. He said he looks for new varieties and products for Taiwan.
- Mr. Yen** talked about using federal funding to promote products from Idaho and also Washington and Oregon. There are five different Idaho companies who have joined this promotion. Now you can see Idaho's name in Taiwan. During this promotion there were radio interviews every week with individuals from Idaho. He told of his experience with a reporter in Taiwan during this promotion who used his potato recipes in her reports. He said the Idaho Potato Commission did a great job of supporting the promotions in Taiwan and other cities and how these promotions have increased visibility and use of potatoes there.
- Senator Hill** asked what is the population of Taiwan? Also, is Mr. Yen or anyone else doing anything in Mainland China as far as marketing products? **Mr. Yen** answered Taiwan is a country of 23 million. He said this is a great market for Idaho products and is second, next to Canada, in consumption of American agricultural products. He said Idaho does have an office in Mainland China and they are partnering with his office. They

are working to promote Idaho products there.

**Chairman Gannon** said he has read a couple of articles indicating that the Pacific Rim or the Asian market may be having second thoughts about genetically modified (GMO) products. They may be backing off on their resistance. He asked if Mr. Yen has seen that? **Mr. Yen** answered that the GMO is not a big issue in Taiwan, but the policy is not clear. He thinks it is more a marketing and promotional thing to give customers more confidence. He thinks a better marketing strategy is needed both in Taiwan and in the United States to assure customers that these products are safe and good.

**Senator Hill** said he and his wife visited Mr. Yen last year. He was very impressed with the organization in Taiwan and with the promotion for Idaho products and standards. He thanked Mr. Yen for the great job he is doing.

**Senator Stennett** said he reiterates what Senator Hill said.

## **PRESENTATION** Idaho Apple Commission and Idaho Cherry Commission

**Candi Fitch**, Executive Director, Idaho Apple Commission and Idaho Cherry Commission, gave an update on these Commissions.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 1, 2 and 3].

**Chairman Gannon** asked about whether or not there was replacement planning regarding acreage? **Ms. Fitch** said it has stabilized.

**Senator Hill** asked how the crop assessments are determined. **Ms. Fitch** said cherries are by ton - \$20 per ton on fresh cherries. Apples are charged \$.05 per 40 pound box.

**Senator Schroeder** asked about the impact on the apple and cherry industry if undocumented workers were sent back to their countries? **Ms. Fitch** said it would be detrimental because there wouldn't be enough workers to get the crops in. She said she would have to do some research to find the financial implications.

**Senator Corder** asked about the significant yield reduction of both apples and cherries last year. He asked if it is because of weather or a reduction of acreage. **Ms. Fitch** said it was the weather - there were several hard frosts. The acreage has fallen over the years, but has stabilized now.

**Senator Corder** asked to see that trend in future reports of acreage and yields.

**Senator Sagness** asked about longitudinal data - what kind of information Ms. Fitch has in relationship to how often there is a significant reduction in crop related to weather conditions, primarily freezes. **Ms. Fitch** said she will research it and get back to him. **Senator Sagness** said he is also interested to know if there is a change over time.

**Senator Stennett** asked how long the 600 employees of one shipper are

employed during harvest time. **Ms. Fitch** said six months at the most.

**H 392** Relating to Nursery Licenses

**Michael Cooper**, Bureau Chief, Idaho State Department of Agriculture (ISDA), stated that this bill will increase the nursery license fee from \$75 to \$100. He said Idaho has experienced phenomenal growth in the nursery industry and now has over 25,400 licensed nursery operations. ISDA is charged with the responsibility of doing spot inspections of these operations to check for any weeds, insects or pests that may be brought into the State on plant products. An adequately funded inspection program will be a safeguard for Idaho.

**Senator Hill** asked who has to pay this fee? What about places that sell just a few bedding plants? **Mr. Cooper** said any facility that generates less than \$500/year in sales is not required to be licensed in Idaho.

**MOTION**

**Senator Stennett** moved to send H 392 to the Senate floor with a do pass recommendation. The motion was seconded by **Senator Schroeder**. The motion carried by **voice vote**. **Senator Stennett** will sponsor this bill.

**H 393** Relating to Commercial Fertilizers

**Mr. Cooper** explained that this bill will raise the inspection fees (semi-annual minimum and per ton rate) and change the registration process. New definitions and technical changes will be made. It will add a penalty for the distribution of unregistered fertilizer products and the required period of records retention will be made consistent with those in the Feed, Soil and Plant Amendment laws. A registration system will also be established to develop an inventory of all fertilizer facilities in the State that handle or store fertilizers in bulk. The changes are projected to raise \$266,800.

**Vice Chairman Heinrich** asked if the increases in fees are because a Department review revealed that those areas aren't carrying their own weight, or are they revenue generators because the Department isn't able to get appropriations from general funds? **Mr. Cooper** said this is a dedicated, stand alone fund. It has never asked for general funds in the past. The fund has declined enough that the added personnel and costs incurred have put it in a position that, very shortly, it will not be able to cover its own costs. This bill is trying to stay ahead of that.

**Senator Corder** asked about page 7, section 4, sub paragraph C, of the bill. **Mr. Cooper** said it means that if three products are blended into one, then the tonnage fee is only due when that product is sold. They don't want to charge the fee on each one of the three products used to make that product. **Senator Corder** asked for an example of a noncommercial fertilizer. **Mr. Cooper** said commercial is what is being sold and that is what this bill covers. If the bill just said fertilizer it could be interpreted to mean even compost generated on a farm would be subject to this bill. **Senator Corder** asked if that would be an accurate description - anything

that amended the soil is fertilizer? **Mr. Cooper** said that is correct. **Senator Corder** said he needs help understanding what a specialty fertilizer is. **Mr. Cooper** said specialty fertilizers are those sold for potted plants and household products.

**MOTION** **Senator Corder** moved to send H 393 to the Senate floor with a do pass recommendation. The motion was seconded by **Senator McGee**. The motion carried by **voice vote**. **Senator Corder** will sponsor this bill.

**H 394** Relating to Soil and Plant Amendments

**Mr. Cooper** said this bill requires that all companies distributing soil and plant amendments within or into Idaho to file biannual reports of all tonnage distributed and pay a \$.15 per ton inspection fee or a minimum \$5 filing fee, whichever is greater. The current minimum fee does not cover the cost of processing those reports. It also proposes to amend *Section 22-2208, Idaho Code* to raise the minimum filing fee from \$5 to \$15 to cover the cost of reviewing and processing the reports.

**MOTION** **Senator McGee** moved to send H 394 to the Senate floor with a do pass recommendation. The motion was seconded by **Senator Hill**. The motion carried by **voice vote**. **Senator McGee** will sponsor this bill.

**Chairman Gannon** reported that today's meeting agenda was revised because the Elk Breeders Association pulled back their bill S 1391 to make some changes in it. They have not yet brought it back to the Committee. If it comes back, he wants the Committee to look at it first before they take it to a privileged committee.

**ADJOURNMENT** **Chairman Gannon** adjourned the meeting at 9:16 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

- DATE:** February 28, 2008
- TIME:** 8:00 am
- PLACE:** Room 117
- MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators McGee, Corder, Hill, Siddoway and Sagness
- MEMBERS ABSENT/ EXCUSED:** Senators Schroeder and Stennett
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- MINUTES:** **Chairman Gannon** convened the meeting at 8:07 a.m.
- GUEST SPEAKER:** **Chairman Gannon** welcomed **Deanna Sessions**, Administrator, United Dairymen of Idaho (UDI). **Ms. Sessions** presented to the Committee the UDI's annual report on the status of their industry. She also said their 2007 audit is finalized and the Commission had no findings related to that audit.
- Senator Siddoway** asked how the money is gathered up. He also asked if the cheese company and the raw milk bottlers are members of the UDI and, if so, do they contribute to the Association or does the Association just get their money from the livestock owners? **Ms. Sessions** replied every dairy farmer sells their product to a first handler and they are responsible for deducting the 16¢ per 100 weight from their milk check. Five cents then goes to the National Dairy Board (NDB), and 11¢ comes to the UDI's office. Also, funds from their monthly milk check deductions are to be in the UDI's office by the 25<sup>th</sup> day of the following month.
- Senator Siddoway** queried whether the UDI had the ability to have the entire 16¢ come directly to them and then the UDI pay the 5¢ to the NDB? He also asked how the UDI ties into the NDB. **Ms. Sessions** replied the National Dairy and Tobacco Act of 1983 (currently known as the National Dairy Act), mandated all dairy farmers, nationwide, should support their programs. UDI must qualify with the United States Department of Agriculture (USDA) to be a qualified promotion agency. UDI actually sends the NDB approximately 6¢.
- Senator Corder** stated this is the first time he has ever heard a commodity group tell the Committee they could not possibly spend enough money to be effective in Idaho. **Ms. Sessions** replied Idaho is

one of the highest, in the nation, per capita spending to try to increase consumption. Although the UDI could raise that per capita by various programs but that does not necessarily mean that is going to increase consumption. She continued that Idaho is a privileged state in the fact that we have a lot of milk; it generates a lot of revenue, and we need to help the rest of the United States be consistent with our messages.

**Senator Corder** stated there are a number of projects that are on the horizon and could use more research dollars. That may not increase the consumption of milk but it might change a lot of people's viewpoint about the dairy industry as a whole. He stated there are a lot of places to put money. **Senator Corder** inquired whether Idaho has any say about how the 6¢ that the UDI sends to the NDB is spent. He also asked what research the 3.2¢ of that 6¢ is being spent on and in what way does that research help Idaho. **Ms. Sessions** replied Idaho currently has a say about how the 6¢ is spent. Representatives from NDB come to Idaho and discuss research projects that need to be funded. Currently, there is a lot of funding going into research in preparation for the 2010 dietary guidelines because the USDA told the dairy industry in 2005 that if no increase in consumption was shown before the next guidelines were up for review, the dairy industry could be sharing that dairy spot with soy and supplements.

**Chairman Gannon** inquired about the availability issue and about the packaging issue itself in that there was a limited amount of packaging available because there was a transition to a new form of packaging. **Ms. Sessions** replied that all of their plastic is imported into the United States. The cost of resin is going up, as is the cost of paper. The UDI does not have a shortage of resin bottles. Currently, the plastic bottle they use is recyclable, whereas the cardboard carton with the wax coating was not recyclable.

**H 486**

**Chairman Gannon** welcomed **Dave Ogden**, Section Manager, Warehouse Control Program, Idaho State Department of Agriculture (ISDA).

**Mr. Ogden** stated the primary purpose of this legislation is to strengthen the financial requirements for commodity dealers and warehousemen at credit-sale contracts. He then reviewed the various changes proposed in the legislation.

**Senator Corder** asked if the "renewal" fee is different from the original fee on the license fee. **Mr. Ogden** replied it is different in that it is much lower.

**Senator Corder** then asked if the "reinstatement" fee of \$500 is in the event someone defaults or forfeits their license and has to reinstate their license. **Mr. Ogden** responded the participants must have their licensing materials in by a certain date in order to be licensed for the next year. If they miss that date and do not get their materials in on time, their license

is suspended and, in order for it to be reinstated, they must pay the fee. It is, in essence, a late filing fee.

**Chairman Gannon** asked regarding a phrase in the proposed legislation that says, "Any warehouseman may elect to be licensed as a Class I Warehouseman." He queried if this phrase was there in order to get them to step up to a Class I license in order to be able to do the credit-sale contracts. **Mr. Ogden** replied that is correct, although in order to do credit-sale contracts, it is not mandatory for one to have a Class I license, but they do have that option. Also, under that scenario, they would also have to meet the higher net worth requirement.

**Vice Chairman Heinrich** inquired of those that **Mr. Ogden** thinks would be eligible for the Class I license, how many would meet the eligibility criteria of the \$200 thousand net worth? **Mr. Ogden** replied the ISDA determined, by past financial statements, there are four warehouses, two of which would be in Class I and two of which would be in Class II, that could possibly be affected by the proposed legislation. **Mr. Ogden** called those four warehousemen and each of them indicated to him they could meet the proposed requirements.

**Vice Chairman Heinrich** asked if the \$200 thousand is an arbitrary figure or is it a figure that was determined would provide sufficient protection for the grower? **Mr. Ogden** replied he did research and found the \$200 thousand makes Idaho a bit high compared to other states in the range of greater than \$500 thousand in sales up to about \$10 million in sales. Above that, Idaho starts to drop off because we are using a flat amount whereas, in other states, the majority of them have a so-much per bushel storage capacity, with a minimum amount set. **Mr. Ogden** feels this proposed legislation protects Idaho "in the middle" which is where we really need the protection.

**Senator Corder** asked if other states require a bond for their Class I licenses. **Mr. Ogden** replied all of the licensees must be bonded. It is a sliding scale as to how much bond is required. Most other states do require some kind of bond and have some kind of scale. Historically, it is around six percent of sales or six percent of storage capacity, up to some maximum. A very few states have no net worth requirements so they have higher bonds.

**Senator Siddoway** inquired whether pelletized alfalfa is in the feeds. **Mr. Ogden** replied whatever would be stored in a warehouse would typically be perennials which is what the ISDA is concerned about. He is not sure about pelletized alfalfa. **Senator Siddoway** stated he does not like this proposed legislation due to his past experiences with similar legislation proposed by the ISDA and adopted by the Legislature. **Mr. Ogden** replied, "The law is the law," and it does have minimum requirements and it is their responsibility to administer the law. He believes the philosophy behind it is the entity purchasing commodities from the producer has some financial liability and responsibility, and apparently the intended legislation was to make sure that the people who are purchasing commodities have some minimum level of financial interest in the process

as opposed to having no requirements. **Senator Siddoway** inquired if there is any other business that is regulated in a similar fashion by the State of Idaho other than the banking business. **Mr. Ogden** was unsure what the requirements are for other state agencies. **Senator Siddoway** stated he thinks it should be handled through a bond rather than legislation. He can foresee there may be start-up people who, with this legislation, may be restricted just because they may not have the capital required.

**Chairman Gannon** welcomed **Dar Olberding** who represents the Idaho Grain Producers. **Mr. Olberding** gave a historic background of the Commodity Indemnity Fund, a product of the grain growers in Idaho deciding they did not want to lose all of their money when a warehouse went bankrupt. The fund was put together with a \$5 million cap. Everyone who is a grower pays into the fund and then if a warehouse went bankrupt, the growers received 90% back. As the industry evolved, they ended up with many "no-price established" contracts. With that, they ended up with bankruptcies. They have lost approximately \$12 million - \$14 million in bankruptcies in the last 18 years and most of them were due to "no-price established" contracts. In other states when there is a bankruptcy, only about 50% is covered of what that value is. Idaho still covers 90% but the Idaho Grain Producers believe the "no-price established" contracts either need to be tightened up and that by putting it into a high class license, it would make it a little tougher for people to qualify. That is why the Idaho Grain Producers endorse the bill.

**Senator Corder** asked **Mr. Olberding** to affirm that the majority, if not all of the bankruptcies, were in the businesses that would now be classified in the Class II. **Senator Corder** restated the question, saying that Class I and Class II licenses had been established and the credit sale contracts to Class I and that is supposed to stop the issue of people taking out bankruptcy and not being able to pay the Class I contracts. **Senator Corder** said it suggested to him that **Mr. Olberding** was saying that it was warehousemen on the bottom end of it that did not have enough assets that were causing the bankruptcy problem. **Mr. Olberding** replied that is correct.

**MOTION:** **Senator Hill** moved that **H 486** be held in Committee. **Senator Siddoway** seconded the motion. **Senator Corder** stated he is going to support the motion, also, because he agrees the bond issue definitely needs to be addressed. The motion carried by **voice vote**.

**H 487** **Chairman Gannon** again welcomed **Dave Ogden**, Section Manager, Warehouse Control Program, Idaho State Department of Agriculture (ISDA).

**Mr. Ogden** stated this bill is very similar to H 486. He then reviewed the various changes proposed in the legislation.

**MOTION:** **Senator Siddoway** moved that **H 487** be held in Committee. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

**HCR 44**

**Chairman Gannon** told the Committee it had before it a Concurrent Resolution that would reject Section 102 of the Idaho Administrative Procedures Act (IDAPA) Rule stated in the Concurrent Resolution, which is in accordance with the minutes and the motion that was made previously on January 22, 2008, in Committee by Senator Corder. The Concurrent Resolution pertains to IDAPA 02.03.01, Rules Governing Pesticide Management Plans for Ground Water Protection, Section 102, DCPA Chemical Specific PMP, only.

**Senator Corder** moved that the Committee send HCR 44 to the Floor with a do pass recommendation. The motion was seconded by **Senator McGee**. The motion passed by **voice vote**.

**ADJOURNED:** **Chairman Gannon** adjourned the meeting at 9:20 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** March 4, 2008

**TIME:** 8:00 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Sagness

**MEMBERS ABSENT/ EXCUSED:**

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**MINUTES:** **Chairman Gannon** convened the meeting at 8:05 a.m.

**RS 18011** Chairman Gannon welcomed **Judy Boyle**, representative of the Idaho Elk Breeders Association, to the Committee.

**Ms. Boyle** went through the legislation which related to domestic Cervidae, referencing each of the proposed changes for the bill.

**Chairman Gannon** asked if the Idaho Elk Breeders Association is going to use the Department of Agriculture registration list as the qualifying list for a breeder. **Ms. Boyle** replied, "Yes."

**Senator Hill** inquired of **Ms. Boyle** what the changes were in Section 25-3711. **Ms. Boyle** replied that it should say "elected by provisions in Section 25-3712", on line five of that section, after the word "members."

**Chairman Gannon** asked if **Ms. Boyle** was following some other previously adopted guidelines. **Ms. Boyle** replied, "No." To her knowledge, there is no other council she could find under the Idaho Statutes that are not compensated by the State.

**Vice Chairman Heinrich** asked if the wording on page three, line 44, included lobbyists. **Ms. Boyle** replied, "No." **Chairman Gannon** asked if there was substantiation in the bill for **Ms. Boyle's** "No" response to **Vice Chairman Heinrich's** question. **Ms. Boyle** replied this is solely for research, marketing and education. She said it is spelled out in Section 25-3716.

**Chairman Gannon** inquired about assessments, as spelled out in Section 25-3717, wanting to know who sets the rate of assessment of \$3.00 per

head. **Ms. Boyle** said it is the Council that sets the assessment rate. **Chairman Gannon** asked **Ms. Boyle** where in the bill it makes that statement. **Ms. Boyle** replied that it is not specifically spelled out but she referred the Committee to page three, under 25-3716, lines 40 - 41, as well as to page four, lines 11 - 13.

**Senator Sagness** stated this bill is an evolving target in putting this together, and there is nothing wrong with that unless it is indicative of instability and a lack of reasonable solidarity in the organization. He said his question was what is the current status of the organization. **Ms. Boyle** replied that last year there were many problems; however, now there is a new board and they are trying to stabilize the industry.

**Senator Corder** commented he appreciates the growing pains of the Elk Association. **Senator Corder** stated he thinks the Elk Association is not ready for the proposals in the bill being presented to the Committee this year.

**MOTION:**

**Senator Corder** moved that **RS 18011** be returned to the sponsors. **Senator Stennett** seconded the motion. **Chairman Gannon** asked the audience if there was anyone else who would like to speak to the issue. No one responded.

**Vice Chairman Heinrich** commented that, contrary to **Senator Corder**, he had received comments from people in his district that the Elk Association is now ready to start something like this and they would hope this would be a 202 Grant together. He stated the Elk Breeders have changed the RS to address the concerns of the people in his district so **Vice Chairman Heinrich** said he supports going ahead with this bill. **Senator Hill** stated he is inclined to agree with **Vice Chairman Heinrich**.

**Senator Schroeder** requested a roll call vote. The motion passed by **roll call vote** with **Senator Siddoway** abstaining and Senators Sagness, Stennett, Hill, Corder, McGee, Schroeder, Heinrich and Gannon voting "Aye." At **Chairman Gannon's** request, **Senator Corder** agreed to meet with the Elk Breeder's Association to possibly give them some suggestions.

**H 514**

**Chairman Gannon** welcomed **Kent Foster**, Executive Director, Idaho Association of Soil Conservation Districts, to the Committee. **Mr. Foster** introduced H 514, relating to soil conservation districts, to the Committee.

**Senator Hill** inquired regarding the bill saying, ". . . the governing body of a local governmental entity, etc.", and even though it is within the section dealing with soil conservation districts, is it his intent for the bill to cover all governmental agencies throughout the State? **Mr. Foster** responded that is not the intent of the bill. That wording is just for districts in the Soil Conservation Commission only. **Senator Hill** reiterated his concern that there is a sentence in the bill that says, ". . . the governing body of a local governmental entity whose annual budget from all sources does not

exceed \$50,000 may elect to have its financial statements reviewed on a bi-annual basis.” **Senator Hill** expressed his concern that it says, “. . . of a local governmental entity . . .” It does not say the Conservation District. It sounded to **Senator Hill** that the bill was including all local governmental entities throughout the State. **Senator Hill** inquired of **Mr. Foster** if that was his intention. **Mr. Foster** replied, “No” and offered to correct the wording.

**Senator Schroeder** asked if the Committee could hold H 514 until its next meeting in order to obtain clarification of the wording. **Senator Hill** stated he would like to go to the Attorney General’s Office or to Legislative Services to obtain clarification of the wording in the bill that has been discussed.

**Chairman Gannon** addressed the Committee, saying there was a unanimous request to hold the bill until clarification can be obtained from the Attorney General’s Office, and asked if there were any objections to that request. There were no objections and **Chairman Gannon** told the Committee we would proceed in that direction.

**Chairman Gannon** then asked **Senator Hill** regarding an audit report versus a financial review and if it is clear in *Idaho Code* if there is a difference in the way each is defined. **Senator Hill** replied, “Yes”, there are definitive standards for both, separately. **Chairman Gannon** asked if there was any issue with the auditors looking at the books every two years and **Senator Hill** replied that would be no issue.

**MINUTES:**

**Senator Stennett** moved to approve the minutes of February 26, 2008 as submitted. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**Senator Corder** moved to approve the minutes of January 31, 2008 as submitted. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

**Senator Hill** moved to approve the minutes of February 14, 2008 as submitted. **Vice Chairman Heinrich** seconded the motion. The motion carried by **voice vote**.

**Vice Chairman Heinrich** moved to approve the minutes of January 14, 2008 as submitted. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**Vice Chairman Heinrich** moved to approve the minutes of February 12, 2008 as submitted. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

**Senator Stennett** moved to approve the minutes of January 24, 2008 as submitted. **Senator McGee** seconded the motion. The motion carried by

**voice vote.**

**Senator Siddoway** moved to approve the minutes of January 17, 2008 as submitted. **Senator Hill** seconded the motion. The motion carried by **voice vote.**

**Senator McGee** moved to approve the minutes of January 29, 2008 as submitted. **Senator Hill** seconded the motion. The motion carried by **voice vote.**

**Senator Schroeder** moved to approve the minutes of February 7, 2008 as submitted. **Senator McGee** seconded the motion. The motion carried by **voice vote.**

**Chairman Gannon** moved to approve the minutes of February 5, 2008 as submitted. **Senator Hill** seconded the motion. The motion carried by **voice vote.**

**Senator McGee** moved to approve the minutes of February 19, 2008 as submitted. **Senator Siddoway** seconded the motion. The motion carried by **voice vote.**

**ADJOURNED:** There being no further business, **Chairman Gannon** adjourned the meeting at 8:53 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** March 6, 2008

**TIME:** 8:00 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Sagness

**MEMBERS ABSENT/ EXCUSED:**

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**GUESTS:** See attached sign-in sheet.

**CONVENED:** **Chairman Gannon** called the meeting to order.

**PRESENTATION** Idaho Wheat Commission

**Blain Jacobson**, Executive Director, Idaho Wheat Commission, gave a report on the Idaho Wheat Commission including production, global demand, and biofuel demand. He shared that wheat demand around the world continues to expand and that in seven of the last ten years, usage of wheat has exceeded production. This has resulted in drawing down of reserves and we are now at a record low in wheat stocks. Worldwide there is less than a two month supply of wheat right now. Approximately half of the world supply of wheat is in China.

Mr. Jacobson discussed the 2008 Idaho Wheat Commission budget and projected 2009 revenue and spending. He said 1.2 million acres of wheat were harvested in 2007 in Idaho. He discussed current issues of concern including the loss of agricultural land. The more farmland taken from production, the more pressure is put on food prices. Approximately two million acres per year of farmland in the United States that is taken away. He said we must get the word out on this.

**Senator Corder** asked if the commission fee or tax is frozen at two cents? **Mr. Jacobson** said they are given a range by the Legislature from one to two cents. He said if they have more acreage and are able to build up a surplus then they will roll it back.

**Senator Corder** asked about the list of current issues Mr. Jacobson presented and noted that one was absent. He said historically high prices in an agricultural industry precipitate tragedy. The effect is over-planting and other things. He said he is assuming that the Idaho Wheat

Commission high profits might be one of the areas of concern or risk factors to the industry. **Mr. Jacobson** said that historically that has been true. But they don't think prices will come down as quickly right now as they have in the past because all the crops are offering good prices to the grower. In the past one crop may be up and the other down, so the decision was easy. This year there is an array of crops that have good prices. There is not as much land in production as there was historically either. There is less marginal land that can quickly be brought into production. There is no question that prices will come down some, but we won't see \$4 wheat again unless something drastic happens.

**Senator Sagness** said he is interested in the chart on biofuel demand. He asked how much of a factor is it in terms of taking wheat out of the food chain? **Mr. Jacobson** said it is one of four or five contributing factors to these high prices. He said he cannot quantify how much each factor has contributed to this high price but biofuel demand is one of the major two or three factors. In the Midwest there are four or five states now that have to import corn. Historically they have always exported corn, but now there is so much demand for ethanol refineries that they are importing corn from neighboring states. That illustrates how demand is being fueled by refineries.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary [see Attachment 1, 2, and 3].

#### RS 18046

Stating Findings of the Legislature and Urging the Chicago Climate Exchange's Technical Advisory Committee to Approve a Designated "Cropping Region" for Idaho Based on the Natural Resources Conservation Service (NRCS) Northwestern Wheat and Rangeland Region Designation by the Natural Resources Conservation Service

**Senator Stennett** said this resolution is an effort to aid the ongoing efforts of the Idaho Soil Conservation Commission and the Idaho Carbon Sequestration Committee to develop a Carbon Credit Exchange Framework for the State of Idaho. Together they have developed pilot projects for rangeland, non-industrial forest land and crop land for possible trading through the Chicago Climate Exchange (CCX). However "crop land" is not a current designated region for our state, although the CCX has recognized rangeland, forest land and grasslands. This resolution is urging the CCX to consider approving Idaho's request to designate "crop land" as acceptable to qualify the exchange program. There is no impact to the General Fund.

**Anthony Bennett**, Soil Conservation Commission, said they did hear from the Chicago Climate Exchange and they said they will meet towards the end of April to consider the Soil Conservation's request, so this resolution is very timely to submit to them.

#### MOTION

**Senator Schroeder** moved to send RS 18046 to State Affairs Committee for printing with the understanding that it will be returned to the Senate Agricultural Affairs Committee for hearing. The motion was seconded by **Senator McGee**. The motion carried by **voice vote**.

**Dar Olberding**, Representing the Idaho Grain Producers Association, reported to the Committee that the Field Burning bill passed the Health and Welfare Committee yesterday and will be heard on the Senate floor today.

Mr. Olberding stated that the purpose of this bill is to authorize the Idaho Barley Commission to levy a barley assessment at the first point of sale on Idaho grown barley and imported barley up to a maximum of four cents per hundred weight. (He said it is currently set at two cents per hundred weight.) This gives the Idaho Barley Commission flexibility to set a budget based on projected production. He said there is no fiscal impact to the General Fund resulting from this bill.

**Senator Siddoway** asked under the current rules if a refund is available? **Mr. Olberding** said that because of a referendum that was passed several years ago, a refund is not available. The purpose for this was because the Association was getting a lot of barley from Canada and they thought the only way to get a handle on it was to put the barley check off on it, without a refund. **Senator Siddoway** asked when the last referendum was taken? **Mr. Olberding** answered seven to ten years ago.

**Senator Siddoway** asked about Section 22-4019, says every five years thereafter, a referendum shall be called. He asked Mr. Olberding to explain why the Association has been allowed to go ten years without a referendum? **Mr. Olberding** deferred to Evan Hayes.

**Evan Hayes**, Chairman, Idaho Barley Commission, said on line 29 of page 2 gives the answer. It says "a referendum...may be held."

**Senator Corder** asked how many petitions have been filed by growers to have a referendum? **Mr. Hayes** said none. The Commission has never had an effort to ask them to hold a referendum. He said the House Agriculture Committee requested them to hold a grower referendum prior to the Barley Commission raising the assessment rate, and they agreed to that. The process is defined in the Statute of how that referendum is to be held.

**Senator Siddoway** asked Mr. Hayes to talk about the refund provisions following a referendum. He said on page 2, Section 22-4015, (5) talks about the refund and says they shall cease to be available beginning on July 1. He asked if you have a referendum like you've committed to the House Agricultural Committee, between now and July 1, or would it be after July 1? **Mr. Hayes** said the House Agricultural Committee asked the Commission if it would hold a referendum prior to increasing the assessment rate. There was no language in the request by the House Agricultural Committee that the Commission hold a referendum on the refund clause. The refund clause was removed by a grower referendum approximately ten years ago. Until that is readdressed, the refund clause will still be in Statute but it will not be active until a specific referendum calls for that. **Senator Siddoway** said then the only way the refund provision will be addressed is if either a majority of the Commission asks for the question to be asked of the producers, or ten percent of two of the

three districts petition the Commission for the question to be asked. Is that correct? **Mr. Hayes** answered that is correct. **Senator Siddoway** asked if this bill passes, and a referendum is sent out, will the referendum just ask the generic question “do you favor the Barley Commission that is funded by all the growers with a refund provision?” Will that be the only question that is asked on a referendum? **Mr. Hayes** said no, that isn’t what it will say at all. He believes what it will ask, when the referendum goes out, is do you support the ability of the Barley Commission to raise the assessment rate up to four cents? This is what this piece of legislation is asking for. Now, let’s say that barley production is increased by the prices we’re seeing today. If production goes up, rest assured that the Barley Commission is not going to have to readdress this assessment rate because they will be fine as far as money is concerned. He said what they are doing is being proactive and not reactive. He would like the Barley Commission to have the authority to address these if they get into budgetary problems. If they don’t, so be it. He said the Wheat Commission fell under scrutiny of the Legislature because they had a tremendous surplus. But, they could not address that surplus because, by Statute, they were locked at two cents. So they did exactly what the Barley Commission is doing and made it an adjustable rate. Then they were able to reduce the assessment rate until the surplus went away.

**Senator Siddoway** asked about Section 2, 22-4019 on line 21 where it gives the specific question to be printed on the secret ballot, that question is quite different from the question that the growers have. The growers might be willing to support a Commission of two cents with no refund provision. He said he isn’t so sure the growers will be willing to support the Commission with the four cent mandatory check off. He wants the producers to be able to understand exactly what they’re committing to the Commission when that ballot goes out. He asked **Mr. Hayes** to respond to that. **Mr. Hayes** said he completely agrees to what **Senator Siddoway** just said. But that was not the direction by the House Agricultural Committee. He said he knows what the Statute says, but the House Agricultural Committee asked them if they would run a referendum prior to increasing the assessment rate. They did not ask the Commission to run a referendum on the refund clause. That refund clause will stay in this Statute if that is the desire of this Legislature and the growers the refund clause will stay in there. He said he believes a refund clause makes an honest Commission. Until the Commission hears from the growers that they want a referendum on the refund clause, this is where we are.

**Senator Hill** said in the last two weeks they have been talking about the check off for the elk people. They were told that in order for that to be Constitutional there had to be a refund provision. H 484 has a refund provision, but it gives them an out of the refund provision with the referendum. Is this common with Commissions to have referendum to delete the refund provision? Why is it there if we have the power to take it back out? **Mr. Olberding** said he remembers when this bill went through in 1988. It was a compromise worked out with the Farm Bureau. They have a policy that said they agree with Commissions, but they wanted a refund clause.

**Frank Sullivan**, a Farmer and a Barley producer, opposes this potential

tax increase. He said farmers are in attendance from Bonneville, Jefferson, Madison, Clark, and Fremont Counties who are all here in opposition to this bill. They represent roughly 40% of Idaho's barley production either through attendance today or from a letter written to the Committee. He said the Idaho Barley Commission has been serving and taxing barley producers for 20 years. At the same time, Idaho barley production is at a 30 year low. Other than the recent price spikes brought on by drought and reduced wheat shortages and unusually high demand for corn for ethanol production, barley prices have not increased from the levels produced in the 70's and 80's. At the same time, input costs have continued to climb year after year causing producer's bottom line to dwindle. Profit levels have dropped to the point that it is no longer economically feasible to raise feed barley. If it wasn't for the development of higher yielding varieties it is unlikely that malt barley would produce a profit as well. This doesn't sound like a success story for a Commission setup to promote barley production, nor a reason to give them a raise. What do the Idaho barley producers now have that they wouldn't have except for the efforts of the Idaho Barley Commission? He said he has no answer to this. He has learned to view their claims with considerable skepticism. The Idaho Barley Commission has invested barley producer dollars in research that is aligned with large malting companies and varieties they are developing. They are very well funded and could do this on their own. This research is to gain new varieties to produce more success for the growers as well as the company. If the Idaho Barley Commission is doing this to form alliances with these companies, he believes this is a conflict of interests. With shared credit goes shared responsibility.

The Idaho Barley Commission claims they are responsible for bringing the newest company, Modelo to Idaho. Anheuser Busch owns more than 50% of Modelo and Anheuser Busch is already here. With shared credit goes shared responsibility. Idaho Barley Producers have already shown that they're capable of producing the barley Modelo needs, but the attitude that Modelo has shown for the producers have driven many producers away. Idaho Barley Commission has not educated Modelo that they need the producers as much as the producers need them. As a result, Modelo has been forced to purchase much of their malting barley for the Idaho Falls malting facility from other states and Canada. The Idaho Barley Commission gets tax on at least part of this barley, but this does not benefit Idaho producers whatsoever. The Idaho Barley Commission is listing as one of their accomplishments in research the development of Charles Winter malting barley, but this variety has actually been developed in Aberdeen by a joint effort of the United States Department of Agriculture (USDA) Agriculture Research Service and the University of Idaho Agriculture Experiment Station with research that started in 1994. That research has continued with or without the support of the Idaho Barley Commission. They didn't become interested until recently and they certainly did not develop the variety.

Barley producers receive help from the field man from the fertilizer company, the insurance agents who explain federal crop insurance, and the field man who is on hand to advise on maximizing the yield and quality of the malt barley crop. The producers receive these things as a benefit

from the people they do business with. Why pay the Idaho Barley Commission for help and services the producers already receive?

The Idaho Barley Commission is going through a lean time currently with lower barley production bringing in less funding through the barley tax. Rather than curb their spending to match their income, like the farmers they're supposed to serve, they have chosen to try to force the remaining barley producers to pay a higher tax on the barley they produce. It appears that they are out of touch with the growers.

**Senator Hill** asked if this is the way many growers feel, why have they not petitioned for a referendum to discontinue the Barley Commission or is it Mr. Sullivan's opinion that they are worth two cents but not worth four cents? **Mr. Sullivan** said there is lack of information. He wasn't even aware that there was a refund procedure at any time, and doesn't remember seeing the referendum to remove the refund. He believes potentially they have a value, but it is limited because they don't need to promote barley because 80% of Idaho's production can be consumed within the State.

**Senator Corder** asked if the letter from the Fremont County is the letter he agreed with? **Mr. Sullivan** said he hasn't read the letter and didn't think he said he agreed with it. He said the producers are represented by the big counties in the State who produce the most barley and their representation is in a written statement. **Senator Corder** said there are a number of things in the letter he would like to talk to them about. He asked Mr. Sullivan how many Commission meetings he has attended? **Mr. Sullivan** said none. **Senator Corder** asked how many suggestions he has offered to improve their relationship with his area and how many suggestions has he given them for how they might be of value to him? **Mr. Sullivan** said he has made phone calls when the recommendation was made to them. As far as presenting them with ideas, they are running on the producer's money. He feels they should come to the producers and ask them how they feel. The producers shouldn't have to drive to Boise to present their case to the Commission's committee meetings. **Senator Corder** said he appreciates Mr. Sullivan's concern, but it seems to him the road goes both ways. He said he is trying to understand Mr. Sullivan's harsh criticism when he hasn't proven to Senator Corder that he has tried to mitigate that criticism by offering them constructive solutions to help them. **Mr. Sullivan** said he is limited in his response as to what they could do to help the producers because he doesn't believe that they are needed in the State of Idaho.

**Mike Ricks**, Owner of Ricks Farms, LLC, said he has been involved with the Idaho Barley Commission since 1988 and was involved in setting it up. He said he feels there is a lot of value to the Barley Commission. He said there are things the Commission has done and continues to do. He feels it is important to the farmers that these Commissions help work on State and Federal legislation, to help with the safety net with insurance, with having disaster payments. Those things didn't come along because the elected officials thought they would be nice to farmers. The Commission spent hundreds of hours and days of hard work to bring these things about. The other area Mr. Ricks has been involved in is the

research area. He said there is research going on now at the University of Idaho that is funded by grower dollars. He grows feed barley and those varieties are not developed by the malt companies, they are developed by grower dollars. Federal funding is shrinking. Therefore the University of Idaho and private researchers have been turning to the growers and Commissions to make up the difference. He said it takes 12 - 14 years to develop a variety. He said the Commission has been a great help to him on his farm.

**Senator Hill** asked if Mr. Ricks is on the Barley Commission Board or in any capacity with the Commission? **Mr. Ricks** said he is not on the Board. He is the President of the Idaho Grain Growers Association for Madison County, and that Board does the political work for both the Wheat and the Barley Commission.

**Senator Hill** asked Mr. Hayes if he would tell the Committee what the annual budget of the Idaho Barley Commission is? Also, how much the Commission spends in support of research with the University of Idaho and other research organizations? **Mr. Hayes** referenced the back of the first page of the Idaho Barley Commission's report which shows the Commission's budget from 2001 through 2008 and the breakdown of categories. **Senator Hill** said of the \$453,000 budget for the current year, approximately 25% of that is going into research. Is that correct? **Mr. Hayes** said that is correct.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary [see Attachment 4].

**Richard Larsen**, Owner, Larsen Farms, said they are looking at diversifying and want to grow some malt barley to stabilize the ups and downs in agriculture. They think if they have a long term relationship with a malting company they can do that. Their concern is that the costs of farming are skyrocketing - fertilizers, taxes, etc. - lots of expenses. They support the two cents, but four cents is another tax on their business. They believe the price will fall at some point, and the four cents will remain. They do not support this increase in tax at this time. If there is an increase, they ask that there will be a way to get it back if they felt it wasn't doing any good.

**Senator Corder** asked since Mr. Larsen hasn't been growing barley, will this growing season be his first ever in some time? **Mr. Larsen** said that is correct, this will be the first year in 20 years. **Senator Corder** asked Mr. Larsen's opinion of the value of Commissions and is it their job to advise on fertilizer, crop rotation, and all those things, or is their job something else? **Mr. Larsen** answered that he supports the Potato Commission and the Wheat Commission. The reason he questions the Barley Commission is because Modelo, Anheuser Busch, and the dairies in Idaho have established this market. He said he doesn't feel the extra tax for barley will do the farmers any good. He exports products and believes there is great value in the Wheat Commission's promotion there. **Senator Corder** said he doesn't follow Mr. Larsen's logic because he supports the Potato Commission and they didn't do anything to keep Simplot in the Magic

Valley and they really haven't served well in other areas, and the things Mr. Larsen is arguing that perhaps the Barley Commission ought to be doing for producers, but the Wheat Commission follows exactly the procedures, principles and goals of the Barley Commission. He asked why Mr. Larsen supports two when there is documentation that maybe they haven't served as well as you expect from the Barley Commission. **Mr. Larsen** said everyone in the world knows Idaho potatoes. There is great potential for the Wheat Commission in China. He does not believe that barley has the same potential. The market for barley is here in Idaho. Because of these things this isn't a conflict. **Senator Corder** asked if Mr. Larsen sees the opportunity to expand the food market into China and Japan as a valuable thing the Barley Commission could be doing? **Mr. Larsen** said he really does not see it.

**Dan Mader**, member of the Idaho Barley Commission, said in Northern Idaho most barley produced is feed barley. It is traditionally exported. He said when there wasn't an export market for feed barley, barley prices were terrible. The difficulty with feed barley is that the competitor domestically is corn and corn production has doubled in the 25 years. Monsanto has said they are confident they can increase corn production by 2030 from 150 to 300 bushels to the acre. Both barley and corn are feed. When corn production doubles the grower can get the same amount per bushel and his revenue is still going up. This drives feed barley out of the picture. Barley growers must make dramatic increases in the value of barley on a per acre basis to keep it viable. One way to do this is to switch some varieties to genetically improved winter barley and add malt. The second thing is to develop food barley. He talked about Salute barley which is purchased by the Japanese.

**Senator Hill** asked how this ties in with the Barley Commission? He asked if when Mr. Mader refers to the Executive Director is he referring to the Executive Director of the Barley Commission, when he talks about going on a trade mission is that in relationship to your position or as the result of the Barley Commission? **Mr. Mader** said that is correct.

**Dan Mader** said now what is needed is to take the winter production and put the food trades in it. The bottom line is that there is a lot of potential, but it is up to the growers to do this. He believes the Barley Commission is doing a good job. Before he was on the Commission he didn't know about all these things. He said they have to keep barley competitive. He said the current assessment for barley is eight tenths of one cent per bushel. The Commission is asking for it to be raised to one and one half cents per bushel.

**Mike Hathaway**, representing Walker Farms and some other farms in his area. They raise approximately three million bushels of barley. They object to the increase tax, mostly because of the bottom line. A large majority of barley that is contracted in Idaho is contracted at a loss price. There is a huge amount of Anheuser Busch's contracts that are \$9 or under. According to real costs, the cost to raise it is \$11. That is a fair estimate. Farmers have signed those contracts and must live up to them. So this increase comes directly off the farmer's bottom line. He spoke of discrepancies between the Commission's accounting numbers on their

website and the report submitted today. He asked if the tax will be dropped if the barley growers suffer a loss? In the past that hasn't happened. They have to pay the tax even when they sell at a loss. Where does this stop? This is excessive.

**Senator Corder** asked if Mr. Hathaway is aware of any other commission that negotiates prices with any vendor? **Mr. Hathaway** said he is not aware of any.

**Chairman Gannon** said Mr. Hathaway indicated that he signed a bad contract this year and he stated he could do a better job contracting on his own behalf than they do for him. He asked if Mr. Hathaway was forced to contract for that barley this year; is he locked in and have no crop options? **Mr. Hathaway** said in the area where they grow barley it is either wheat or barley as their second crop. The barley has been better than wheat has for them, but it hasn't been profitable. **Chairman Gannon** said he has been told some people are making money growing wheat. **Mr. Hathaway** said he would agree with that today. His overall contracts will make him money, but his expenses are going up faster than this contract is.

**Jeff Godfrey**, a barley producer, supports this bill. He feels barley producers need the Commission and he feels the Barley Commission did bring Modelo into Idaho. He said he signed a contract for \$7.50 and the Barley Commission argued and got the contract increased by \$.50. He said the Commission has come to his farm and walked his fields.

**Brock Egan**, a barley producer, is opposed to this bill. He is opposed because he feels nothing has been accomplished by the Commission. He has never been to or heard of a meeting. Barley is in a high but it isn't due to the Commission, it is due to ethanol and corn prices. He asked the Committee not to approve this increase. With operating costs going up, they won't be able to survive in lean times. He feels the Commission is being greedy.

**Senator Corder** asked if there were notices of meetings in the magazine? **Mr. Egan** said he read some articles in it but it was of no value to him.

**Scott Brown**, barley grower, said he is in favor of H 484. He feels the Commission has made him a better, more profitable farmer. He too signed a low contract. The Barley Commission did a study on the cost of growing barley and have taken a letter to the malting companies asking them to reconsider these low contracts. The Commission works behind the scenes. The Commission also negotiated for a freight allowance because of the high price of fuel. The growers received \$.50 per hundred weight. The Barley Commission has put money in his pocket. If growers aren't involved they won't know what the Commission is doing.

**Matt Gellings**, President of the Idaho Grain Producers Association, said he feels somewhat responsible for not getting information to the growers. There is a town meeting in Idaho Falls tomorrow to get information out. The more he has become involved, the more value he has seen from the Barley Commission. All costs are going up - even for the Commission. He said he is in support of H 484. Town hall meetings have been held and

the Grain Producers Association felt the Commission had grower support. He asked any grower who feels they need support to step up and ask for it.

**Dean Stevenson**, representing Minidoka County Grain Producers, said his County produces malt barley. He said he heard someone say today that malt growers don't need the export market. One thing to remember is that malt growers are one rainstorm away from being feed barley growers. He reminded growers of the infestation several years ago of bolls. He said it was through the Barley Commission that for several years they received Section 18s for treatment to control those. He said he supports H 484. The barley growers need to fund their own future and he feels the Barley Commission has done a great job.

**Bret Jensen**, from Idaho Falls, said he is against this increase in tax. He feels there is a need for the Idaho Barley Commission. He said they can be improved upon, but they are doing some things. He feels he doesn't get the representation and maybe before an increase is assessed this should go to a vote of the barley producers according to production because they will be paying this tax. The majority of growers he has talked to in his area are against this increase in tax.

#### **MOTION**

**Senator Schroeder** moved to send H 484 to the Senate floor with a do pass recommendation. The motion was seconded by **Senator Corder**.

**Senator Schroeder** explained that the reason he supports this bill is that all the producers in the Palouse, which he represents, have all supported this bill.

#### **SUBSTITUTE MOTION**

**Senator Siddoway** made a substitute motion to hold H 484 in Committee. The motion was seconded by **Senator Hill**.

**Senator Siddoway** said there is obviously a split here. He said Mr Hayes may think Senator Siddoway is being disingenuous in this bill, but either the Committee holds it or they run the risk of losing the Commission altogether. If they don't go back and get everyone together, the growers here will call for a referendum to say they will get rid of the whole Commission or there will be a refund provision. If they do that they will lose all the money that comes in from Canada. He said he is sincerely in favor of a Commission, but the level must be defined and there must be support for the Commission. If the Committee can hold this bill, the Commission can do their outreach programs this year. There are additional acres that will be planted this year and if those acres come by there will be a big increase in the amount of money the Commission receives. That gives them one year of reprieve. Then when they come back next year they will have a more united industry, bring this same bill with everyone on board, and the chances of survival of the Commission are a lot better than what they are today. He will vote to hold this bill in Committee.

**Senator Hill** said he agrees entirely with Senator Siddoway. He said as an accountant he does a lot of good things for his clients, but if he doesn't tell his clients the good things he does for them he will lose his clients. He said it was mentioned today that the Commission doesn't pound on its

own chest. Well, they better start pounding because there is a perception that the value is not there. Now that those opposing this know what their options are, Senator Siddoway is correct, the Commission may not be in existence if they pursue this. These growers are paying the Commission and it is the Commission's responsibility to contact them and to tell them what has been done for them so they can see the value that is there. He commended the Commission for the good things they are doing, but they need to help growers to see the value. He will support Senator Siddoway's substitute motion.

**Chairman Gannon** said in his six years on the Agricultural Committee this is the first time where a stable, well established industry come in and have been so divisive. It is disheartening. There is something that isn't right. He said he came into the meeting today in support of H 484. Whether or not the Commission is doing an outstanding job, they certainly lack something in the public relations arena.

**Senator Corder** said he suspects that farmers who make a lot more money this year will pay more taxes, and guess who they will blame? They will blame their tax preparer because they didn't do enough. He said he agrees with **Chairman Gannon**. Shame on us for letting this even get here. Every time agriculture fights, we lose. Something will be lost here. We can't afford to lose any more battles. He said he will support the original motion, but he hopes that future Commissions decide they will fight before they go to the newspapers.

**Chairman Gannon** called for a roll call vote on the Substitute Motion. **Senator Sagness** Aye; **Senator Stennett** Aye; **Senator Siddoway** Aye; **Senator Hill** Aye; **Senator Corder** Nay; **Senator McGee** Aye; **Senator Schroeder** Nay; **Vice Chairman Heinrich** Aye; **Chairman Gannon** Aye. **Chairman Gannon** said the Substitute Motion passed. H 484 will be held in Committee. He said there is a lot of work to be done. One thing he didn't hear today was what the Commission would do with the two additional pennies.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE** March 11, 2008

**TIME** 8:00 am

**PLACE** Room 117

**MEMBERS PRESENT** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Sagness

**MEMBERS ABSENT/ EXCUSED**

**NOTE** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**MINUTES** **Chairman Gannon** convened the meeting at 8:08 a.m.

**Chairman Gannon** welcomed Representative Bolz to the committee.

**H 426** **Relating To Idaho Ag In The Classroom**

**Representative Bolz** presented the details of H 426 to the Committee. This legislation creates Idaho Ag in the Classroom as a separate entity. The program has been supported in the past with General Fund money and is now in a position to be funded without those funds. Funds from the Agricultural license plate will be deposited in a fund in the State Treasury for distribution to the program. The State has the right to audit the funds at any time. The General Fund expenditure will see a reduction which has been allocated to the State Department of Agriculture to fund the Idaho Ag in the Classroom program.

**MOTION** **Senator Hill** moved that H 426 be sent to the Floor with a do pass recommendation. **Senator McGee** seconded the motion. The motion carried by **voice vote**. **Senator Corder** requested that he be the sponsor of the bill.

**H 441** **Relating To The Idaho Food Quality Assurance Institute**

**Representative Bolz** presented the details of H 441 to the Committee. This legislation makes changes in terminology of the representatives serving on the Idaho Food Quality Assurance Institute. The original legislation called for commission members to be appointed to the institute. The changes will allow for broader representation. There is no fiscal

impact to the General Fund.

**MOTION**

**Senator Heinrich** moved that H 441 be sent to the Floor with a do pass recommendation and with the recommendation that it be put on the Consent Calendar. **Senator Corder** seconded the motion. The motion carried by **voice vote**.

**Chairman Gannon** welcomed **Joyceanne Fick**, Public Member, Board of Veterinary Medicine, to the Committee.

**H 415**

**Relating To The Board Of Veterinary Medicine**

**Ms. Fick** presented the details of H 415 to the Committee. H 415 will amend the existing statute to authorize the Board to employ a non-classified executive director and such support staff as deemed necessary by the Board. It will provide for the compensation of employees and clarify the Board's authority to enter into service contracts. An analysis of current personnel costs has been completed and no additional spending authority will be required to implement the proposed legislation.

**MOTION**

**Senator Siddoway** moved that H 415 be sent to the Floor with a do pass recommendation and with the recommendation that it be placed on the Consent Calendar. **Senator Corder** seconded the motion. The motion carried by **voice vote**.

**Chairman Gannon** welcomed **Kent Foster**, Executive Director, Idaho Association of Soil Conservation Districts, to the Committee.

**H 514**

**Relating To Soil Conservation Districts**

**Mr. Foster** explained the details of H 514 to the Committee. This legislation will bring conservation districts under the statute for independent financial audits by governmental entities and provide for more uniform accountability. The fiscal impact will be covered by the enhancement included in the Governor's recommendation in the Soil Conservation Commission's annual budget.

**MOTION**

**Senator Hill** moved that H 514 be sent to the Floor and be referred to the Fourteenth Order of Business for amendment. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. **Chairman Gannon** will co-sponsor the bill with **Senator Hill**.

**GUEST  
SPEAKER:**

**Chairman Gannon** welcomed **Dr. Siân Mooney**, Associate Professor, Department of Economics, Boise State University, to the Committee. **Dr. Mooney** made a PowerPoint presentation to the Committee on the subject of "Economics of Carbon Sequestration: The Role of Agriculture." Dr. Mooney presented an overview of the economics of carbon sequestration. This included an explanation of the European model and examples of how carbon sequestration could be structured in the United States. Committee members had a number of questions regarding the

details of how a program could be established and who would financially benefit from the program. A copy of Dr. Mooney's PowerPoint presentation is attached to these minutes.

**ADJOURNED:** There being no further business, **Chairman Gannon** adjourned the meeting at 9:37 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

<b>DATE</b>	March 13, 2008
<b>TIME</b>	8:00 am
<b>PLACE</b>	Room 117
<b>MEMBERS PRESENT</b>	Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Siddoway, Stennett and Sagness
<b>MEMBERS ABSENT/ EXCUSED</b>	Senator Hill
<b>NOTE</b>	The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
<b>MINUTES</b>	<p><b>Chairman Gannon</b> convened the meeting at 8:08 a.m.</p> <p><b>Chairman Gannon</b> invited <b>Senator Stennett</b> to make his presentation regarding SCR 137.</p>
<b>SCR 137</b>	<p>Stating Findings of the Legislature and Urging the Chicago Climate Exchange's Technical Advisory Committee to Approve a Designated "Cropping Region" for Idaho Based on the NRCS Northwestern Wheat and Range Land Region Designation by the Natural Resources Conservation Service.</p> <p><b>Senator Stennett</b> explained that Senate Concurrent Resolution 137 is to encourage the Chicago Climate Exchange Commission to designate Idaho as a cropland region. After the Senate Agricultural Affairs Committee's first meeting this Session on carbon trading, members of the Senate Agricultural Affairs Committee asked the Soil Conservation Commission what they could do to help them. The contents of SCR 137 fulfills their suggestion. If this bill goes through, it would be timely to send back to the Chicago Climate Exchange to see if it would create a cropland region for the State of Idaho.</p>
<b>MOTION</b>	<p><b>Senator Schroeder</b> moved that SCR 137 be sent to the Floor with a do pass recommendation. <b>Senator Corder</b> seconded the motion. The motion carried by <b>voice vote</b>.</p>

**GUEST  
SPEAKER**

**Chairman Gannon** welcomed **Ben Simko**, Program Manager, Pest Survey & Detection Programs, Idaho State Department of Agriculture.

**Mr. Simko** made a presentation to the Committee. The presentation was entitled "Update on Grasshoppers and Mormon Crickets."

**Chairman Gannon** asked **Mr. Simko** if his predictions have been accurate as far as the movement of the grasshoppers and Mormon crickets over the last two or three years. **Mr. Simko** replied they have a fairly good idea of when big areas are touring because of the grasshoppers' and crickets' cyclic nature. They see trends in building populations over two to three years and they can see waves of problems.

**Senator Corder** queried what **Mr. Simko's** prediction is for this year, given the winter with a great deal of moisture that Idaho has just experienced. **Mr. Simko** replied the egg stage at which the crickets and grasshoppers are right now is fairly insulated and protected from the ravages of nature. **Senator Corder** added that since the insects may have wintered so well, the moisture that Idaho has might increase the plant growth and that will change how much they move. **Mr. Simko** agreed and said the vegetation is another factor. If there is a lot of vegetation and good, healthy growth, the impact of the grasshopper population may not be as severe because there is a lot of bio mass and foliage to share with the native animals. A lot of good foliage on the rangeland can actually work for us as far as the insect problem is concerned.

**Vice Chairman Heinrich** asked what the shelf life for the bait is and if it can be carried over from year to year. **Mr. Simko** replied that the storage is relatively stable and the bait can be stored for multiple years and seasons in dry cool storage. **Mr. Simko** turned the floor over to **Richard Larson**, Program Specialist, Idaho State Department of Agriculture, who stated the storage of the bait works well and if they can get the insects to eat the bait, the bait will be effective for several years.

**Vice Chairman Heinrich** commented that, in Valley County, the baiting process has been very effective, and he applauds the cooperation and collaboration the Idaho State Department of Agriculture has with Valley County's local Weed Department and the Extension Service there.

**ADJOURNED**

There being no further business, **Chairman Gannon** adjourned the meeting at 8:35 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** March 18, 2008

**TIME:** 8:30 am

**PLACE:** Room 117

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, Corder, Hill and Sagness

**MEMBERS ABSENT/ EXCUSED:** Senators McGee, Siddoway and Stennett

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**MINUTES:** **Chairman Gannon** called the meeting to order at 8:47 a.m.

**GUEST SPEAKER** **Chairman Gannon** welcomed **Director Celia Gould** of the Idaho State Department of Agriculture to the Committee. **Director Gould** introduced **Dr. Guoli-CAO**, Idaho-China Trade Office of the Idaho State Department of Agriculture, who spoke to the Committee regarding "Agricultural Exports to China."

**Senator Hill** asked what kind of trade barriers or tariffs exist between the United States and China and how they affect, specifically, agricultural products. **Dr. Guoli-CAO** replied food is always the main item in international trade, no matter what country. So, this creates an obstacle with the existing treaty. China cannot ship in fresh potatoes nor the seeds. China is worried about the pests that might accompany agricultural products; however, China has been working with the United States Department of Agriculture (USDA). China has also completed a Pest Security Assessment (PSA). **Dr. Guoli-CAO** is optimistic that, more and more, the agricultural market between the United States and China will continue to open up.

**Chairman Gannon** mentioned hay and **Dr. Guoli-CAO** said imported hay is in high demand in China because their land is used for crops with high yield, i.e., fruits, vegetables, rice, etc. China does not have enough acreage for hay. Their cows are fed grain but, from a scientific viewpoint, the cows also need fiber such as hay in their diet in order to yield a higher volume of milk.

**Chairman Gannon** asked what the largest area would be, i.e., farm products, technology within the farm products, or imports to China, would it be meats, grains, or what? **Dr. Guoli-CAO** replied the largest market

currently is grains. He anticipates that corn and bean seeds will be very large markets in the future. **Chairman Gannon** asked if China is allowing genetically-modified (GMO) seeds to be imported. **Dr. Guoli-CAO** said, "No," China is only open for natural seeds. To **Chairman Gannon's** question as to whether or not **Dr. Guoli-CAO** sees a possible change in China's stance regarding importation of GMO seeds, **Dr. Guoli-CAO** replied he sees a trend to transition from a very conservative view on the seeds to a more neutral view on the part of China. As an example, China is now open to GMO products for large communities like soybeans; however, for seeds, China still decides on a case-by-case basis. **Chairman Gannon** inquired if any GMO seeds had been imported by China. **Dr. Guoli-CAO** responded that they have imported some sweet corn which was first sold to Hong Kong and then brought to China mainland. The seeds have a lot of technology inside so it will take time for the competitors in the world to catch up with the seed companies in the United States. It will take a little time to penetrate China's market. Also, the Chinese government encourages the Chinese farmers to buy higher-yield seed and the government subsidizes them if they do, because the general yield of the acreage in China will be increased.

**Chairman Gannon** asked who the biggest competitor to the United States in China is for importing agricultural products. **Dr. Guoli-CAO** replied there are many. **Chairman Gannon** inquired regarding the status of the importation of fish feed into China. **Dr. Guoli-CAO** responded that China's fishing production is currently number one in the world and China needs a lot of fish feeding food. Currently, China uses a lot of soybean fish food. Chinese people are only allowed to eat sea fish or fresh water fish. **Chairman Gannon** stated that China's consumption of fish compared to the consumption of fish in the United States is unbelievably enormous.

**Senator Hill** inquired about the Idaho-China Trade Office and asked if **Dr. Guoli-CAO** works only for Idaho or does he work for other states as well, does he have employees who work here in Idaho, etc. **Dr. Guoli-CAO** replied their office is small and there are two people working in the office, himself and a secretary. The company works only for Idaho, at this point. The office is located in Shanghai.

**Senator Schroeder** asked **Dr. Guoli-CAO** if he had an idea of what the current status of China's supply of grain staples is, in particularly the supply of wheat and rice. **Senator Schroeder** mentioned the Committee has recently learned the world supply of wheat is at a 60-year low, and the United States' supply of wheat is at a 30-year low. **Dr. Guoli-CAO** replied he is not an expert in that area, it is difficult to tell exactly what the wheat supply is in China, but the food price in China has been growing by two digits, more than 10% in the last year, especially for pork, and pork eat grain. The grain prices have increased so the pork prices have increased as well. The jump in price for grain is due to shortage of grain. The supply of grain cannot meet the demand for grain in China. Although **Dr. Guoli-CAO** could not give the Committee figures indicating China's stock or storage supply of wheat because he does not have those numbers, he is certain there is a wheat shortage in China.

**APPROVAL OF  
MINUTES**

**Chairman Gannon** moved for approval of the minutes of March 11, 2008. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

**Vice Chairman Heinrich** moved for approval of the minutes of March 6, 2008. **Chairman Gannon** seconded the motion. The motion carried by **voice vote**.

**Senator Sagness** moved for approval of the minutes of February 21, 2008. **Vice Chairman Heinrich** seconded the motion. The motion carried by **voice vote**.

**Senator Schroeder** moved for approval of the minutes of March 4, 2008. The motion was seconded by **Vice Chairman Heinrich**. The motion carried by **voice vote**.

**ADJOURNED**

There being no further business, **Chairman Gannon** adjourned the meeting at 9:17 a.m.

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Senator Tom Gannon  
Chairman

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Mary Harper  
Secretary