

*Subject to the approval of the Interim Committee*

MINUTES  
ENERGY, ENVIRONMENT AND TECHNOLOGY  
INTERIM COMMITTEE  
SEPTEMBER 1 AND 2, 2009  
ROOM 204, CAPITOL ANNEX

The meeting was called to order at 9:10 a.m. by Cochairman Representative George Eskridge. He explained that since this was the first meeting of the Interim Committee this year there were no minutes to approve.

Committee members in attendance were Cochairman Senator Curt McKenzie, Senator Patti Anne Lodge, Senator Bert Brackett, Senator Russ Fulcher, Senator Kate Kelly, Senator Elliot Werk, Representative Bert Stevenson, Representative Maxine Bell, Representative Eric Anderson, Representative Wendy Jaquet and Representative Elaine Smith. Senator Mike Jorgenson, Representative Bob Nonini and Representative Ken Andrus were absent and excused for both days of the meeting. Representative Elaine Smith and Representative Eric Anderson were absent and excused from the September 2 meeting. Staff members present at the meeting included Mike Nugent, Ray Houston, Toni Hobbs and Jackie Gunn.

Others in attendance included Courtney Washburn and Betsy Bridge, Idaho Conservation League; Kourtney Kirchner and Kathy Hurley, Energy Policy Institute; Brenda Tominaga and Lynn Tominaga, Idaho Irrigation Pumpers Association; Leif Elgethun, Kelsey Nunez and Jane Suggs, Clean Lakes, US Green Building Council–Idaho; Mark Milburn, LS Power; Beth Markley and Pat Barklay, Idaho Council on Industry and Environment; Neil Colwell, Avista Corporation; Eileen DeShazo, Ken Eklund and Maria Barratt, Office of Energy Resources; Russ Hendricks and Kent Lauer, Farm Bureau; Jane Wittmeyer, Wittmeyer and Associates LLC; Jeff Burns and Mike Gallup, Renewable Energy Resources; Lane Packwood, Greg Seibert and Don Dietrich, Department of Commerce; John Watts, Veritas Advisor; Dar Olberding, Idaho Grain Producers; Colby Cameron, Sullivan and Reberger; Jeremy Pisca and Benjamin Davenport, Risch Pisca PLCC; Joie McGarvin, Westerberg and Associates; Ken Miller and Liz Woodruff, Snake River Alliance; Rich Hahn, Idaho Power; Glen Pond, Rocky Mountain Power; Ron Williams, Williams Bradbury; Zach Hauge and Jerry Deckard, Associated Loggers; John J. Williams, Bonneville Power Administration; Brian Whitlock, Idaho National Laboratory; Andy Brunelle, US Forest Service; David Naccarato, McKinstry Company; Ken Baker, K energy; Jim Kempton, Randy Lobb and Ron Law, Idaho Public Utilities Commission; Ron Whitney, NW Energy Coalition; Teri Ottens and Brad Purdy, Community Action Partnership Association of Idaho; John Eaton, Idaho Association of Realtors; and Eldon Wallace.

Mr. Ron Williams introduced Mr. Mark Milburn, Assistant Vice President of LS Power as the first speaker. **Mr. Milburn** explained that LS Power is a power generation and transmission group. His complete Power Point presentation is available from the Legislative Services Office.

**Mr. Milburn** stated that his company is involved in the development of two Idaho transmission projects; the Southwest Intertie Project (SWIP) and the Overland Intertie Project.

He explained that the Midpoint Substation in Jerome, Idaho is becoming a regional energy hub for transmission and delivery of generation. The SWIP project comes out of Nevada to the Midpoint Substation. It was an Idaho Power project that LS Power acquired and will start construction on later this year. The Overland Intertie Project runs east and west out of Wyoming into the Midpoint Substation. This runs parallel with the Gateway West Project.

**Mr. Milburn** said that currently the Midpoint Substation only has one 500 KV high voltage line coming out of it. There are at least four more lines planned. These projects will be a significant increase in transmission capacity of Midpoint and southeastern Idaho. This provides a substantial opportunity for delivery of energy in multiple directions and provides additional reliability for the western grid which is a great benefit for Idaho and surrounding states.

Other benefits from this project to Idaho include property tax and sales/use tax revenues, construction and O&M jobs as well as billions of dollars in capital investment.

**Mr. Milburn** summarized that the SWIP and Overland Projects will provide Idaho:

- more than 1,000 miles of new transmission infrastructure in Idaho
- more than \$2 billion in capital investment
- allow Midpoint to become an energy hub for the West
- demonstrate that Idaho is a leader in progressive development of renewable energy and related transmission in the West
- access to transmission for renewable generation
- enable transfer of Idaho RECs to southwest markets
- “Shovel Ready” projects bringing stimulus funds to Idaho
- improved capacity and reliability to the western grid
- improves operational flexibility and facilitates seasonal economic energy transfers for regional utilities
- significant capital investment in critical infrastructure
- near term construction employment and tax revenues

The projects are explained in more detail in **Mr. Milburn’s** Power Point presentation that is available from the Legislative Services Office.

In response to a question from **Representative Jaquet**, **Mr. Milburn** stated that the Western Area Power Administration (WAPA) is an administration of the Department of Energy (DOE). They actually own and operate transmission infrastructure around the west. They have assets on the ground throughout the west. With regard to the stimulus package, Congress provided an opportunity for the Bonneville Power Administration and WAPA to borrow funds from the Treasury and use those to stimulate development of energy infrastructure which would in turn stimulate development of renewable energy projects. The WAPA has authority to spend \$3.25 billion to build transmission infrastructure. The SWIP project is one of the projects they would like to participate in. **Mr. Milburn** said the idea is to spend some of the \$3.25 billion to stimulate growth, get paid back from revenue from those projects and recycle the money to stimulate more projects along the way.

**Representative Jaquet** asked what the tax consequences would be if WAPA became an investor rather than loaning the money out. **Mr. Milburn** said his company is looking into that. As a private entity, his

company interest is in owning and operating the lines and they see WAPA as a backstop to mostly provide debt. He said WAPA's position as an equity investor is just on the table and **Mr. Milburn** agreed that as investors, there could be tax implications.

**Representative Bell** asked whether there was a time limit on when stimulus money has to be used. **Mr. Milburn** said it was his understanding that there was not a time frame but there is a push to start spending it as soon as possible. **Representative Bell** asked how that push affects LS Power. **Mr. Milburn** said that WAPA expressed interest in the SWIP project because it is further along in the process. The Overland Project is later in their consideration.

**Senator Brackett** asked about siting for both routes and whether that would be parallel to other projects. **Mr. Milburn** stated that BLM and the public would like them to parallel and consolidate the corridor but there are some areas where there may need to be more separation. He said the projects will follow the corridor as much as possible. **Mr. Milburn** noted that the Gateway Project in Idaho has two routes and LS Power only wants a single line because they are trying to build a one way street for generation. **Senator Brackett** commented that the Cedar Hill substation had not been fixed and it was his understanding that this line would go through there. He asked whether the southern route had been approved. **Mr. Milburn** said that the line is fixed and the idea is to connect Cedar Hill on SWIP. He said where on the SWIP depends on the siting analysis that is going on currently. In his opinion, Cedar Hill will be built either on the SWIP corridor or near it.

**Senator Werk** asked how their project avoids duplication of effort in regard to other projects from other companies. **Mr. Milburn** said there is some overlap in projects but most have independent purpose and need and under the NEPA process they need to be kept independent. He added that the Gateway West Project is ahead in the process so LS Power will gain the benefit of what they learned from their public meetings in eastern Idaho but that is also a disadvantage because LS Power wants a second line in the same area.

**Senator Werk** said it was his understanding that the Overland Project is a one way street for power to be distributed elsewhere. He asked how Idaho renewable developers will be able to take advantage of the line once it is built and whether there would be room on the line for Idaho generators. **Mr. Milburn** said that because of the substantial amount of capacity to be generated in eastern Idaho, they expect a one way street to the Midpoint hub. He said the generators in Idaho have an opportunity to get to the Midpoint hub through other transmission in the area because there are multiple on-ramps. According to **Mr. Milburn**, the SWIP project provides an opportunity for Idaho generators to be able to deliver energy south to Las Vegas, Phoenix and Los Angeles. **Senator Werk** commented that it seems that the Overland Project is a delivery system for Wyoming and Idaho developers will need to take advantage of other resources to get their power to market. **Mr. Milburn** said in terms of the market need, that is correct. In order for Idaho generators to interconnect onto a DC line it is very expensive. He said the benefits to Idaho for the Overland Project are construction and tax benefits.

**Senator Kelly** asked why property owners would want this. **Mr. Milburn** stated that the Overland Project will follow an existing corridor that is primarily on public lands and where it is on private land, LS Power makes deals with each individual landowner. He said this is the same for any project where payment is made for easement. He added that there are also greater economic benefits that some landowners understand. In response to another question from **Senator Kelly**, **Mr. Milburn** said that LS

Power does have condemnation authority under Idaho law. He emphasized that it is not their intention to use that. They also have that authority in Wyoming.

**Representative Stevenson** asked whether progress was being made on the north-south line or do they have to wait to see what Gateway West does with Cedar Hill. **Mr. Milburn** said they can move forward regardless of where Cedar Hill is sited. The SWIP has right-of-way grants and private easements in place.

**Representative Stevenson** commented that he has been involved at the local level with LS Power and said that their approach is greatly appreciated.

**Representative Eskridge** asked about interest from developers in Idaho with regard to SWIP. **Mr. Milburn** said there is interest but due to FERC regulations he cannot say much. He said they are currently in the bidding process and have received bids that outweigh the amount of capacity available. **Representative Eskridge** asked whether any kind of preference is given to Idaho developers because of Midpoint. **Mr. Milburn** stated that those closer to the line have a natural economic advantage because the transmission costs are lower to get to the line. There is also interest from other states.

In response to another question from **Representative Eskridge**, **Mr. Milburn** said that the Overland Project is just transmission and can accommodate any electric energy but most of the interest has been from renewable projects.

**Representative Anderson** asked whether a secondary type of line has been considered to allow for more capacity. **Mr. Milburn** said it is a consideration. He noted that the SWIP was permitted as a single circuit KV line so any additional circuit would be considered a new project. There is another line proposed by TransCanada that starts further north and is a DC line. **Representative Anderson** said in his opinion there should be corridors that would allow all capacity. **Mr. Milburn** said that makes sense but there are capital investment and reliability issues with many lines together.

**Representative Eskridge** asked how they address the type of bids received (firm power vs. renewable power). **Mr. Milburn** said FERC allows them to establish firm contracts on a cost basis or a market basis. He said they are using a market basis for the bids they are currently receiving. The bidders tell them what they will pay. He reiterated that the bids they have received are substantially from renewable projects that are not able to pay as much for transmission as firm projects would. He said they are open to more firm delivery and from an economic standpoint that is desirable. He added that if the renewable generators could pay more to cover that difference, that would be acceptable also.

**Representative Eskridge** said it was his understanding, regarding WAPA participation, that rather than purchase part of a facility, they could rent capacity or buy capacity on a long-term basis. **Mr. Milburn** agreed. He said they could also invest as an equity partner in the line or provide financing only for construction of the line. In any case, the Recovery Act requires that they have reasonable assurance subject to third party auditing that they will be repaid.

**Mr. Lane Packwood, Economic Development Administrator, Department of Commerce** was the next speaker. He introduced the Department of Commerce's only legislative initiative for this session

entitled Energy Independence Districts. It is being developed in conjunction with the Office of Energy Resources.

**Mr. Packwood** stated that the mission of the Department of Commerce is to market, promote and grow Idaho business and Industry. He explained that the last few years have been devastating in that regard to Idaho. He noted that employment in construction and high-tech manufacturing has been deeply affected by this recession. In order to overcome this, the Department of Commerce believes that distributed renewable energy systems and energy efficiency improvements represent a strategic opportunity for Idaho. Renewable energy systems include small wind, solar, geothermal, windows, insulation and so on. According to **Mr. Packwood**, adoption of these technologies could bring several benefits to the Idaho economy. He said the Department's plan stimulates the creation of these industries without raising taxes or having any blanket political mandates to the communities. By doing this, he believes they can get support for six policy outcomes that are good for Idaho. These outcomes include:

- Creating jobs in renewable energy/energy efficiency equipment sales, installation and maintenance
- Making Idaho an attractive location for renewable energy manufacturing companies
- Reducing energy demand on utilities currently at maximum capacity
- Freeing up additional capacity for accelerated economic growth
- Supporting the national strategic imperative of freeing ourselves from foreign energy supplies
- Preparing Idaho for national policy changes that may mandate renewable portfolio standards or GHG reductions

**Mr. Packwood** noted that the high up-front cost of renewable energy and energy efficiency improvements discourage their adoption by consumers and small businesses. He said that even with Idaho's exceptionally low energy costs, most systems will pay back on the initial investment, but over a long period of time. Also, no current financing mechanism exists to extend terms long enough to make most investments economically viable in Idaho.

**Mr. Packwood** went on to explain that Energy Independence Districts will remove a systemic barrier to the adoption of residential and small commercial distributed renewable energy systems and energy efficiency improvements in a way that requires no state general fund investment and no mandates for local implementation.

**Mr. Packwood** said that property-secured municipal financing is one solution that would remove the inability that exists for consumers to find financially viable financing to put these systems in or to retrofit their property with energy efficient improvements. He noted that they are copying a best practice from 12 other states that have some form of legislation that allows municipalities to establish energy independent zones. These are essentially a kind of local improvement district. The difference is that these energy districts are 100% opt-in. This would allow municipalities to finance up-front costs of installation of these systems or improvements permanently attached to the private property by entering into a contractual assessment with the property owner. The municipalities would set the limits and conditions of financing, preapprove projects and reimburse property owners for installation costs. This would be a special assessment on the property that would remain with the property allowing the municipality to offer long-term financing; 10 to 20 years or more. When the property owner sells or subdivides the property, the assessment stays with the property.

**Mr. Packwood** explained that in order to implement this, the Department recommends adding an additional code section to Chapter 17, Title 50, of the Idaho Code using the precedent of Local Business Improvement Districts (50-1703A). The new section would be 50-1703B, Energy Improvement Districts. It would include a statement of legislative intent and allow for financing of renewable energy generation systems and energy efficiency improvements permanently affixed to private property. It would allow a noncontiguous, opt-in only district and the attachment of special assessment to property.

**Mr. Packwood** cautioned that there will be constitutional concerns with this idea. He said there is no doubt that there will be concern that this type of financing of private property violates Section 4, Article VIII, of the Idaho Constitution.

- **ARTICLE VIII, PUBLIC INDEBTEDNESS AND SUBSIDIES: Section 4.** County, etc., not to loan or give its credit. No county, city, town, township, board of education, or school district, or other subdivision, shall lend, or pledge the credit or faith thereof directly or indirectly, in any manner, to, or in aid of any individual, association or corporation, for any amount or for any purpose whatever, or become responsible for any debt, contract or liability of any individual, association or corporation in or out of this state.

**Mr. Packwood** noted that the Department of Commerce would not be promoting this idea if they did not think there was some way of addressing these constitutional concerns. At least four of the other 12 states that have similar legislation share almost identical constitutional constraints as Idaho. These states include Colorado, Texas, Arizona and New Mexico.

**Mr. Packwood** said that probably the best way to address these concerns would be to provide a very clear statement of legislative intent that these improvements are a public good and a public benefit. He said Colorado provides a very clear example of this.

**Mr. Packwood's** complete Power Point presentation is available from the Legislative Services Office.

**Senator Fulcher** said it was his understanding that under this scenario, the local government would have the option to opt-in or out of these districts. **Mr. Packwood** said that was correct. **Senator Fulcher** asked who would make the decisions in areas such as Ada County where there are unincorporated areas intermingled among incorporated areas. **Mr. Packwood** said the unincorporated areas decisions would be made by the county commissions and that city councils would do so for incorporated areas. **Senator Fulcher** asked what benefit would these districts be to landowners who would also have the option to opt-in. **Mr. Packwood** said this would allow them access to long-term financing at favorable rates and a yearly assessment that will probably be less than the savings on their energy. He addressed the payback schedule on investment. Under the current financing system, a homeowner who puts a solar system on his house would have some energy savings each month but it could take many years to make back the investment. Twenty year financing makes this a much better deal for the homeowner. He said the idea is to alter the cost benefit analysis for small business owners and homeowners. Also, under this plan if a homeowner were to sell property, the assessment/financing stays with the home.

**Representative Jaquet** commented that it would seem that preference to energy providers located in Idaho is no longer part of picture. **Mr. Packwood** said the idea is to try to keep this simple for now. He

added that they are open minded as to how to make it beneficial to the Idaho economy. **Representative Jaquet** noted that Business Improvement Districts (BID) and Local Improvement Districts (LID) know who is going to participate and that this proposal is much more indefinite in that regard. She asked what the vision for this was. **Mr. Packwood** explained that their idea is that administration and funding of the program by municipalities would not be set out in statute. The statute would give the municipality permission to do this and they would have to solve the problems of raising money to finance the program and how to administer such a program. He said in other communities that have done this, there is a wide array of solutions. He does not think there would ever be a general obligation bond.

**Representative Bell** asked whether this program dovetails with the Office of Energy Resources (OER) idea because it talks about districts also. She noted that that program does not seem to have been gotten off the ground. **Mr. Packwood** explained that the OER plan is different. They refer to Renewable Energy Enterprise Zones (REEZ). It is **Mr. Packwood's** understanding that the intent was more of energy generation or development zones to incentivize energy generation. **Mr. Packwood** said the Department of Commerce project would not require an energy regulatory license because it only addresses small business or residential projects. He added that it is his understanding that the REEZs are off the table legislatively at this time and the OER is pursuing Department of Energy stimulus grants to accomplish the same policy goal. He also stated that OER does not have any problem with the Department of Commerce proposal.

In response to a question from **Senator Kelly**, **Mr. Packwood** said that the statutory language would be limited to small projects because larger systems have more issues regarding utility companies and become much more complicated. He said they are trying to break through the systemic barrier to financing so homeowners or small businesses can get these projects (solar panels, etc.).

**Senator Kelly** commented that the constitutional issues are very significant. She asked whether they have asked for an Attorney General's opinion and whether constitutional issues in other states have been litigated. **Mr. Packwood** said other states have not been litigated because these laws are very new (2007) and they have probably not made it through the court system yet. States that share our constitutional provisions address the constitutional issues in a different way. Colorado addressed it with legislative intent. **Senator Kelly** said she appreciated what he was saying but that she was not sure it was a good idea. She continued that if constitutional prohibition exists, the Legislature cannot do anything about it. **Mr. Packwood** said they had not gotten a written Attorney General's opinion of the legislation mainly because there is no draft yet.

**Representative Anderson** expressed concerns on how municipalities are defined. He said he hopes the department talked to other utilities regarding this program. He added that it seems that utilities have authority to implement these types of projects currently. **Mr. Packwood** said they are consulting with utilities to see if this supports their demand size strategy and it seems to be ok so far. He added that the legislation will have to define municipality specifically as a city or county only, not school districts etc. **Representative Anderson** commented that it was his understanding that if a landowner is interested in this program but his county decides not to form a district, that landowner would not be allowed to participate. **Mr. Packwood** said that was correct.

**Representative Smith** asked whether the Idaho Housing and Finance Authority (IHFA) would currently have the authority to do this. **Mr. Packwood** stated that utilities have legal authority to do this today.

He said that utilities say there are two reasons they do not do this: (1) it just shows more debt on the balance sheet and (2) their regulatory relationship with PUC. They need to be careful about how they approach cost recovery. **Mr. Packwood** added that IHFA also probably has authority for this but there is concern about how to market/promote and educate people to do this.

**Representative Stevenson** asked whether these loans would become senior loans ahead of any other loans on the property. **Mr. Packwood** said that this would be a lien on property that would be right behind property taxes. This gives the loan issuer assurance that it will be paid over time. This is the same as for LIDs or BIDs. **Representative Stevenson** asked how they plan to sort out what loans get paid in what order. **Mr. Packwood** said that the municipalities have great responsibility in deciding who to give these loans to. Nothing says they cannot set up limits and requirements. Not every application has to be accepted.

The next agenda item was a discussion of what is being done to promote development of biomass energy production in Idaho.

**Mr. Jerry Deckard, Associated Loggers and Capitol West Public Policy Group** was the first speaker. He commented that the primary goal is to encourage communication, cooperation and collaboration in order to encourage biomass development. He said it is part of the economic recovery act and it seems economic recovery is going to occur before biomass development is accomplished.

**Mr. Deckard** said that western lumber production is down by about 45%. Lumber prices are at their lowest since 1983. The definition of biomass in U.S. Senate Bill 636 would allow precommercial and postcommercial waste from national forests to be eligible feed stocks under the definition of renewable biomass. It also allows for waste materials to be removed from public lands to assist in reducing fire danger. **Mr. Deckard** stated that the US Forest Service has \$1.15 billion from the Economic Recovery Act. He added that all Economic Recovery Act Projects must be out in the next eighteen months, 50% of those moneys must be acted on within 120 days of the signing of the Economic Recovery Act bill and the project will be competitively bid. **Mr. Deckard** said that biomass removal is a great contribution to healthy forests and global warming reduction. He said the urban wildland interface is a perfect arena for biomass removal and saves public and private investments as well as lives from the destruction by catastrophic fires. The various state agencies including Energy, Commerce, Lands and DEQ in concert with the US Forest Service and BLM working together could and would assist in the economic development and recovery through job creation in a down economy as well as creating a healthy environment for Idaho.

**Mr. Deckard** said that these activities would lead to more active management of public lands for the long term. He said there is a sense of urgency and, in his opinion, with the agencies mentioned above working together and moving the contracting to the responsible parties closest to the opportunities seems to be a practical approach. According to **Mr. Deckard**, improved and expanded communication by those agencies involved would surely put people back to work doing what they know how to do best. Demonstration projects are not necessarily the answer. The opportunities abound on federally controlled grounds and to a lesser degree on state and private grounds. **Mr. Deckard** said that in discussing the issue with others, they have got to cut through the red tape and take action as quickly as possible.

**Representative Stevenson** asked if there is anyone in the process of manufacturing generators that will use biomass as fuel. **Mr. Deckard** said Idaho has biomass generators that need feed stock. In his opinion, his program could find feed stock that is located closer to where it is needed. In response to another question from **Representative Stevenson**, **Mr. Deckard** stated that healthy forests will solve a lot of the carbon problems and issues that people are afraid of.

**Representative Jaquet** asked what the Legislature could do. **Mr. Deckard** said they need to get the people and agencies presenting today to communicate with each other and to cut through the red tape. **Representative Jaquet** said she thought there was some money received through the Department of Lands. **Mr. Deckard** said that was correct, Lands did get some money and did distribute some out to counties. He commented that there is a lot more to be done. **Representative Jaquet** said there are four NRCS projects with money released including one in Adams County. She asked whether those were moving ahead. **Mr. Deckard** said yes but it is not enough. In response to another question from **Representative Jaquet**, **Mr. Deckard** said there are some policies in place at the federal level to get that product out of the forest.

**Representative Eskridge** asked why nothing is getting done if there are projects in place and there are biomass generators ready to use the material. **Mr. Deckard** said there is significant opportunity to get biomass out of the forest especially with the Healthy Forest Initiative.

**Mr. Andy Brunelle, US Forest Service**, was the next speaker. He discussed biomass utilization efforts that are ongoing within the US Forest Service in Idaho and nationally. He said that there has been an increase in these activities due to the stimulus bill that was passed by Congress. **Mr. Brunelle** pointed out that the discussion of biomass utilization began on a national level in the early part of this decade. The National Fire Plan was adopted in 2000 and Congress initiated a substantial increase in funding for the Forest Service, BLM and other agencies to more aggressively address hazardous fuel reductions. This resulted in the beginnings of grant programs, research and other activities to promote the utilization of woody biomass, whether for energy or other uses.

**Mr. Brunelle** commented that within Idaho over the last several years there have been grants awarded by the Forest Service to either companies, school districts or other entities that are designed to enhance utilization of woody biomass. This is commonly known as “slash.” It includes branches, tree tops and things that are not processed into other wood products. He said the US Forest Service issued a grant for new manufacturing materials that use plantation size trees that are about 30 to 40 years old and are too small for commercial utilization. The school in Council, Idaho received a grant to help them convert the heating of the school to biomass thermal heating.

**Mr. Brunelle** said that with the passage of the stimulus legislation, Forest Service projects have been announced in Idaho including a \$3 million grant to the Garden Valley School District to convert to heating with biomass. He noted that these are not large projects but they are happening.

**Mr. Brunelle** said that he participated in a task force that is part of the Idaho State Strategic Energy Alliance that was established by the OER. He said the Forest Service drafted a report that will be available this fall and he would get that for the committee at the next meeting. He explained that the report outlines all of the challenges and opportunities that exist regarding biomass utilization. He said this report also includes discussion of why we are not seeing a lot of widespread use of biomass. He

said that one reason for this is because it is expensive to gather, manufacture and burn. In response to **Representative Jaquet's** questions about federal land where biomass could be utilized, **Mr. Brunelle**, said the debate in Congress is whether there should be preferential tax treatment to encourage utilization of forest biomass on federal land as well. He noted that there is also some debate if it is not allowed, will the carbon produced be a carbon credit or debit.

In closing **Mr. Brunelle** reiterated that biomass utilization has been going on for many years in Idaho. He noted that eight percent of Idahoans primary source for heat is wood.

**Representative Anderson** stated that in his opinion the Forest Service has not stepped up at all. He said they start good projects but do not finish them. Many people in his area would love to take the slash for biomass and instead it is just burned. He added that not enough has been done with stewardship projects. **Representative Anderson** said these projects need to be expanded to allow local communities to take control. **Mr. Brunelle** agreed that there is a lot more to be done. He said the Forest Service is doing a lot more thinning and burning than earlier in the decade because that is where the funds have been channeled by Congress.

**Mr. Jim Riley, President, Intermountain Forest Industry Association** was introduced to continue the discussion of biomass development. He noted that technology exists today to take woody biomass and turn it into electrical power, heat and heating systems to power various industrial facilities and other things. He said this is not the impediment to seeing more development. **Mr. Riley** said that throughout Idaho, nearly every forest products installation has a bioenergy facility of some sort onsite. Most commonly they are making heat and steam for use on the plant site. There are also facilities that do cogeneration and there are investors looking at installing specific electric generating facilities in Idaho that would only produce electric energy to be sold on the grid.

The Department of Lands provided the committee with a report titled *Conventional Wisdoms of Woody Biomass Utilization* that **Mr. Riley** strongly encouraged the committee to read through.

**Mr. Riley** said there has been a lot of work done studying what is going on in the forest. They first looked at logging sites both on state and private land. The finding is that there are substantial quantities of woody biomass left in the forest after traditional logging to power new plants and new investments throughout the state. He said the State of Idaho invests substantial amounts of money in treating the slash that is left on the site. Finding a way to move that fiber and get it to a biomass producing facility would alleviate a lot of that cost and would provide a new revenue stream for the landowner and new business opportunities for the state.

There is good information and data provided by the Department of Lands as to how much woody biomass is available. In his opinion forest lands in Idaho would be managed differently if there were a better biomass market. Fiber exists on state and private lands to supply and provide for expansion of this industry. **Mr. Riley** added that there is vast opportunity on federal lands as discussed earlier. Finding some way to partner with agencies to get a federal biomass program in place is very important.

**Mr. Riley** went on to discuss government policy and incentives. He explained that the federal government decided they wanted to have renewable energy or 25% renewable energy by the year 2025 as it has been referred to. To meet this 25 by 25 standard, biomass has to be included to make up the

difference left by wind, geothermal, solar and if they will not recognize hydro or nuclear energy as renewable.

He said there have been many discussions at the federal level about how to create energy policy incentives that would allow forest biomass to generate power. **Mr. Riley** noted that this has been quite controversial because there is part of the environmental lobby that is very much opposed to any use of forest for these purposes because of their view of the environmental impacts.

**Mr. Riley** stated that there is a wide spectrum of incentives available at the federal level. Some came forward in the stimulus bill that was discussed earlier and some came in the farm bill.

**Mr. Riley** said that the ratio is very small when it comes to the power rates you can get from producing biomass and what it costs to get it to the plant, but there is great opportunity for this to improve.

At the state level, **Mr. Riley** commented that **Representative Jaquet's** legislation from last session was patterned after incentives for wind and geothermal and would allow an alternative tax structure moving from property tax to production tax would, in his opinion, work as a disadvantage to biomass. This is due to the fact that biomass has to continue to pay for the fiber that comes to it, unlike wind. He recommended looking at Oregon legislation that offers a tax credit incentive that would go with a ton of woody biomass fiber being delivered to a biomass power facility. This could also be phased out over time. In **Mr. Riley's** opinion, he thinks we can double or more the amount of biomass power produced in Idaho in fairly short order if incentives can be found to get woody biomass from the woods to the plants.

In response to a question from **Representative Stevenson**, **Mr. Riley** stated that the power plant in Lewiston owned by Clearwater Paper runs at less than full capacity because of constraints in getting fiber to that plant. He added that they are concerned with legislation supporting new plants because that would not be fair to them. Any incentive ought to be the same for existing producers as well as new producers.

**Representative Stevenson** asked whether roadless areas become a disincentive or problem in getting biomass from federal lands. **Mr. Riley** said that federal lands are frustrating to him. The problem associated with federal lands is that there is no plan for how to handle this problem. He said that roadless areas are an issue but the focus should be on the other federal land where biomass is available.

**Representative Eskridge** asked whether the amount of biomass to be harvested would be in competition with other forest products such as housing starts. **Mr. Riley** explained that when someone buys rights to harvest/log an area, they harvest exactly what will be used and they leave what will not be used. Biomass is what is left behind and there is enough to support generating units. The Department of Lands can map what is left on sites. He cautioned establishing state policy that might incent one type of use over an existing use. He advised to let the market sort that out. In his opinion the policy should be equally favorable to all existing and new uses.

In response to another question from **Representative Eskridge** regarding impediments to getting this started, **Mr. Riley** said that the Department of Lands has done an outstanding job in modifying the existing contractual structure so there is no impediment policywise to someone getting slash off the land.

He said the impediment is actually sorting through the slash piles and shipping material to the energy producing plants for the current rate of energy. This is where the gap exists today. **Representative Eskridge** clarified that it would seem to him that the only thing stopping us from getting started on state and private lands is an incentive plan. **Mr. Riley** agreed. He explained that Oregon placed a \$10 per ton tax credit for biomass fiber delivered to a bioenergy facility in the state that phases out over time.

**Representative Eskridge** asked, with the increased revenue off of endowment land and with an incentive, whether the state would still make money on this. **Mr. Riley** said they have asked what is the state's cost to deal with slash on state lands if it is not removed. He said as a matter of neutral state policy, one could take that slash abatement costs and roll them over to a tax credit and conceptually the state is neutral. This would become more positive over time. **Representative Eskridge** asked what is the cost of slash removal and how much would the tax credit need to be to be workable. **Mr. Riley** said they are still working on that number and the goal is to have that by the beginning of the legislative session. **Representative Eskridge** said it would be helpful to have the number by the next meeting if possible.

**Representative Jaquet** commented that a biomass report from the Department of Lands would be very helpful. She asked how the decision would be made as to what qualifies for the tax credit; would it just be for slash or would it include parts of the log. **Mr. Riley** said this is not just about the cost offset but also the economic activity that material will generate. He said it is important to find the point of neutrality and go forward.

**Senator Werk** asked for more clarification of the economic analysis. He asked whether it was straight dollar for dollar. **Mr. Riley** said there are three parts to this in his economic model.

- 1) Dollar for Dollar trade off. There is state cost for managing the material when it is in the woods whether it is on state or private land.
- 2) State revenue generated from the new economic activity this material provides. If there is new power plant investment and generation, calculations can be done to show how many jobs each ton of fiber equates to.
- 3) The social cost is of the amount of smoke in the air caused by open burning that has been offset by burning the slash in a controlled plant environment.

**Representative Eskridge** commented that one purpose of this discussion was to get something started. He asked for **Mr. Riley's** recommendation on how to get going in a productive direction. **Mr. Riley** recommended being patient as to what happens at federal level and changes that will affect these programs. He said there are some federal programs that are being administered by the state and it is very confusing for people to figure out which Department is doing what. He recommended oversight that would provide better clarity about what the responsibilities are and how they are shared by the various agencies. **Mr. Riley** went on to say that it is time to finish the business regarding tax incentives for biomass power production. His recommendation as discussed earlier, is a tax credit for biomass fiber that is delivered to qualifying facility modeled after other states.

**Senator Brackett** said there is still a disconnect between giving grants for businesses or schools to convert to biomass when there is not enough biomass supply product to burn such as the Kellogg School District. **Mr. Riley** commented that the "fuel for school" programs are very attractive programs. He

explained that these are very small scale and are only for burning for heat. They are very different from running a large scale plant for energy.

**Mr. Brunelle** commented that the Kellogg school learned that a school district should be looking at a design that relies on forest biomass. They selected a design that relied on mill residue so they entered a different market. This market already exists from logging and had competition from other uses. His plan is to use the biomass that is left in the woods after logging is completed.

**Representative Eskridge** suggested working with the Department of Lands to come up with incentives to get this off the ground. It is his understanding that this can be done with state lands alone. **Mr. Riley** agreed. He added that they intend to have a very substantial report before the legislative session.

**Mr. David Naccarato, McKinstry Company** was the next speaker. His company is active throughout the western United States including Idaho, eastern Washington and Oregon for the development of biomass projects. These include both demand side projects and larger scale energy generation projects. He said the issue of public access is central to this. In his opinion this issue is based on energy, infrastructure and economic development. They see biomass as an economic development issue for the state. **Mr. Naccarato** said biomass is our number one renewable energy resource. Biomass energy is greater, as a percentage of our national electric generation, at four percent, than all other renewable energy combined. Through 2030, it is still the greatest renewable energy resource for the United States. His company sees this as a way for communities through public/private partnerships to develop revenue generating projects that provide income for municipalities, jobs and local energy resources.

**Mr. Naccarato** said that the key is the capital market or how to fund these projects. He explained that his company currently has four projects in Idaho: Shoshone County, Boise County, a private equity position on a 19 megawatt biomass plant and they hope to be picked for an Adams County project. All of these projects have economic viability but the financing/funding is always the issue. The main issue that routinely comes up is the risk mitigation around being able to guaranty fuel. This is true even when fuel has been identified and contracted. It is the issue of taking it from year to year and balancing out the PURPA or power purchase agreements. Simply put, the lenders say “how do we know a program is in place that allows the people who are delivering the fuel access to the areas where the fuel is?” **Mr. Naccarato** said that an interim program around multi-year stewardship contracts would be helpful.

**Mr. Naccarato** gave the example of a ten megawatt power plant in Adams County that will provide 25 jobs and an additional 50 to 100 jobs to support that. He said they are looking for the amount of acreage set aside on either federal or state lands for forest remediation that will deliver that fuel to the plant. His company can provide a 10 to 20 year economic reason to remediate that resource, thus closing the loop. **Mr. Naccarato** said the lack of these 10 to 20 year stewardship agreements is the issue. He said that the Federal Policy Board is working very hard with the Payette National Forest to be behind a 10 year stewardship contract. He noted that the federal policy is much larger. His company is proposing a similar policy for state lands.

**Mr. Naccarato** said their agreement with Jerome County is simple. The county provides the land, infrastructure and water and his company will design, build, own and operate the facility. The county gets a share of the ongoing revenue. It is a 20 year power purchase agreement. All that is lacking is the 10 to 20 year stewardship contracts that guaranty the fuel will be there.

**Representative Eskridge** commented that Mr. Riley is saying that the fuel is available but it costs too much to get it out and Mr. Naccarato is saying it does not cost too much to get it out but there needs to be a long-term commitment. He asked for clarification. **Mr. Naccarato** said in many cases in some areas it is too difficult to get the fuel out and a tax incentive, as Mr. Riley suggested, is part of the plan. He noted that in other areas the cost of getting the fuel from the site is not that high and they are able to make the finances work. He emphasized that they are still lacking those multiyear stewardship contracts.

**Senator Kelly** asked how air quality and potential cap and trade issues factor into financing. **Mr. Naccarato** said this does qualify for carbon credits in most cases. He explained that these projects release carbon when burned but when the new growth comes, the sequestration rates are actually at a higher efficiency than the old, less healthy plants that are being taken off the forest floor. The other issue is that an overabundance of rotting or decaying woody biomass produces methane which is a much higher penalty greenhouse gas than what is produced when the fuel is burned. **Senator Kelly** asked whether his facilities are getting air quality permits. **Mr. Naccarato** said yes. He added that they are very far under the requirements and in some cases burn as efficiently as natural gas plants.

**Representative Jaquet** asked for information regarding a thinning project in the Payette National Forest. **Mr. Naccarato** said there is no commitment yet but it seems fairly motivated and has been funded for stimulus. He said this is going through the NEPA process and looks very positive so far.

**Mr. Brunelle** commented that the project he mentioned earlier that is funded through stimulus is \$3.4 million to the Payette and Boise National Forest for thinning for biomass on about 3,000 to 4,000 acres. This will yield about 34,000 tons over a two to three year period. He said that this is a different project than what **Mr. Naccarato** discussed. **Mr. Brunelle** said **Mr. Naccarato's** project is in pursuit of collaborative efforts with a lot of different interests on a long-term basis. This looks at thinning of the Forest Service's plantations that have 30 to 40 year old trees that need to be thinned. He said he is not sure they can get to a 20 year guaranteed contract. **Mr. Naccarato** said they would be happy with a 10 year contract. He said they have told the Forest Service that a seven year stewardship contract will not work.

In response to another question from **Representative Eskridge**, **Mr. Naccarato** said that they would be meeting with the Land Board to propose a more formal policy around 10 to 20 year stewardship contracts on state lands.

**Representative Eskridge** asked whether they could build a plant without incentives. **Mr. Naccarato** said it was possible in some areas.

**Mr. Greg Seibring, Department of Commerce** was introduced to give a brief update on state investments to develop biomass. He explained that out of the \$500,000 per year the state of Idaho provides the Department, \$30,000 goes to help fund the Woody Biomass Utilization Partnership. This is a four county program in southwestern Idaho: Adams, Valley, Boise and Gem counties. In 2007, these four counties asked for money to focus an economic development program aimed at developing woody biomass. Each of the counties contribute \$6,000 annually. He said about a year ago the project started to gain traction. They refer to this as "pellets to power" and everything in between. Some of the

projects include the Council School District and Garden Valley School District conversions among others. **Mr. Seibring** said it is always the issue of having the resources available. He said this means a policy of making the forest available to get the biomass out.

**Mr. Seibring** said he does not think anyone is taking the lead in this issue. He said they do communicate well with each other and he is not sure a leader is necessary. The Department of Commerce looks at this for job creation not energy reasons and the OER looks at it because of energy production. Maybe there is no need for an umbrella.

**Representative Anderson** asked whether the OER was involved in this. **Mr. Seibring** said yes, they sit on one of the subcommittees but their focus is on energy and the Department of Commerce looks at economic improvement.

**Representative Eskridge** commented that each Department has an interest in this but it is fragmented. The question is how to get everyone working together. **Representative Anderson** said each agency should be present at this meeting to get the feel of what the committee is interested in. The 2007 Energy Plan created the Office of Energy Resources to coordinate these projects and no one is doing this. He said that something should be done.

**Representative Jaquet** suggested that the committee send a letter to the Land Board before their meeting requesting they look closely at the 10 to 20 year stewardship contracts.

**Representative Jaquet moved that the Committee send a letter to Department of Lands saying biomass is very important to the state and encouraging them to come up with at least a 10 year stewardship contract up to 20 years. Representative Anderson seconded the motion.**

**Representative Stevenson** commented that he agrees that the committee should give the Land Board direction.

**Representative Eskridge** suggested giving the Land Board a chance to respond to a letter of suggestion and to allow them to take action on their own.

**Senator McKenzie** suggested sending a letter expressing the committee's feelings and then discuss legislative action at the next meeting if necessary.

**Representative Stevenson** noted that the Land Board may have to develop rules to do this so it may require legislation.

**The motion carried on voice vote.**

**Representative Eskridge** stated that there is still the issue with state agencies not coming together to take action.

**Representative Anderson made a motion that the Office of Energy Resources (OER) take the lead in bringing state agencies together with woody biomass development and attend the Energy,**

**Environment and Technology Interim Committee meetings. Representative Eskridge seconded the motion.**

**Senator McKenzie** noted that the OER is not codified yet and asked whether the Legislature had authority to mandate an action instead of make suggestions. **Senator Kelly** said the Legislature has leverage over OER by the appropriations process so they would probably listen to suggestions. She said it is the only office of its size that is not codified and exists by executive order for four years. The office is only endorsed by legislation through appropriation.

**Representative Anderson** said that the 2007 Energy Plan suggested the Division of Energy be separated from the Department of Water Resources. **Senator Kelly** agreed. At about the same time the Energy Plan was adopted, Governor Otter decided to put this new division under his purview.

**Representative Stevenson** said he was not in favor of this letter being sent before visiting with the agencies involved to see what the issues are. He agreed that someone from OER should attend these meetings. **Representative Eskridge** said it seems to be a problem and no one is actually willing to step up and take the lead. **Representative Bell** commented that one of the inefficiencies in government is overlapping of effort. She was surprised that Commerce was so involved in energy when the Energy Plan and the Governor put an energy office in place to handle these types of issues. She asked what the purpose of an energy agency was if not for coordination.

**Representative Jaquet** commented that the report from the Department of Lands will be available at the next meeting regarding biomass and maybe it will say who has taken the lead. She agreed that each agency has different focus so it might not be necessary to mandate one to take the lead.

**Representative Anderson** spoke in favor of the motion. He thinks it is time for someone to step up and take the lead. The OER met with the Department of Lands 18 months ago and still nothing has happened. He said he does not see any harm in giving direction to OER to at least give a report to this committee on their findings with biomass.

It was noted that Director Kjellander of the OER was out of town and could not attend this meeting.

**Representative Eskridge** said the reason for this part of the agenda was due to the feeling of frustration from industry and others that layering and lack of coordination between state agencies are impeding the development of biomass in Idaho.

**Senator Werk** commented that directing OER would be directing the Governor since the office is under his purview.

**Representative Anderson** stated that he did not want to include the Governor in his motion at all. **Representative Eskridge** said that there should be a way to work the motion to make a strong suggestion rather than a mandate.

**The motion was restated that the committee send a letter of suggestion to the Office of Energy Resources (OER) encouraging them to take the lead in matters of woody biomass discussions and other energy related issues.**

**The motion carried on voice vote with Representative Stevenson voting nay.**

**Senator Kelly** was introduced to discuss codification of the OER. She has been working on this legislation for over a year. As stated earlier, OER is created by Executive Order for four years. She noted that an Executive Order has the approximate force and effect of law. Governor Otter created the OER in 2007 moving the Energy Division (16-17 employees) to the Office of the Governor. She added that this was done at almost the same time this committee was adopting the Energy Plan. The reason the Energy Plan addressed this issue was because the committee felt that the function of energy needed to be elevated in the state and not just part of Water Resources. The Executive Order lists some of the functions of OER and in her opinion, one could argue that coordination of the woody biomass issue is included. She noted that since it was created by Executive Order could also be deleted by Executive Order and she does not think Legislature wants this.

**Senator Kelly** explained that the legislation basically codifies the current situation and requires an annual report. The Strategic Energy Alliance and other committees progress would be part of the annual report. She noted that the Governor's counsel is not taking a position on this.

**Senator Kelly** said that the legislation follows the Executive Order very closely. She said her impression is that the Governor's Office would not object because she has discussed the language with them in detail. She added that they could always add or expand in any area the committee thinks necessary. **Senator Kelly** said she was asking for the committee to recommend this legislation because having the endorsement of the committee is very helpful in getting legislation passed.

**Senator Kelly** said, regarding annual reports, that she feels strongly that there is need for accountability in the system and the Legislature needs to be able to see if things are moving forward in the direction intended.

**Senator Kelly** explained that when the 18 employees in the Energy Division, now the OER, were transferred from Water Resources an attempt was made to make them at-will employees because they were now under the Governor's Office. The Executive Order has a compromise that those employees who stay in their exact same position will remain classified employees but once they move up or to different position, they become at-will. **Senator Werk** commented that some provisions of the legislation result in there being a lot of control over how the office works that could lead to frustration.

**Representative Stevenson** asked how employees of the Office of Species Conservation are classified. **Ray Houston, Legislative Services Budget and Policy Office** said that they are exempt at-will employees. **Senator Kelly** noted that there are a number of different offices that are under the Governor and they are all codified. She added that the Legislature is a partner with the Governor.

**Representative Jaquet** commented that the committee could make a recommendation that OER not be under the Governor because the Energy Plan discussed whether it should stay in the Department of Water Resources or whether it would fit better in the Department of Commerce.

**Senator Kelly** said the language could be beefed up regarding coordination of energy issues and responsibility for the leadership role.

**Representative Eskridge** suggested the committee take the draft under advisement and look at it at the next meeting with language changes necessary as discussed above.

**Mr. John Watts, Veritas Advisors**, was introduced to summarize the Idaho Business Renewable Energy Investment Tax Credit. A copy of this overview is available in the Legislative Services Office. **Mr. Watts** commented that the tax credit also includes energy conservation.

**Mr. Watts** summarized as follows:

The Idaho Business Renewable and Energy Conservation Investment Tax Credit would authorize a 35% income tax credit against costs invested in construction of a facility that (a) is a high energy combined facility, (b) is a facility that uses renewable resources, (c) is a facility that manufactures renewable energy equipment, or (d) is a building that pays for energy utilization practices improvements (efficiency improvements).

- Up to seven percent per year income tax credit allowed: carry forward for up to a ten year project period allowed; unused credit not claimed within the project period is lost.
- Facility must be located in Idaho.
- Credit can be passed-through to other public entities with no state income tax liability for up to 20% of the value and purchasing company can capture full 35% credit within allowed project period. (Actually, only 30% realized once 5% submitted to OER for administration)
- Individual per project cost per year cannot exceed \$20 million for facilities or construction related costs enumerated above.

Prior to construction, installation or acquisition for a proposed facility the taxpayer must apply in writing for preliminary certification with the OER, submit plans, for any respective project, and meet qualifications and standards for the respective project set out in rule by OER. Information to be included in the written application may include description of project, operational plans, energy consumption, production (source and amount), performance facility costs, etc.

- Postconstruction preliminary approval allowed under circumstances set out in rule.

To finance administration operations five percent of the 35% tax credit must be remitted to OER. OER will establish program and rules governing all facilities, energy resources, certifications, operations, allowed energy equipment and energy efficiencies to be attained.

**Senator Werk** commented that as he calculated this, if this was capped at \$20 million, the tax credit would be \$1.4 million. **Mr. Watts** said it was a 35% total tax credit or 7% per year. **Senator Werk** said that adds up to a large amount of tax credit that could be taken by one business. **Mr. Watts** agreed but said they are not actually taking it, they are holding it back to apply to investments. He said studies show a 3 to 1 return in investment. **Mr. Watts** emphasized that this is an investment in alternative energy as well.

**Senator Werk** asked about the postconstruction preliminary approval. **Mr. Watts** said this will involve defining those instances where a facility is already in place and is either adding on or needs to move ahead more quickly than with the preliminary certification. He said this concept comes from Oregon statute.

In response to a question from **Representative Stevenson**, **Mr. Watts** explained that a preliminary certification example could be the cost of bringing an existing facility up to standards or just a new addition to existing plants.

**Representative Jaquet** commented that Oregon has a retroactive preapproval process of alternative energy projects that they have made several attempts to get rid of, but it was so successful that it is continuing. She said this might be more attractive to Idaho because we do not have renewable energy portfolio standards.

**Mr. Watts** explained that since he just had a general summary for the committee, he hopes to have an actual draft of the legislation for the committee before the legislative session. **Representative Eskridge** asked that such a draft be made available to the committee and that they could discuss it at the next meeting. **Senator McKenzie** also requested the estimated fiscal impact. **Representative Stevenson** suggested they consider adding a sunset clause because it is just trying to jump start an industry and he is not sure the tax credit needs to continue on forever. In response to a question from **Senator Werk**, **Mr. Watts** said he was representing the McKinstry Company.

**Mr. Eklund, Office of Energy Resources (OER)**, was introduced to give an update on the stimulus money that has come to OER. A copy of his briefing paper is available from the Legislative Services Office.

**Mr. Eklund** touched on a few of the projects as follows:

#### K through 12 School Efficiency Project

Purpose: To perform scoping audits and HVAC equipment tune-ups on all public schools in Idaho, identify the worst ones, and do as many cost-effective retrofits as funds allow.

Status:

- Technical management and technical trainer contracts in place.
- RFQ for scoping audit engineering firms issued, responses received, engineers selected and training scheduled.
- Pilot audit and tune-up performed at Homedale.
- Kickoff with Governor Otter on Friday, August 28<sup>th</sup>.

Investment: \$17,464,693

#### Solar Schools Project

Purpose: To demonstrate using school roofs as generating resources.

Status:

- RFP for solar audit consultant in preparation.
- RFP for schools in preparation.

Investment: \$2,750,000

### Renewable Energy Enterprise Zone Project

Purpose: To stimulate private/public partnerships in renewable energy development.

Status:

- RFP issued August 11, 2009
- Proposals due October 30, 2009

Investment: \$1,500,000

### Micron Technology LED Project

Purpose: Pilot project to perform research and development of conversion of existing computer memory fabrication facility to production of light emitting diodes for high efficiency lighting.

Status:

- Draft contract issued in mid July
- Kickoff event scheduled for September 24, 2009 in conjunction with the Idaho Innovation Summit

Investment: \$5,000,000

### Energy Efficiency and Conservation Block Grant

Purpose: To provide competitive grants to Idaho cities and counties that did not receive direct block grants for energy efficiency projects. (Only the 10 largest of the cities and the counties received direct grants).

Status:

- US Department of Energy approval expected by mid September
- RFP to issue as soon as approval is received

Investment: \$5,756,100

In response to questions from **Senator Kelly and Representative Stevenson, Mr. Eklund** explained that 60% of amounts mentioned have been authorized by DOE but OER does not have budget authority statewide to spend it. He said that by early 2010 they will need more authority to keep the programs running. **Senator Kelly** said that was a lot of money and asked whether OER had staff and expertise in place to manage these projects in a fiscally prudent manner. **Mr. Eklund** said yes. He stated that **Maria Barrett** is in charge of this and that she has a lot of experience in fiscal management and is using other staff that have been with their loan program. They also have an open position that will handle the relationship with the DOE. He noted that they are also working on a fiscal tracking system that will interface with the state system and will allow them to be able to account for every penny being spent by their office.

**Representative Eskridge** asked what type of marketing is being done to let school districts know about these programs. **Mr. Eklund** explained that Sue Seifert is in charge of the school program and she is very experienced with school districts and has had a lot of success in getting responses from them.

**Senator Werk** said he would like something clarifying their budget and spending authority. He asked if any school districts were resistant to this idea. **Mr. Eklund** said that one declined audits and tune-ups. He said that district insisted that one of their buildings was brand new and that others had already been updated. They did allow an audit of one building.

The meeting recessed at 5:02 p.m.

### **Energy, Environment and Technology Interim Committee (Day 2 – September 2, 2009)**

**Cochairman Eskridge** called the meeting to order at 8:05 a.m.

NOTE: All copies of presentations, reference materials, and handouts are on file at the Legislative Services Office.

A silent roll call was completed.

**Cochairman Eskridge** introduced **Ms. Maria Barrett**, Idaho Office of Energy Resources (OER), to answer questions raised earlier in the meeting relating to the OER stimulus funding. **Ms. Barrett** explained that, due to the dynamics of the stimulus, the OER budget amount has changed since the Department of Energy (DOE) first presented their projection. She continued, explaining that the final amount was determined by how many states chose to accept stimulus funds. Trying to put together the 2011 budget and looking at the \$14 million in appropriations from JFAC, **Ms. Barrett** stated that it appears that the OER will quickly go through that amount. She pointed to cash management issues but indicated that they would make it to the start of the next legislative session. She did affirm that OER would submit to JFAC a request for a supplemental appropriation at that time.

**Representative Bell** asked **Ms. Barrett** to discuss the future timeline as it relates to 2012. **Ms. Barrett** stated that, to date, OER has been awarded 50 percent of the majority of their grants and the remaining 50 percent is contingent upon their progress. **Ms. Barrett** emphasized that along with generating quarterly progress reports, OER is required to meet milestones on the progress of each individual project within each grant. Their award for block grants was delayed, though OER will be in receipt of them by month's end. **Ms. Barrett** said that OER requested an extension from JFAC until the end of the month. She stated that the funding outlook for 2012 is not certain.

**Cochairman Eskridge** asked **Ms. Barrett** if OER would be submitting a supplemental request when the new legislative session begins and she confirmed that the OER will submit a supplemental request for spending authority, for just stimulus dollars, with their 2011 submission.

**Senator Kelly** asked if OER has the necessary resources to prudently and fiscally manage the federal stimulus allocation requirements of reporting and other associated responsibilities. **Ms. Barrett** responded that OER did not have all the necessary resources at the moment but explained that OER is building up their resources. She stated that OER has hired a consultant group to automate their reporting

requirements. Within two months she hopes OER will be able to provide transparency and the accountability.

**Representative Jaquet** asked **Ms. Barrett** to detail the recruitment process for their energy auditors. **Ms. Barrett** stated that the OER worked with the Office of Engineers and Department of Administration, Division of Purchasing to identify all licensed Idaho professionals and postal cards were then sent, directing interested parties to the OER webpage for more details on the submission process. **Ms. Barrett** introduced **Mr. Ken Eklund**, Idaho Office of Energy Resources, who explained that notifications were sent to every engineer listed in Idaho. **Representative Jaquet** responded, indicating she had hoped the unemployed might have been considered in the effort to hire capable staff. **Ms. Barrett** stated that all licensed professionals received the notification card and had an opportunity to submit a proposal. **Ms. Barrett** indicated that she would share report data collected related to new hires with the interim committee when it is available.

**Cochairman Eskridge** asked **Ms. Barrett** what response OER has received from the schools and how many schools are asking for the audit. **Ms. Barrett** responded that all schools will receive the audit. **Mr. Eklund** then further explained that, in order for the schools to participate, they must consent to provide copies of their utility bills and provide the square footage of their school buildings. He said that about seventy percent of the schools have done so. **Cochairman Eskridge** asked **Mr. Eklund** for the number of auditors the agency has to complete the tasks at the schools. **Mr. Eklund** stated that they have received thirty-seven proposals. Of those thirty-seven, ten firms were selected and those ten firms represent a number of licensed professionals. **Ms. Barrett** said OER will provide the committee with more details as they become available. **Cochairman Eskridge** asked for the stated deadline for completing the audits and **Ms. Barrett** indicated that the award gives the agency until 2015 to expend the dollars. She said that their intention was to complete the audits and get a prioritization of things they can fix within the state, with the hope of saving operation and maintenance costs.

**Representative Stevenson** asked **Mr. Eklund** to explain why an audit was necessary when an audit was completed five years ago. **Mr. Eklund** stated that the present audit is termed a “scoping audit.” It looks particularly at the systems in the buildings, to include lighting, controls and the HVAC equipment. He continued, explaining that these audits alert those who follow, performing the tune-ups and identifying the efficiency opportunities. He then discussed the tune-ups at Homedale. **Representative Stevenson** asked if the present audit effort will change some improvements made in the previous audit. **Mr. Eklund** stated that some schools were missed in previous audits. He explained that part of the audit process will include training the maintenance service personnel, as well as bringing them up to speed on any savings potential. Also, new equipment will be installed and monitored.

**Senator Werk** commented on the annual optimization portion of the 2007 Energy Plan. He said he was pleased to see how the auditing effort complimented this mandate, as maintenance personnel will be trained to monitor the improved equipment and in so doing, sustain the savings. **Ms. Barrett** encouraged the committee to contact her if they have more questions.

**Senator Werk** introduced to the committee a draft of a Concurrent Resolution, created with the help of a group focused on energy issues, exploring how to move forward with the recommendations of the 2007 Energy Plan without spending additional state resources. **Senator Werk** next recognized and voiced his appreciation of the attendance in the audience of Public Utilities Commissioner **Mr. Jim**

**Kempton. Senator Werk** emphasized that the Concurrent Resolution makes a statement by the Legislature, both commending work done so far by the Public Utilities Commission (PUC) and clarifying the roles and responsibilities of agencies, especially the PUC, regarding the recommendations of the 2007 Energy Plan. He explained that the resolution clarifies the makeup of the progress reports outlined in the Plan. **Senator Werk** answered a concern raised previously by **Representative Jaquet** regarding the additional expense the use of more paper might demand if the reporting requirement was expanded. **Senator Werk** proposed that these reports could be completed and submitted to the Legislature on disc, thereby avoiding any additional expense. He then reviewed the draft of the Concurrent Resolution. **Senator Werk** specified how the resolution enjoins the PUC to look at the recommendations of the 2007 Energy Plan and determine how to best meet the goals for the completion of the recommendations.

**Representative Stevenson** asked if he believed that this Concurrent Resolution places an additional workload on the PUC. **Senator Werk** replied that the majority of the resolution was taken from the 2007 Energy Plan and that the resolution does not call for the PUC to expend extraordinary efforts in any area. **Senator Werk** explained that the resolution does go into greater detail related to the reporting requirements but that it is mainly an effort to clarify what the PUC is charged with under the 2007 Energy Plan

**Cochairman Eskridge** asked **Senator Werk** if the resolution simply restates the Plan and provides clarity and reinforcement. **Senator Werk** agreed that elements were taken from the Plan, adding that the resolution goes into more specific detail regarding reporting. **Cochairman Eskridge** asked about the term “committee” referenced on page 2, line 7 of the resolution. **Senator Werk** indicated that the language was taken directly from the 2007 Energy Plan and that the reference can be removed if it is confusing to the reader. **Cochairman Eskridge** recommended that the language be amended to read “the Energy Plan recommends.”

**Representative Bell** commented that she did not understand why there is a need for the resolution, given that it has “should” rather than “shall” language throughout. She anticipated that the reason for the language was due to the nature of the interim committee. **Senator Werk** explained that the Concurrent Resolution was created to allow the Legislature to speak with a unified voice to the agency, emphasizing the Legislature’s expectations that when work is completed that reporting will be submitted so that progress can be gauged.

**Representative Jaquet** suggested that it might be more effective to write a letter to the standing committee, including in it the contents of the Concurrent Resolution. **Senator Werk** responded that her suggestion was considered, but that the Concurrent Resolution was chosen because it is the only means by which the Legislature can speak with a unified voice. **Cochairman Eskridge** reminded the members of a similar energy plan adopted years earlier, one that was forgotten due to the lack of legislative oversight. He stated that this Concurrent Resolution would represent the commitment of the Legislature toward the progress of the 2007 Energy Plan’s goals and would also provide direction to the utilities. He stated that the Concurrent Resolution is a good tool and hoped that it would advance forward. **Senator Werk** commented that he believed that the 2007 Energy Plan should be a living document.

**Representative Bell** commented that she did not believe that the Concurrent Resolution was necessary, as she did not see the 2007 Energy Plan in danger of being shelved. **Senator Lodge** asked if **Senator**

**Werk** could foresee any additional costs to the agencies involved in implementing portions of the resolution. **Senator Werk** commented that other than asking for the reports to contain certain elements, the actions requested are already in the Plan.

**Senator Lodge** commented that she was concerned about the possible financial pressure put on the agencies involved and asked **Senator Werk** to contact the agencies and request from them an estimate of the expense associated with the resolution. **Senator Werk** indicated that they intended to sit down with the agencies. **Senator Lodge** asked if his group had discussed the resolution with the agencies. **Senator Werk** responded that the draft language was just completed and that they have a call into **Commissioner Kempton** to set up a meeting. He expressed his intention to follow through with the suggestion of **Senator Lodge**.

**Cochairman McKenzie** commented that as a policy issue, the Concurrent Resolution is appropriate to give this kind of expression to the PUC. **Representative Stevenson** suggested that perhaps the resolution place responsibility with the OER, as their office had not yet been established when the 2007 Energy Plan was adopted. **Senator Werk** stated that all the recommendations in the Plan rest with the PUC because of their statutory responsibilities associated with rate structuring. He continued, adding that the OER may have a role in the future, as they are ideally positioned in the structure of state government to take the lead to push implementation of the Energy Plan.

**Senator Kelly** commented that because the 2007 Energy Plan was adopted before the OER was established, she thought it was appropriate to ask them how they see their role related to the Plan. She suggested that they be asked how their stimulus funding might connect back to the Energy Plan. **Senator Kelly** asked **Cochairman Eskridge** if the OER could present their response at the next meeting.

**Representative Jaquet** asked if the PUC Chair might be invited to the next meeting to discuss the Plan's impact on the PUC. **Cochairman Eskridge** responded that her suggestion might be appropriate. He stated that the Concurrent Resolution was just asking for a report on the progress of implementing the 2007 Energy Plan. He asked **Senator Werk** to invite the PUC to the next meeting to respond to this question and perhaps talk about the decoupling effort through the receipt of stimulus funding. **Cochairman Eskridge** noted that Idaho has tried to keep ahead of the federal mandates and the 2007 Energy Plan provides us with the basis to get ahead. **Senator Werk** agreed to meet with the PUC and come to the next meeting with a summary of his discussion.

**Representative Cronin** reviewed **House Bill 35**, explaining that it takes recommendations of the Energy Plan and goes a step further in specifying a timeline and encouraging the PUC to exert efforts to set conservation targets and develop appropriate shareholder incentives to meet conservation targets. He stated that conservation is prioritized as Idaho's electricity resources first choice within the Energy Plan. He continued that his draft legislation is not prescribing how to approach the incentives but that it promotes initiating the process. In addition, the PUC would establish hearings and report to the Legislature their findings.

**Representative Cronin** indicated that he had spoken with PUC **Commissioner Kempton** and that he intends to meet with him again. He indicated that there may be some modification of language in the bill, in terms of whether the PUC is required to present firm recommendations or a set of options.

**Representative Bell** asked if this should go to the standing committee in the House and asked **Representative Cronin** why he came to this committee. **Representative Cronin** responded by stating that he wished to share the draft with the interim committee and address any questions it may have, in advance of presenting it to the standing committee. **Cochairman Eskridge** stated that the interim committee has always encouraged legislators dealing with any potential energy legislation to come to the interim committee, so that it might evaluate and provide suggestions to make it better.

**Senator Werk** noted that some of the draft language was his responsibility. He commented that the highest priority from the Energy Plan was to demand side management and conservation because it's the cheapest resource. He continued by stating that the PUC has done a great job having a pilot program in the specific process of rate decoupling with Idaho Power. He pointed out that the last section of the draft legislation provides the Commission the opportunity to periodically reevaluate whatever targets they set. It provides the PUC the maximum amount of flexibility in freedom to look at the whole process for how they wish to set those targets and to identify incentives.

**Cochairman McKenzie** stated that the draft legislation encourages demand side management and conservation in the face of projected demand growth and done in a manner that fits in Idaho. He indicated his support for this draft legislation. **Representative Jaquet** asked if the PUC and staff could be invited to the next committee meeting so that they could explain the origin of the pilot program.

**Cochairman Eskridge** stated that he believed the intent of the legislation to be to encourage a process which identified methods of conservation that would not reduce the revenues of the utility and their stockholders to an unreasonable level. He identified decoupling as an example of separating energy conservation methods from the ratemaking process - explaining that to the degree the utility loses load due to conservation measures, they recapture some part of their revenue through compensation.

**Representative Cronin** agreed with **Cochairman Eskridge**.

**Cochairman McKenzie** suggested that the PUC and staff should be invited to the next committee meeting. **Cochairman Eskridge** added that it would be important to also invite other interested parties, to include the utilities, and to discuss their efforts to follow through with the recommendations of the Energy Plan. The committee agreed to this format for the next meeting.

**Representative Stevenson** discussed **House Bill 52**, legislation introduced during the previous legislative session. He pointed to its purpose, to allow the PUC discretion assigning some of the costs of the generation and capital outlays for the utilities, in order to assign those to new growth.

**Representative Stevenson** stated that the legislation was directed to the State Affairs Committee and suggested that perhaps it should go through the Energy Committees in the Senate and the House. He explained that the legislation was held back by the State Affairs Committee and that some opposition to the legislation was raised by realtors and contractors. **Representative Stevenson** identified their complaint to be that their input had not been sought. He then directed the committee members to refer to the minutes of a recent meeting with the realtors and contractors. He explained that in the past, the utilities tried to pass on the cost to new growth but that the Supreme Court determined that the utilities could not pass on all the costs to new growth. Pointing to line 18 of **HB 52**, **Representative Stevenson** noted that the legislation may allow a public utility to establish a reasonable, nonrecurring charge for new growth to partially recover the costs for new growth for its generation and transmission. At the

conclusion of the recent meeting with the contractors and realtors, **Representative Stevenson** recounted that the contractors and realtors were invited to review the legislation and submit their corrections and he confirmed with the committee that there will be another meeting.

**Cochairman Eskridge** asked if **Representative Stevenson** was appearing before the committee to simply ask for suggestions and **Representative Stevenson** indicated that he was asking the interim committee for their input and not for any action.

**Senator Kelly** asked if United Water was opposed to the legislation and **Representative Stevenson** indicated that they were in support of the legislation. **Senator Kelly** followed up asking if the realtors and contractors submitted alternative language and **Representative Stevenson** stated that to date he had not received input but indicated that not much time has elapsed since input was requested.

**Senator Werk** asked that if the proposal was adopted, would the PUC have a hearing, where public testimony was accepted in terms of how recovery was structured. **Representative Stevenson** replied that it would come in front of the PUC as a rate case and that the amount would be established as a result of that. **Senator Werk** asked if the PUC would look at an initial hookup fee for the individual customer who moves into a home rather than looking to the developer. **Representative Stevenson** responded that it is a one-time service fee to the new homeowner and that this applies only to new capital investment.

**Cochairman Eskridge** asked if this would apply across the rate spectrum not just for residential but also for new businesses or for new load. **Representative Stevenson** responded affirmatively, excepting those who come with special contracts approved by the PUC. **Representative Jaquet** asked if the PUC already has authorization to charge a developer for the distribution line, which will be challenged in court, and if the hookup charge will be passed on to the price of the home.

**Mr. Randy Lobb**, Idaho Public Utilities Commission, distinguished between electricity and water distribution charges. He stated that the Commission has charged the customer for the distribution costs associated with new growth. One hundred percent of water distribution costs are collected by developers for new growth but that that is not necessarily the case for electric companies. He continued, explaining that there is an allowance for distribution plants, so the developers are not charged one hundred percent of the cost for electricity distribution. **Cochairman Eskridge** asked how the charge referenced in the legislation differs from a line extension. **Mr. Lobb** stated that the court has differentiated between generation and distribution utility plants. He explained that as long as the plant is put to service directly for the development, those costs can be collected from the developer. He stated that with generation, it is impossible to identify a single developer that is responsible for that new generation plant. **Cochairman Eskridge** asked if this proposal would alleviate the problem and **Mr. Lobb** responded that he believed that that was the intent of the legislation, that the court could not deny the Commission the right to charge some percentage of the new growth cost.

**Senator Werk** asked if the legislation could specify that the fee be assessed at customer sign up for the utility and thereby alleviating the objections from the developers. **Commissioner Jim Kempton** responded he could not see a reason why not to consider it, and that he did not know of a problem in this area.

**Cochairman Eskridge** noted that it seems appropriate to institute the fee at the individual customer level when acquiring utility service. **Representative Stevenson** indicated that another meeting will be called and interested parties on this issue, including prime objectors, will be invited. **Cochairman Eskridge** indicated that he is invited to provide an update at the next committee meeting.

**Representative Jaquet** updated the committee on proposed legislation, which was **House Bill 203** of 2009. The legislation passed the House and issues were raised in the Senate. She reviewed the legislation and indicated that she is now considering focusing on solar power. **Representative Stevenson** asked if the legislation included a digester and she stated that the legislation did include a digester, though there has not been much success with the methane. **Senator McKenzie** asked about a provision related to property tax. **Representative Jaquet** indicated that the legislation did address that issue and she is continuing to research the topic.

**Senator Werk** asked **Representative Jaquet** to discuss the issue raised last session at the committee hearing regarding consistency of law associated with renewables. She explained that the counties had a concern with the opt out provision in the legislation. She stated that she will host a meeting on September 15<sup>th</sup> at 1 p.m. at the Idaho Association of Counties building in Boise, to discuss this legislation and any other energy legislation before the county's legislative committee. She invited **Representative Stevenson** to attend to discuss his legislation. The Idaho Association of Counties Energy Subcommittee meeting is in Coeur d'Alene on September 22<sup>nd</sup>. **Senator Kelly** indicated that this latter meeting overlaps with the Idaho Falls legislative tour. In closing, answering **Representative Bell's** question concerning a possible loss to the property tax base, **Representative Jaquet** cited the positive impression expressed by the Bonneville County Commissioner.

**Cochairman Eskridge** asked if anyone in attendance wished to offer comments to the committee regarding proposed legislation from the past session. **Neil Colwell**, Avista Corporation, stated that he did not have anything to present to the committee at this time. **Teri Ottens**, Community Action Partnerships Association of Idaho, stated that her association intends to bring a bill before the Legislature regarding low-income bill assistance in the next session. **Ms. Ottens** will attend the next committee meeting to answer questions from the committee. **Representative Stevenson** asked **Ms. Ottens** to discuss the program structure in more detail. **Ms. Ottens** explained that the program would be voluntary on the part of the utility. If the utility elects to participate, then it would move to the PUC, and a public hearing process would commence.

**Cochairman Eskridge** suggested that **Ms. Ottens** provide information related to connect/reconnect costs of such a program at the next meeting. **Ms. Ottens** agreed to bring further information and statistics to the next meeting.

**Cochairman Eskridge** introduced two draft letters. One letter asked the Office of Energy Resources to take the lead in woody biomass discussions. The second draft letter asked the Idaho State Board of Land Commissioners to explore the possibility of granting up to a twenty year, with a minimum of ten year stewardship contracts to viable biomass energy developers on state endowment lands. **Senator McKenzie** suggested a revision to paragraph two of the letter for the Idaho State Board of Land Commissioners. The committee agreed to the following revision:

“The Committee concluded that multiyear stewardship contracts of at least ten years and up to twenty years are important, if not essential, for developers of woody biomass energy generation facilities to gain access to financing or capital markets. Stewardship contracts of less than ten years handicap the state’s ability to develop this industry.”

**Senators McKenzie, Kelly and Werk** then suggested revisions to paragraph two of the letter for the Office of Energy Resources. The committee agreed to the following revisions:

“The Committee appreciates your office’s leadership on energy issues and we strongly encourage the Office of Energy Resources to provide leadership and coordinate and streamline biomass discussions at the state level.”

After discussion with the members, **Cochairman Eskridge** suggested holding the next meeting in conjunction with the Association of Idaho Cities 2009 Energy and Green Building Conference. The next meeting will begin at 9 a.m. on October 21<sup>st</sup> and 22<sup>nd</sup>, 2009, at the Doubletree Riverside Hotel in Garden City.

The meeting adjourned at 10:30 a.m.