

# House Resources & Conservation Committee

Minutes  
2009



## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** January 15, 2009

**TIME:** 1:30 P.M.

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence

**ABSENT/  
EXCUSED:** Rep. Bedke

**GUESTS:** Lance Hebdon, Policy Coordinator Idaho Dept. of Fish & Game; Jim Unsworth, Deputy Director Idaho Fish & Game; Sharon Kiefer, Asst. Director IDFG; Nate Helm, Sportsmen for Fish & Wildlife; Lynn Tominaga, Executive Director, Idaho Ground Water Appropriators; Norm Semanko, Executive Director, Idaho Water Users Assoc.; Ryan Perotto, Intern, ID Water Users Assoc.; Justin Hayes, Program Director, ID Conservation League; Kent Lauer, Lobbyist, ID Farm Bureau, Dustin Miller, Office of Species Conservation; Nate Fisher, Director of the Office of Species Conservation

The organizational meeting of the Committee was called to order at 1:35 P.M. by Chairman Stevenson who welcomed everyone to another Legislative session. He introduced the new Representatives on the Committee; Representatives Harwood, Hagedorn, and Boyle. He also introduced the new secretary, Molly Smith and page Madeline Fehlman.

Chairman Stevenson explained that the Department of Fish & Game is scheduled to present its annual report on January 29<sup>th</sup> and the annual Gold Room seminar hosted by the Idaho Council of Industry & Environment is scheduled for February 9<sup>th</sup>. This will be a joint meeting with the Senate Resources & Environment Committee and the topic will be Noxious Weeds/Invasive Species.

Vice Chairman Shepherd explained the procedures for the subcommittees hearing the Administrative Rules before the Committee. He announced the following subcommittee assignments; Rep. George Eskridge will chair the subcommittee to hear the rules for the Department of Lands, Rep. Fred Wood will chair subcommittee to hear the rules for the Idaho Fish & Game and Rep. Del Raybould will chair the subcommittee to hear the rules from the Department of Water Resources and the Department of Parks & Recreation.

**Jim Unsworth**, Deputy Director of Idaho Fish & Game gave the Committee a briefing on the wolf issue.

He explained that the 14<sup>th</sup> anniversary of wolf reintroduction will be on

January 20<sup>th</sup>. He provided to Committee members a handout of the Wolf Management Directives adopted by the Idaho Fish & Game Commission on November 6<sup>th</sup>, 2008 and summarized the directives. He reported that there are approximately 800 wolves in the State forming about 50 packs. He explained that the new 10(j) Rule to control wolves in critical areas that are impacting ungulates. He further explained that in the event de-listing does not occur, it gives the directive the opportunity to develop and aggressively utilize all tools and methods available under the new 10 (j) rule.

**Mr. Unsworth** explained that monitoring of wolves will lessen as budgets are cut. He further explained that currently there are approximately 84 radio monitored wolves and 12 are located in eastern Idaho.

In response to a question regarding the timing of hunting schedules, **Mr. Unsworth** stated that February through September is avoided due to ungulate breeding season.

**Nate Fisher**, Office of Species Conservation, explained that Idaho plans to delist wolves even if the surrounding states back off. The committee discussed the harvest rates, season quotas, and depredation numbers.

**ADJOURN:**

There being no further business to be brought before the Committee, Chairman Stevenson adjourned the meeting at 2:45 P.M.

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Representative John A. Stevenson  
Chairman

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Claudia Howell for  
Molly Smith, Committee Secretary

MINUTES

**RESOURCES & CONSERVATION**  
Rules Subcommittee

**DATE:** January 19, 2009

**TIME:** 1:20 p.m.

**PLACE:** Room 225

**MEMBERS:** Chairman Raybould, Representatives Moyle, Bedke, Pence

**ABSENT/  
EXCUSED:** Representative Wood

**GUESTS:** Administration Director, Robert L. Meinen, ID Parks & Recreation, Dean Sangrey, Operation Division Administrator P & R; Stephen Goodson, Office of the Governor; George Dillard, 'Good Sam' Representative

**Chairman Raybould** called the meeting to order at 1:20 p.m. and introduced **Director Robert Meinen** and **Administrator Dean Sangrey**.

**DOCKET NO.  
26-0120-0801** **Mr. Sangrey** presented **Docket No.26-0120-0801** - Fee Rule explaining a descriptive summary of the fee or charge imposed or increased, in compliance with Section 67-4210, Idaho Code: The intent of this fee proposal is to increase the current authorized fee ceiling for park campsites in IDAPA 26.01.20.250.01. By taking this action, the agency will have future flexibility to establish adjusted "shoulder" and "prime" season rates at an amount less than the IDAPA-approved ceiling.

The fiscal impact, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not Applicable.

**MOTION:** **Representative Moyle** moved to send **Docket No. 26-0120-0801** to the full committee with recommendation to reject. **Motion passed by voice vote.**

**DOCKET NO.  
26-0120-0802** Mr. Sangrey explained that **Docket No. 26-0120-0802** addresses several issues pertaining to the operation of state parks and protection of the natural resources of the state that are further detailed below:

1. This rule change will clarify that operation of motorized vehicles for ingress and egress to campsites or other in-park destination permitted within the boundary of any Idaho state park, and not just designated campgrounds.
2. The new rule will clarify that group use permits require agency Director approval for groups larger than 250 people, including those permits that will involve the sale of alcoholic beverages. The 45 day advance notice requirement may be waived with approval of Director or designee.
3. This rule change will clarify that the use of saddle or other recreational packing livestock, such as llamas, goats, etc., is prohibited on trails,

roadways, and other areas unless designated through signing for that purpose or with permission of the park manager or designee.

4. Clarification is needed to effectively address more definitive guidance for agency staff when dealing with wildire management issues. The change will speak to proper procedures to follow when large geographic areas may be affected by fire closures as mandated by statewide fire management agencies. The agency has a responsibility to inform the public regarding protection of wildlife within the boundaries of state park property.

5. We currently enforce prohibitions related to molesting, injuring, or killing any wild creatures in the parks, except as provided by specific action of the Park Board. It is necessary to clarify that any hunting or pursuit of wildlife in a park setting must also comply with current Idaho Fish and Game rules and regulations.

The fiscal impact, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not Applicable.

Following discussion pertaining to permits for sales of alcoholic beverages in the parks with committee members, **Chairman Raybould** announced **Docket No. 26-0120-0802** will be held in committee pending a report from Mr. Sangrey indicating clarification of questions brought forth by committee members. The meeting will be held on Wednesday, January 21, 2009 following the regular full House Resources and Conservation committee meeting in room 225.

**ADJOURN:** There being no further business to come before the committee, meeting was adjourned at 3:35 p.m.

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Representative Dell Raybould  
Chairman

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Peggy Heady  
Secretary

MINUTES

**HOUSE RESOURCES & CONSERVATION COMMITTEE  
WOOD (27) FISH & GAME SUBCOMMITTEE**

**DATE:** January 19, 2009

**TIME:** 2:30 P.M.

**PLACE:** Room 148

**MEMBERS:** Chairman F. Wood, Andrus, Boyle, Hagedorn, Sayler, Chavez

**ABSENT/  
EXCUSED:** None

**GUESTS:** Sharon Kiefer, Idaho Fish & Game; Lance Hebdon, Idaho Fish & Game;  
W. Dallas Burkhalter, Idaho Fish & Game

**Chairman Wood** called the meeting to order at 2:30 p.m. Chairman Wood announced they would hold **Docket # 13-0104-0801** for a future meeting.

**DOCKET  
13-0104-0801** **Ms Keifer** stated the purpose of the rule is to adopt a self certification rule allowing a disabled applicant to self-certify that they are capable of holding, or holding and firing, without assistance from other persons, legal hunting and fishing equipment.

**Dallas Burkhalter, IDFG** indicated that the self-certification is made in the form of an affidavit. The Department also noted that the change, in part, is the result of user concerns that non-handicapped individuals are not required to have a physician certify that they are capable of holding and firing legal hunting equipment. In addition, the Department indicated that the reasonable modification permit for special weapon hunting season provisions were added after some concerns were raised by Fish and Wildlife, and some individuals, in regard to accommodations and ADA requirements.

In response to a question regarding what the definition of "reasonable" would be, it was explained there was no firm definition and probably would be a judgement call.

**MOTION:** **Representative Chavez** moved to recommend approval of **Docket # 13-0104-0801** to the full committee. **The motion passed on a voice vote.**

**DOCKET  
13-0104-0802** **Mr. Burkhalter** explained this rule replaces the word "handicapped" with "disabled" relating to disabled archery provisions, to ensure consistency with governing law following statutory changes made during the 2008 legislative session.

**MOTION:** **Representative Hagedorn** moved to recommend approval of **Docket # 13-0104-0802** to the full committee. **The motion passed on a voice vote.**

**DOCKET  
13-0104-0803**

**Mr. Burkhalter** said **Docket #13-0104-0803** would set outfitter set-aside tags for the 2008 seasons. Set-aside outfitter allocation tags are divided among resident hunters, non-outfitted hunters, and outfitted hunters. This rule notes that a separate additional 1,500 white-tail deer nonresident tags would be added to the quota. This rule would considering the reduction of elk tag cap for Selway A and B tags for residents and nonresident hunters.

In response to a question regarding why the cap is needed, it was said the elk population was being reduced by wolves.

Clarifying the definition of “nonresident” was discussed.

**MOTION:**

**Representative Hagedorn** moved to recommend rejection of **Docket 13-0104-0803** to the full committee. **The motion passed on a voice vote.**

**DOCKET  
13-0107-0801:**

**Mr. Burkhalter** explained that this docket amends the rule to ensure consistency in references to the Disabled Motor Vehicle Hunting Permit by replacing handicapped with disabled.

**MOTION:**

**Representative Saylor** moved to recommend approval of **Docket 13-0107-0801** to the full committee. **The motion passed on a voice vote.**

**DOCKET  
13-0108-0802:**

**Mr. Burkhalter** stated the purpose of the rule is to allow the use of “red dot” scopes on crossbows by disabled archers and to allow senior and disabled hunters to apply for leftover youth controlled hunt permits. In addition, the Department notes that the rule will simplify the evidence-of-sex rule to apply only during transportation of a big game carcass to a final place of storage or a commercial meat processing facility and correct obsolete rules concerning 3/4 curl and mandatory class requirements for bighorn sheep hunters.

There was discussion on the reasons of the removal of the 3/4" curl requirement due to being obsolete as it is a once in a life time hunt and obsolete.

**MOTION:**

**Representative Hagedorn** moved to recommend approval of **Docket # 13-0108-0801** to the full committee. **The motion passed on a voice vote.**

**DOCKET  
13-0108-803:**

**Mr. Burkhalter** said the docket would amend the current rule to enable the use of “in line” muzzleloaders.

**MOTION:**

**Representative Andrus** moved to recommend approval of **Docket 13-0108-0803** to the full committee. **The motion passed on a voice vote.**

**Representative Hagedorn voted NAY.**

**DOCKET  
13-0109-0801:**

**Mr. Burkhalter** summarized the purpose of the rule is to extend the youth pheasant hunt season, revise the wildlife management area pheasant program hunter-orange rule, increase turkey controlled hunt tags for general and youth only,

expand general season youth hunt and make a number of technical

corrections including a typographical error relating to the period of time within which a public hearing may be requested. The notice indicates that date is October 15, 2007, rather than 2008.

In response to a question about depredation tags and hunts, the answer was that the Director has the authority a special depredation hunt without a special tag.

- MOTION:** **Representative Chavez** moved to recommend approval of **Docket 13-0109-0801** to the full committee. **The motion passed on a voice vote.**
- DOCKET 13-0111-0801:** **Sharon Kiefer** said this rule would amend the two pole limit to comply with amendments in the governing law.
- MOTION:** **Representative Chavez** moved to recommend approval of **Docket 13-0111-0801** to the full committee. **The motion passed on a voice vote.**
- DOCKET 13-0111-0802:** **Ms. Kiefer** explained the rule increases the maximum size traps for minnows and crawfish. The general 12 inch rule minimum size limit on bass in North Idaho waters will be removed because the fish are not growing to that size. The rule will also restrict the use of live leeches, frogs, salamanders, and shrimp as bait.
- MOTION:** **Representative Hagedorn** moved to recommend approval of **Docket 13-0111-0802** to the full committee. **The motion passed on a voice vote.**
- DOCKET 13-0116-0801:** **Mr. Burkhalter** said the department is proposing to increase otter harvest quotas in the Magic Valley and Upper Snake River region. This rule would also close beaver trapping on Willow Creek drainage in Units 66 and 69 and increase beaver trapping in the Southeast and Magic Valley regions. There would be an amended list Wildlife Management Areas open for trapping.
- MOTION:** **Representative Hagedorn** moved to recommend approval of **Docket 13-0116-0801** to the full committee.
- Representative Hagedorn withdrew his motion and requested additional information.**
- DOCKET 13-0117-0801:** **Mr. Burkhalter** said the rules would be amended to clarify the application to bait containers and the required removal at the end of the season.
- MOTION:** **Representative Sayler** moved to recommend approval of **Docket 13-0117-0801** to the full committee. **The motion passed on a voice vote.**
- DOCKET 13-0119-0801:** **Mr. Burkhalter** stated this rule would delete obsolete rules concerning reimbursement of telecommunication costs and correct references and terminology. It would amend several rules concerning ordering supplies and canceling documents to update to the computerized POS licensing system.
- MOTION:** **Representative Hagedorn** moved to recommend approval of **Docket 13-0119-0801** to the full committee. **The motion passed on a voice vote. Representative Boyle voted Nay.**

**DOCKET  
13-0120-0801:**

**Mr. Burkhalter** stated this rule is the recommendation that the application process be simplified and streamlined to provide better response time for vendor applicants. It also amends the active vendor number ceiling due to decreased licensed vendors.

There was discussion in regards to quantity of tags that are purchased on line now, and numbers of internet sales compared to vendor sales.

**MOTION:**

**Representative Hagedorn** moved to recommend approval of **Docket 13-0120-0801** to the full committee. **The motion passed on a voice vote.**

**ADJOURN:**

There being no further business before the committee, Chairman Wood adjourned the meeting at 3:30 p.m.

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Chairman Fred Wood

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Claudia Howell for  
Molly Smith, Committee Secretary

MINUTES

**HOUSE RESOURCES & CONSERVATION COMMITTEE  
ESKRIDGE SUBCOMMITTEE**

**DATE:** January 20, 2009

**TIME:** 4:15 PM

**PLACE:** Room 148

**MEMBERS:** Chairman Eskridge, Representatives Barrett, Harwood, King

**ABSENT/EXCUSED:** Rep. Shepherd (8)

**GUESTS:** George Bacon, Department of Lands; Jane Wittmeyer, Idaho Forest Association

**Chairman Eskridge** called the meeting to order at 4:15 PM and requested the secretary take a silent roll.

**DOCKET  
20-0602-0801:** **George Bacon**, Director of Department of Lands, explained this docket is to make technical corrections to existing rules, incorporating the reference of the "Idaho Log Scaling Manual", the addition of new rules to reflect gross and net scale determination to keep the same intent currently in Chapter 20.06.03 Rules, and reindexing of a chapter number.

**Mr. Bacon** said Chapter 20.06.02 was reindexed to 20.06.01. Rules of the Idaho Board of Scaling Practices essentially are unchanged, but will reference the new "Idaho Log Scaling Manual" instead of the USFS "National Forest Log Scaling Handbook." Mr. Bacon stated the "measurement Rules for Forest Products of the Idaho Board of Scaling Practices" will be repealed in their entirety.

**MOTION:** **Representative Harwood** moved to recommend approval of **Docket 20-0602-0801** to the full committee. **The motion passed by voice vote.**

**DOCKET  
20-0603-0801:** **Mr. Bacon** stated this docket would repeal Chapter 20.06.03, Measurement Rules in its entirety, because the scaling measurement rules will be reflected in the Idaho Log Scaling Manual and all administrative rules will be stated in one revised chapter.

**Jane Wittmeyer, IFA**, stated foresters have reviewed the docket and are supportive of the new Idaho Log Scaling Manual.

**MOTION:**

**Representative Harwood** moved to recommend approval of **Docket 20-0603-0801** to the full committee. By a voice vote, the motion carried.

**ADJOURN:**

There being no further business to be brought before the committee, **Chairman Eskridge** adjourned the meeting at 4:30 PM

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Representative George E. Eskridge  
Chairman

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Claudia Howell for  
Molly Smith, Committee Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

- DATE:** January 21, 2009
- TIME:** 1:30 PM
- PLACE:** Room 148
- MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence
- ABSENT/  
EXCUSED:** Representatives Wood (35), Moyle, Bedke, Eskridge, and Boyle
- GUESTS:** Sarah Wire, AP Reporter; Brad Compton, Idaho Department of Fish & Game; Sharon Kiefer, Asst Director, Idaho Department of Fish & Game; Lance Hepdon, Policy Coordinator, Idaho Department of Fish & Game; Wally Butler, Dennis Stevenson, and James Dorman.
- Chairman Stevenson called the meeting to order at 1:30 P.M. and a silent roll was taken.
- MOTION:** Representative Pence made a Motion to approve the minutes of January 15 as written. On a voice vote, the motion carried.
- Chairman Stevenson** announced there would be a joint meeting with Senate Resources & Environment Committee on Wednesday, January 28<sup>th</sup> at 7:00 A.M. in room 205 for a Parks & Recreation Board presentation.
- RS 18330** **Representative Kren** presented this proposed legislation, citing the purpose of **RS18330** is to limit the number of tags and permits to be issued to nonresidents in certain controlled hunts. Rep. Kren explained that no more than ten percent (10%) of all controlled hunt tags or permits issued for any controlled hunt, except the outfitter allocated tags, but including super hunt controlled hunts, shall be issued to nonresidents.
- In response to questions regarding fiscal impact, Representative Kren commented that nonresidents may have a difficult time with the limits. He also explained that everyone pays the same for the raffle, however, prices of nonresident, resident, and types of tags are different.
- He explained that there are 40 super hunt tags are issued in a year. There was discussion regarding having the word "super tag" and other related words defined at the hearing.
- MOTION:** **Representative Raybould made a Motion to introduce RS 18330. On a**

**voice vote, the motion carried.**

**ADJOURN:**

There being no further business before the committee, the meeting was adjourned at 2:45 p.m.

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Representative John A. Stevenson  
Chairman

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Claudia Howell for  
Molly Smith, Committee Secretary

MINUTES

**HOUSE RESOURCES & CONSERVATION COMMITTEE  
F. WOOD FISH & GAME SUBCOMMITTEE**

**DATE:** January 21, 2009

**TIME:** 2:15 P.M.

**PLACE:** Room 148

**MEMBERS:** Chairman Fred Wood, Representatives Andrus, Boyle, Hagedorn, Saylor, Chavez

**ABSENT/  
EXCUSED:** None

**GUESTS:** W. Dallas Burkhalter, AG/ID Department of Fish & Game; Lance Hebdon, Fish & Game; Sharon Kiefer, Fish & Game; Brad Compton, Fish & Game; Dennis Stevenson, Dept of Admin.; Joie McGarvin, lobbyist

**Chairman Wood** called the meeting to order at 2:15 p.m and asked the secretary to take a silent roll.

**DOCKET  
13-0108-0801:** **Ms Keifer**, Assistant Director of the Idaho Department of Fish & Game stated the purpose of the rule is to add limits to the takings of wolves. The Wolf Management Plan requirements are to maintain wolf populations at or near the current levels of 500-700 wolves. The rule would also allow hunting seasons for wolves set by the Commission.

There was discussion regarding the clarity of the summary of the rule.

**MOTION:** **Representative Hagedorn** moved to **recommend rejection of Docket 13-0108-0801** to the full committee to have the summary clarified and to standardize information.  
**The motion passed by a voice vote to reject the rule.**

**DOCKET  
13-0116-0801:** **Ms. Keifer** said this rule will increase otter harvest quotas in the Magic Valley and Upper Snake Regions. It will close beaver trapping on the Willow Creek drainage in Units 66 and 69 and increase beaver trapping in Southeast and Magic Valley Regions. The list of Wildlife Management Areas open to trapping will be amended.

**MOTION:** **Representative Saylor** moved to recommend approval of **Docket 13-0116-0801** to the full committee. **The motion passed on a voice vote.**

**ADJOURN:** There being no further business before the committee, Chairman Wood adjourned the meeting at 3:05 p.m.

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Rep. Fred Wood  
Chairman

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Claudia Howell for  
Molly Smith, Committee Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** January 27, 2009

**TIME:** 1:30 PM

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Sayer, Chavez, King, Pence

**ABSENT/EXCUSED:** None

**GUESTS:**

Meeting was called to order by Chairman Stevenson at 1:30 p.m.

**Representative Pence** moved to approve the mines of January 19 as written, **motion passed on voice vote.**

**RS# 18389:** **George Bacon, Department of Lands**, presented RS 18389. He explained this legislation will raise the assessment caps to allow the State Board of Land Commissioners to set assessments at rates that cover expected costs. A Wildfire Equipment Replacement Fund will also be established for replacement of capital wild fire equipment such as trucks. He stated that the Department of Lands is responsible to protect the land in Idaho. The Department of Lands funded 10 million dollars, the General Fund appropriated 2 million dollars, land owner assessments are 4 million dollars and remaining funds come from federal grants and miscellaneous other funding. These dollars are used for equipment.

With the caps at a maximum at this time, **Mr. Bacon** said the choices are to raise revenue or decrease services. The caps for private owners with 26 or more acres would raise to sixty five cents from the current sixty cents and owners of less than 26 acres would be assessed at a per acre cost times the number of acres. The State Board of Land Commissioners would also establish a surcharge to be levied and assessed in an amount not to exceed \$40 for each improved lot or parcel to offset costs that could be associated with wild fire preparedness, which is \$20 more than currently assessed. **Mr. Bacon** stated that this legislation would only set caps, the Land Board would set amounts.

In response to questions regarding what would happen if this legislation didn't pass, Mr. Bacon said that it would be difficult to protect everything thing the Department of Lands is required to protect.

**MOTION:** **Representative Bedke** moved to introduce **RS 18389, motion carried on voice vote.**

**Norm Semanko**, Chairman of the Water Users Association, presented the mission statement of the Idaho Council on Industry and the Environment.

**Mr. Semanko** introduced Roy Eiguren, Eiguren Public Law & Policy representative, who gave a general overview of the adopted 1965 Administrative Procedures Act (APA). Mr. Eiguren defined “rule” as it is applied in the Idaho Supreme Court Asarco v Idaho DEQ. A presentation providing an overview of Administrative Rules, Policy and Stringency was given to the committee by: Norm Semanko, Idaho Water Users Association; Roy Eiguren, Eiguren Public Law & Policy; Jack Lyman, Idaho Mining Association; and Joan Cloonan, DEQ Board Member and Environmental Consultant. Supportive documents related to this testimony were handed out.

**Joan Cloonan**, DEQ Board Member & Environmental Consultant, summarized DEQ’s guidance policy which includes director approval and public input.

In response to questions regarding rule making, the response was that legislation comes before the DEQ Board before the house and the senate. If one of the venues rejects the rule, the rule still goes into effect because the default if not unanimous is to accept the rule.

**Ms. Cloonan** said that all petitions for rule making to the 7 member Board which is appointed by the governor and sanctioned by the Senate.

**Chairman Stevenson** introduced **Speaker Denny** who welcomed 4 Shirt Brothers who are third generation domestic sheep operators from Weiser, ID.

**Ron Shirts** introduced his family members present and stated his concerns regarding the reintroduction of bighorn sheep in Hells Canyon in Idaho, and the breach of the commitments.

**Mr. Shirts** stated that the reintroduction of the big horn sheep in Hells Canyon was through a commitment that the domestic sheep operators would be held harmless from any disease transmission problem associated with the bighorn reintroduction.

**Alan Schroeder**, attorney for the Shirts, presented an overview of the presentation.

#### THE DEAL...

Reintroduce big horn sheep. Attached is the 1997 Agreement letter, and Idaho Code 36-106 which pertains to the reintroduction of bighorn sheep and disease control.

#### THE DEAL BROKEN

Forest service committed not to make modifications, however introduced the 2005 Decision as related to the Payette National Forest, the USFS 1 year domestic sheep modification decisions in 2007, 2008 and likely in 2009, and on September 18, 2008, the

USFS Payette Nations Forest issued its draft Supplemental Environmental Impact Statement (DEIS), which effectively seeks in its "Agency Preferred Alternative" to eliminate all domestic sheep use in the PNF, except for a couple of allotments. The comment period for this DEIS will end March 2, 2009.

#### THE NEED TO ENFORCE DEAL

Several articles speak on issues of fact that forest service documents that "complete range of mechanisms/causal agents that lead to disease cannot be conclusively proven at this time.

The Shirts acknowledge certain pathogens exist between big horn and domestic sheep. Bighorn sheep are being transplanted from different locations in Idaho, Wyoming, Montana, and Canada to the Snake River area of Hells Canyon Idaho with pathogens already present in the bighorn sheep.

**Joe Shirts** presented information on the "making of a quality lamb" which included weather, sheep management, dedication of sheep men, and range. Losses to Idaho families would include loss of sheep, loss of ranches, loss of ranching traditions, loss of retirement, and loss of education and ranching knowledge passed on to children to provide food for the future.

There was discussion in regards to federal control over states.

Answers in response to questions as to what the Idaho legislature can do, **Mr. Schroeder** stated the legislature can provide commentary on this issue for the state to have more control as the state owns the big horn sheep.

#### ADJOURN:

There being no further business before the committee, the meeting was adjourned at 3:30 p.m.

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Representative John A. Stevenson  
Chairman

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Molly Smith  
Secretary

MINUTES

**HOUSE RESOURCES & CONSERVATION COMMITTEE  
RAYBOULD WATER SUBCOMMITTEE**

**DATE:** January 27, 2009

**TIME:** 3:30 PM

**PLACE:** Room 148

**MEMBERS:** Chairman Raybould, Representatives JoAn Wood, Bedke, Moyle and Pence

**ABSENT/  
EXCUSED:** NONE

**GUESTS:** Tom Neace

Chairman Raybould called the meeting to order at 3:35 PM.

**DOCKET  
37- 0301- 0801:** **Tom Neace** explained this rule will update 2006, 2007, and 2008 legislative amendments for consistency and reduces the number of forms from two to one.

**MOTION:** **Representative Bedke** recommended to send **Docket 37-0301-0801** to the full committee for approval. **On a voice vote, the motion carried.**

**DOCKET  
37-0301-0601:** **Mr. Neace** stated that the new and updated well construction standard rules have been a huge challenge. The committee hosted 16 days of negotiated rules meetings. The Idaho Ground Water Association worked very closely with the Department of Water Resources. The revised rules show illustrations and say that 38 feet is reasonable and is endorsed by major stake holder groups.

There was discussion that Department of Water Resources has worked with constituents who were concerned that there were different standards for adjudication in the northern Idaho, where requirements for soil would not be the same as in certain areas in southern Idaho.

A map showing the bacterial and nitrate contaminated areas was given to committee members.

A copy of the Geology Based Sealing Evaluation was provided to committee members stating that water seals should be at 18 feet and a midway would have a 38 foot seal.

There was discussion regarding providing an exemption to people who cannot pull casings. **Representative JoAn Wood** said eastern Idaho has a lot of basalt biology and some of her constituents do not have the proper equipment.

**Roger Buchanan**, driller with Andrew Well Drilling of Idaho Falls who could not attend the Committee meeting but provided committee members with his written comments.

The Committee discussed the pros and cons of the required 4 hour inspection window.

**MOTION:** **Representative Chavez** recommended to send **Docket 37-0301-0601** to the full committee for approval. **On a voice vote, the motion carried with Representative Wood voting NAY.**

**ADJOURN:** There being no further business before the committee, Chairman Raybould adjourned the meeting at 5:33 PM.

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Representative Del Raybould  
Chairman

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Claudia Howell for  
Molly Smith, Committee Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** January 29, 2009

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

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence

**ABSENT/  
EXCUSED:** None

**GUESTS:** Sharon Kiefer, ID Fish & Game; Gary Power, IDFG; Wayne Wright, IDFG; Fred Trevey, IDFG; Bob Sandwilly

Meeting was called to order at 1:35 p.m. by Chairman Stevenson and he introduced the new Fish & Game Commissioners.

**Commissioner Cameron Wheeler** commented on past issues and concerns of the Commission and said the commissioners have put in a lot of effort and time addressing the concerns and announced that the commissioners want to be approachable and able to provide solid information to the public.

**Chairman Stevenson** stated that the Commission formed an ad hoc committee 2 years ago where the decision to use the reserve funds was authorized.

**Commissioner Budge** commented on the issues relating to fee increase and explained that the Commissioners did not take the request lightly. The 20% fee increase approval decision was based the need, merit, and represented desire of sportsmen.

In response to a question regarding what the increase would be used for, **Commissioner Budge** said the fees would be used for new programs, expanding urban fisheries, maintaining the department at the existing level, and to maintain current programs.

**Sharon Keifer**, Assistant Director, Idaho Fish & Game, explained that there were direct letters sent out for polling support. Information packets were sent to the Chambers of Commerce and numerous website links. 82% polled were in favor of the increase. There were 466 responses from 59 organizations included 77 businesses, 8 editorial endorsements, and 323 personal letters. 32% of pollees were in opposition due to wolf issues and fish tournament fees.

A question was asked in regards to issues of the reserve depletion. Commissioner Wright stated most of the reserves were used to take care of animals. A trust account is set up as part of the budget and funded through license plate sales,. \$50,000 is the funds for non game programs

such as license & tag dollars, and 40% of the original 50% is used for Project Wild.

**Commissioner Gary Power** presented information on wolf issues. There is opposition for paying higher fees due to collars and monitoring of the wolves.

**Commissioner McDermott** reported that Lake Pend Oreille has a 100,000 area base and has a large population of kokanee fish. He said that the outlook was positive at the State of the Lake presentation.

**Commissioner Fred Trevey** stated more good news because this year the spring chinook salmon season should be two to three times better.

**Representative Stevenson** requested Director Cal Groen to come back to the committee with information on non game fund allocations and allowed for fish.

**ADJOURN:**

There being no further business before the committee, the meeting was adjourned at 3:00 p.m.

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Representative John A. Stevenson  
Chairman

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Molly Smith  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE RAYBOULD PARKS & RECREATION SUBCOMMITTEE

**DATE:** January 29, 2009

**TIME:** 3:00 p.m.

**PLACE:** Room 148

**MEMBERS:** Chairman Raybould, Representatives Wood (35), Moyle, Bedke, and Pence

**ABSENT/EXCUSED:** None

**GUESTS:** Benjamin Davenport, Risch & Pisca; Dean Sangrey, ID Department of Parks and Recreation; Dave O'Neal

**Chairman Raybould** called the meeting to order at 3:00 PM and requested the secretary take a silent roll. He then read a letter from Mr. Sangrey to Rep. Moyle regarding alcohol in the state parks.

**DOCKET**  
**26-0120-0802:** **Mr. Sangrey** explained this rule would clarify that group use permits require agency Director approval for groups larger than 250 people, including those permits what will involve the sale of alcoholic beverages. It would waive the 45 day advance notice requirement at the approval of the Director of designee.

The Park Board approval is currently required to approve groups larger than 250 people, including those permits with alcohol sales. The applications are submitted at times when the Park Board does not meet within the time frame necessary for approval. These permits generate revenue and when they cannot be approved in a timely manner, the Board loses significant dollars.

There was discussion regarding child safety and law suits that may be filed due to a rejection of a permit by the director.

**Mr. Sangrey** stated that the Department has never experienced a lawsuit due to a denied application because the decision is documented by staff and the director.

**MOTION:** **Rep. Bedke** made a Motion to recommend rejection of **Docket 26-0120-0802** to the full committee. **The motion passed unanimously.**

There was discussion regarding state agencies needing board

reviews from different regions in Idaho to make these decisions due to the state's liabilities.

**ADJOURN:**

Being no further business before the committee, the meeting was adjourned at 3:30 p.m.

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Representative Del Raybould  
Chairman

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Claudia Howell for  
Molly Smith, Committee Secretary

MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** February 3, 2009

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

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Paul Shepherd (8), Representatives JoAn Wood (35), Representatives Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Fred Wood (27), Boyle, Hagedorn, Harwood

**ABSENT** None

**GUESTS:** Wally Butler, Lobbyist, Idaho Farm Bureau; Jake Howard, Director, Outfitters & Guides Licensing Board; Dennis Stevenson, Rules Coordinator, Administration; Ben Davenport, Idaho Outfitters & Guides; Grant Simonds, Executive Director, Idaho Outfitters & Guides; Harold Ott, Executive Director, Idaho Rural Schools Association; Phil Homer, Legislative Advisor, Idaho Association of School Administrators.

**Chairman Stevenson** called the meeting to order at 1:30 p.m. He requested the secretary take a silent roll.

**DOCKET NO. 25-0101-0802:** **Mr. Jake Howard** was introduced by Chairman Stevenson to present **Docket No. 25-0101-0802**, Outfitters & Guides Licensing. Mr. Howard explained the Outfitters and Guides industry worked as a group in clarifying the rules. Members were polled and expressed approval of the changes. The changes will improve the efficiency in the licensing process with less paperwork and time. There is no fiscal impact. Mr. Howard concluded asking for approval of the rule changes from the committee.

**Mr. Grant Simonds** rose to concur that the Outfitters and Guides industry was involved in the creating the changes and favors the new rules.

**MOTION:** **Representative Raybould** moved to **approve Docket No. 25-0101-0802. Motion carried on a voice vote.**

**Chairman Stevenson** announced the subcommittee rules reports will be heard at the next meeting, Thursday, February 5, 2009.

**ADJOURN:** There being no further business to come before the committee, meeting was adjourned at 1:50.

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Representative Bert Stevenson  
Chairman

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Peggy Heady  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

- DATE:** February 5, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 148
- MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence
- ABSENT/  
EXCUSED:** NONE
- GUESTS:** Howard Weeks, Clearwater Potlatch Timber Protective Assoc.; George Bacon, Dept. of Lands; David Groeschl, Dept. of Lands; Beth Markley, ID Council on Industry & Environment; Phil Homer, ID Assoc. of School Administrators; Stephen McGary, BYU-Idaho; Tyson Ulrich, BYU-Idaho; Irvin Yeager, BYU-Idaho; Austin Knight, BYU-Idaho; Matt Bergquist, BYU-Idaho; Steven Toone, BYU-Idaho; Jill Searle, BYU-Idaho; Amity Hawks, BYU-Idaho; Mike Possin, BYU-Idaho; Kathy McHan, BYU-Idaho; David Williams, BYU-Idaho; Mark Woods, Southern Idaho Timber Protective Assoc.; Jane Wittmeyer, ID Forest Assoc.; Brenda Tominaga, ID Ground Water Appropriators; Ryan Perotto, ID Water Users Assoc.; Courtney Washburn, ID Conservation League
- Chairman Stevenson called the meeting to order at 1:30 P.M. and a silent roll was taken.
- RS 18534:** **Representative Raybould** presented **RS 18534**. He explained this legislative resolution would authorize the Legislative Council to continue an interim committee for studies of natural resources issues focusing on the water resources of the State.
- In answer to a question regarding the fiscal impact, he explained that the funds were in an existing legislative appropriation to the Senate and the House of Representatives and would not effect the state General Fund.
- MOTION:** **Rep. Moyle** made a **Motion to introduce RS 18534 and send it directly to Second Reading. On a voice vote, the motion carried.** Chairman Stevenson will sponsor the bill on the House Floor.
- HB 31:** **George Bacon**, director of the Idaho Departments of Lands, presented **HB 31**. He explained that the proposed legislation will raise the assessment caps which would allow the State Board of Land Commissioners to set assessments at rates that will cover expected costs. A Wildfire Equipment Fund will be established to be used for the replacement of capital wildfire equipment, such as fire trucks.

**Mr. Bacon** explained that the current Forest Protection Fund established for the replacement of equipment is expected to go into the negative in fiscal year 2010. He provided Committee members information showing the projection for the funds.

In response to a question regarding when the current caps were set, **Mr. Bacon** said the code was changed in 1993.

**Howard Weeks**, Chief Fire Warden, Clearwater Potlatch Timber Protective Association, from Orofino **spoke in support of HB 31**. He stated that a good detection process with quick and efficient response time with the right personal and equipment protects land. If there are no fires or fires are contained quickly, the general fund costs stay low.

**Representative Bedke** asked about a handout he had seen in past years showing statistics of fires such as acreage and lightning strikes comparing state to federal effectiveness of fire suppression and requested a current copy. **Mr. Weeks** said he would get a copy for the committee.

There was discussion on the differences of money spent on state and federal fires and why there was such a difference.

**Jane Wittmeyer**, Intermountain Forest Association, **spoke in support of HB 31**. She explained that the Intermountain Forest Association membership board has voted to support this legislation because of the value of the protection even with the increased costs.

**Mark Woods**, Chief Warden of Southern Idaho Timber Protective Association **spoke in support of HB 31**.

**MOTION:** **Rep. Bedke** made a Motion to send **HB 31 to the Floor with a DO PASS recommendation. On a voice vote, the motion carried. Rep. Hagedorn** will sponsor the bill on the House Floor.

**MOTION:** **Rep. Moyle** moved to approve the minutes for January 19 and January 27 as submitted. **On a voice vote, the motion carried.**

**ADJOURN:** There being no further business before the meeting Chairman Stevenson adjourned the meeting at 2:06 p.m..

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Representative John A. Stevenson  
Chairman

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Claudia Howell for  
Molly Smith, Committee Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** February 9, 2009

**TIME:** 1:30 P.M.

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence

**ABSENT/  
EXCUSED:** Representatives Bedke and Moyle

**GUESTS:** John Cantlon, Government Resource Manager, E.I. Dupont DeNemours; George Gough, Manager, Government Affairs, Monsanto Company; and Jeffrey Pettingill, Weed Control Manager, Bonneville County; Roger Batt, Statewide Coordinator, Idaho Weed Awareness Campaign

Chairman Stevenson called the meeting to order at 1:30 p.m.

**MOTION:** **Rep. Pence** moved to approve the minutes of January 29, February 3, and February 5 as written. **Motion carried by voice vote.**

**John Cantlon** presented and discussed a Power Point presentation regarding the invasive species of noxious weeds and the impact they have on our state which includes impaired ecosystem, loss of natural resources, reduced recreational opportunities, increased wildfires, soil erosion risks, reduced agricultural yield and quality, diminished livestock health, declining public health, diminished water quality and quantity, and reduced land values.

He also listed the national and federal key actions on invasive weeds from 1960 to 1999. He stated the Rocky Mountain Weed Summit held in June, 2008, was attended by representatives from eight states. Their findings included:

1. Need one: Stable, dependable and adequate funding for prevention, detection, eradication and control. There is a need to gain champions in the Legislature and the Governor's office. Also, support is needed at the federal level.
2. Need two: A national/regional societal awareness is needed to speed legislative policy and funding improvements by sharing marketing tools.
3. Need three: Regional coordination and communication; a regional approach starting with WWCC leading to state-to-state communication.

**George Gough** stated the benefits of Roundup Ready sugar beets and corn are broad spectrum and unsurpassed weed control, broader application timing/window for both crops and weeds, excellent crop safety at all growth stages, no carryover or crop rotation restrictions, and works

without soil incorporation.

**Jeffrey Pettingill** explained how the new law helps with weed control at the local level with early detection and rapid response, control and containment of weeds. He explained the County Weed Programs in Idaho. He pointed out that northern Idaho has noxious weeds, minimal equipment, and no roadside maintenance. The western Idaho counties have noxious weeds and pests such as gophers and mosquitos, and no roadside maintenance. Eastern Idaho has noxious weeds with some roadside maintenance and custom applicators for private and government needs. He spoke specifically to Bonneville County, which has a budget of \$350,000 from the General Fund plus \$50,000 in a revolving fund. They have three full-time and nine seasonal employees. The county has equipment to help keep vegetation controlled on all 900 miles of road.

There was discussion regarding the Salt Cedar-Tamarisk Project at Ririe Reservoir when 240 trees were cut down.

Mr. Pettingill said the EDRR (Early Detection Rapid Response) listed Policeman's Helm as a noxious weed, and the weed was mechanically removed. He said the only established invasion in Idaho was brought in by a gardening group. Three sites in Bonneville County and one site in Bingham County will be treated with a pre-emergent herbicide to prevent regrowth at the State's expense.

**Roger Batt** discussed the Idaho Weed Awareness Campaign and the strategic plan for managing noxious and invasive weeds.

There was discussion about the 2009 awareness program for schools that includes an Elwood Elk DVD that will be sent in packets to elementary schools.

**ADJOURN:**

There being no further business to come before the committee, Chairman Stevenson adjourned the meeting at 2:55 p.m.

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Representative John A. Stevenson  
Chairman

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Susan Frieders for Molly Smith, Committee  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** February 11, 2009

**TIME:** 1:30 P.M.

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Sayler, Chavez, King, Pence

**ABSENT/  
EXCUSED:** Reps. Bell, Eskridge

**GUESTS:** Roger Batt, Idaho Ground Water Association (IGWA); Alan Lloyd, Stan Lloyd Drilling, LLC; Tom Richardson, H2O Well Service; Sharon Kiefer, Idaho Department of Fish & Game (IDFG); Sally Rose, IDFG; Lance Hebdon, IDFG; Henry Baker, IGWA; David Baker, IGWA; Mitch Silvers, Sen. Crapo's Office; Bonnie Butler, Governor's Office; Dean Sangrey, Idaho Department of Parks & Recreation (IDPR); Ryan Perotto, Idaho Water Users Association (IWUA); Kent Lauer, Idaho Farm Bureau; Natt Helm, Sportsmen for Fish & Wildlife; Roger Dittus, United Water; Jane Wittmeyer, Intermountain Forest Association; Suzanne Budge; Benjamin Kelly, Nezperce Prairie Grass Growers Association; David O'Neal, citizen; Pat McCoy, Capital Press; J. Kent Foster, Idaho Association of Soil Conservation Districts (IASCD); David Saxey, (IASCD); Lyndella Bauchman, Idaho Cattle Association; Dwight Horsch, IASCD; Kyle Witson, Nez Perce Soil & Water Conservation District (NPSWCD); Steve Becker, NPSWCD; Scott Koberg, Ada County Soil & Water Conservation District (ACSWCD); Dick Rush, IASCD; Bill Flory, IASCD; Charles Lyons, ICA; Paul Miller, ICA; Cody Anderson, Latah Soil and Water Conservation District (LSWCD); Steve Miller, IASCD; Jerry Nicolescu, Idaho Soil Conservation Commission

**Chairman Stevenson** called the meeting to order at 1:30 p.m.

**RS 18591:** **Rep. Rich Wills** presented **RS 18691**, a concurrent resolution to request that the interim committee on natural resources and conservation continue its study on working ranches, farms and forest land conservation easements. The purpose of the study is to preserve these uses and ensure that these lands are not converted to commercial development.

Responding to questions from the committee, Rep. Wills said this study will not look at the impact on wolves. He said he expects some report from the interim committee prior to next year's legislative session.

**MOTION:** **Rep. Moyle** moved to **introduce RS 18591; motion carried on voice vote.**

**Chairman Stevenson** asked **Vice Chairman Shepherd** to report on the Administrative Rules subcommittees. Vice Chairman Shepherd asked the respective subcommittee chairmen to report their findings.

**Rep. Eskridge** reported that his subcommittee recommends approval of all

rules from the Department of Lands.

**MOTION:** Rep. Eskridge moved to approve **Docket Nos. 20-0201-0801; 20-0209-0801; 20-0210-0801; 20-0214-0801; 20-0602-0801; and 20-0603-0801. Motion carried on voice vote.**

**Rep. Wood (27)** reported that his subcommittee recommended approval of 12 of the rules from the Department of Fish & Game. With regard to the remaining two rules, the subcommittee referred them to the full committee without recommendation.

**MOTION:** Rep. Wood (27) moved to approve **Docket Nos. 13-0104-0801; 13-0103-0802; 13-0107-0801; 13-0108-0802; 13-0108-0803; 13-0109-0801; 13-0111-0801; 13-0111-0802; 13-0116-0801; 13-0117-0801; 13-0119-0801; 13-0120-0801. Motion carried on voice vote.**

**MOTION:** Rep. Wood (27) moved to reject **Docket Nos. 13-0104-0803 and 13-0108-0801. Motion carried on voice vote.** These two rules are being rejected at the request of the Department of Fish & Game.

**Rep. Raybould** reported that his subcommittee recommended approval of the rules from the Department of Water Resources.

**MOTION:** Rep. Raybould moved to approve **Docket Nos. 37-0301-0801 and 37-0309-0601. Motion carried on voice vote.**

With regard to the rules from the Idaho Department of Parks & Recreation, the Raybould Subcommittee recommended that one rule be approved and one be referred to the full committee without recommendation.

**MOTION:** Rep. Raybould moved to approve **Docket No. 26-0120-0801; motion carried on voice vote.**

**MOTION:** Rep. Raybould moved to reject **Docket No. 26-0120-0802; motion carried on voice vote.**

**RS 18315:** Rep. Tom Trail presented **RS 18315**, explaining that Mr. Neace was not able to attend today's meeting. This legislation relates to the management of the Department of Fish & Game and provides for polling fishermen every three years in an effort to gather their input. This polling would be financed from license sales so there would be no impact on the general fund. Rep. Trail said the department would contract with specialists in the field to conduct the survey.

Concerns were raised over whether Fish & Game needs to perform further surveys, or whether they could simply ask for input on their website and conduct the survey in that manner, which would be much more economical. Written and oral testimony could also be gathered during public meetings which are held prior to commission meetings.

**MOTION:** Rep. Wood moved to **return RS 18315 to sponsor; motion carried on voice vote.**

- RS 18432C1**      **Rep. Trail** was recognized to present **RS 18432C1**. Rep. Trail requested that RS 18432C1 be returned to its sponsor at this time.
- RS 18640**      **Rep. Barrett** presented **RS 18640**, saying this legislation will clarify statutes that have been found to be in conflict by the Board of Commissioners. It will specify that conservation easements and agreements are the product of an arms-length transaction. Rep. Barrett said this is a further clarification for rural counties and it will serve to further discourage possible lawsuits over such easements.
- MOTION:**      **Rep. Wood** (27) moved to **introduce RS 18640; motion carried on voice vote.**
- RS 18619**      **Rep. Barrett** presented **RS 18619**, a joint memorial that will inquire as to why the federal government cannot be forced to keep its commitments on wolves. She said Idaho is becoming impatient with the arrogance and foot-dragging of the federal government on this issue.
- MOTION**      **Rep. Wood** (35) moved to **introduce RS 18619.**
- Rep. King** asked whether this would be premature, given the fact that President Obama has just assumed the presidency and has not been in office long enough to get a feel for what is occurring in the area of wolf management. She noted that Secretary Salazar is a reasonable man, and she would not want Idaho to miss a window of opportunity.
- Rep. Hagedorn** commented that over the past 14 years, the federal government has played games with the state of Idaho, while we have followed all the required procedures.
- VOTE ON MOTION:**      **Chairman Stevenson** called for a vote on the motion to **introduce RS 18619; motion carried on voice vote.**
- MOTION:**      **Rep. Hagedorn** moved to **approve** the minutes of January 19 and January 21 as written; **motion carried on voice vote.**
- Steve Miller**, Idaho Association of Soil Conservation Districts, was recognized to present information on soil conservation districts in the state. He explained that his association represents the 51 conservation districts in Idaho, which are subdivisions of state government. He noted that each district develops its own unique approach to conservation.
- Mr. Miller presented a table showing funding for the past ten years and discussed the impact of reduced funds on the districts, including reduction in personnel. He said these staff reductions negatively affect the district operations. One of the difficulties that arises is that, with a reduction in staff, the districts may have no way to satisfy existing contracts for monitoring. Mr. Miller said there is an effort to find supplemental funding in order to continue efficient operations; he also noted that there is a danger that Idaho will lose some of the federal money available for equipment.
- Jerry Nicolescu**, Idaho Soil Conservation Commission (ISCC), was recognized to present information concerning the Commission. Mr. Nicolescu said ISCC is part of a conservation partnership between the Natural Resources

Conservation Service (NRCS) and the Idaho Association of Soil Conservation Districts (IASCD). He said the Commission works to coordinate available technical, financial and educational resources to make sure they meet the needs of local land users.

Mr. Nicolescu noted that one of the Commission's current programs is an effort to bring fisheries back to the region and reconnect streams to establish a suitable water habitat. He reported that the Latah and Nez Perce regions are experiencing success in re-establishing salmon and steelhead runs, and he said the Sulphur Creek Barrier Removal project has resulted in 177 miles of stream being restored for salmon and steelhead production.

The Commission is facing many challenges resulting from budget holdbacks, which will change how it provides services. Mr. Nicolescu said the Commission will have to reduce staff and realign duties, as well as seek alternate funding sources.

**Chairman Stevenson** announced that the committee would meet on Friday morning, February 13, 2009, upon adjournment of the House floor session.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3:03 p.m.

Note: The foregoing minutes were prepared from the committee secretary's brief notes, with the concurrence of Chairman Stevenson and Vice Chairman Shepherd. They have also been reviewed by members of the committee who were present at the meeting.

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Representative John A. Stevenson  
Chairman

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MaryLou Molitor  
for Molly Smith, Committee Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

- DATE:** February 13, 2009
- TIME:** Upon adjournment of Session
- PLACE:** Room 145
- MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence
- ABSENT/  
EXCUSED:** Representatives Bell, Wood (27) and Eskridge
- GUESTS:** Representative Hart; Dean Sangrey, Idaho Department of Parks and Recreation
- Chairman Stevenson called the meeting to order at 8:30 A.M. and a silent roll was taken.
- RS 18632:** **Rep. Hart** presented this RS to the Committee. He explained that this proposed legislation deals with wolves and will hold people accountable for wolf attacks under the wolf management plan. He reported that people who live in rural areas have been denied these rights.
- MOTION:** **Rep Raybould** moved to introduce **RS 18632. On a voice vote, the Motion passed with Rep. Chavez voting NAY.** In the discussion on the motion, Rep. Hart responded to a question regarding records of wolf attacks on people in Idaho. He explained that studies have been done in other areas and the criteria is rigid and an eye witness is required to report a killing.
- RS 18633C1:** **Rep. Hart** explained that he drafted two pieces of legislation regarding wolves to have a civil and a criminal choice regarding penalties. He further explained that an omission was made in reference to the Idaho Wolf Plan in the previous proposed legislation. He asked that this proposed legislation be referred to General Orders to include the March 2002 Idaho Wolf Plan. It was commented that the Idaho Department of Fish and Game uses the 2002 Plan.
- MOTION:** Rep Raybould made a motion to introduce **RS 18633C1. On a voice vote, the Motion passed with Representatives Saylor, King Chavez and Pence voting NAY.**
- RS 18583** **Dean Sangrey**, Idaho Department of Parks and Recreation explained that the purpose of this proposed legislation is to amend Idaho Code to regulate firearms in state parks. He explained that hunting will not be affected nor the rights of citizens to carry firearms or hunt within state park boundaries.

He further explained that the National Rifle Association has been consulted and support this version of the amendment. It is also supported by the Governor's Office.

In response to a question regarding target practice in a state park, **Mr. Sangrey** explained that the proposed legislation would not affect people protecting themselves and their property. In response to a question regarding if the proposed legislation passes would new rules be promulgated, **Mr. Sangrey** explained that the rules are being drafted now.

**MOTION:** Rep Raybould made a motion to introduce **RS 18583. On a voice vote, the Motion passed with Rep. Harwood voting NAY.**

**ADJOURN:** There being no further business to be brought before the Committee, Chairman Stevenson adjourned the meeting at 9:07 A.M.

Note: The foregoing minutes were prepared from the committee secretary's brief notes, with the concurrence of Chairman Stevenson and Vice Chairman Shepherd. They have also been reviewed by members of the committee who were present at the meeting.

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Representative John A. Stevenson  
Chairman

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Claudia Howell  
for Molly Smith, Committee Secretary

MINUTES

**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** February 17, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 148
- MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27) , Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence
- ABSENT:** None
- GUESTS:** Dean Sangrey, Administrator, ID Parks & Recreation; Sharon W. Kiefer, Asst. Director, ID Fish & Game; Phil Homer, Legislative Advisor, ID Association of School Administrators; Ryan Perotto, Intern, IWUA.
- H137** **Dean Sangrey** spoke regarding the need for presenting **H137** due to the comments from Parks and Recreation staff regarding the legislation passed in the 2008 session. Consultation with several entities such as NRA, gun clubs, and Senators support this bill. The purpose of this legislation is to amend Idaho Code 67-4223 which authorizes the State Parks and Recreation Board to regulate the discharge of firearms for the protection of the public. The discharge of firearms in conjunction with hunting on those state park lands open to hunting will not be affected. The rights of firearm owners to possess and carry firearms and to discharge such firearms in the lawful defense of self, others, or property, will not be affected. There is no fiscal impact to the General Fund or Idaho Department of Parks and Recreation dedicated fund resources.
- Questions from the committee members were discussed at some length addressing the training of park staff in handling aggressive behavior, indiscriminate discharging of fire arms, domestic violence, and stepping back in a volatile situation. Past legislation was discussed in part with questions regarding the control of firearms through Parks and Recreation, counties or state officials. The intent of the language is to allow law abiding citizens to openly display firearms and not lose their legal rights, the right of cities to adopt regulations and assure that Parks and Recreation is in compliance.
- MOTION:** **Representative Bedke** moved to **send H137 to the floor with a DO PASS. Motion carried by voice vote. Representative Harwood, Barrett, Boyle and Andrus voting NAY.**
- ADJOURN:** There being no further business to come before the committee, meeting was adjourned at 2:30 p.m.

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Representative Bert Stevenson  
Chairman

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Peggy Heady  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** February 19, 2009

**TIME:** 1:30 P.M.

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence

**ABSENT/  
EXCUSED:** Rep. Pence, Rep. Bell, Rep. Moyle, Rep. Reybould, Rep. Bedke, Rep. Andrus, Rep. Harwood, Rep. King

**GUESTS:** Steve Strack, Office of the Attorney General; Phil Homer, Idaho Association of School Administrators (IASA); Harold Ott, Idaho Rural Schools Association (IRSA); Jim Unsworth, Idaho Department of Fish and Game (IDFG); Craig White, IDFG; Wally Butler, Idaho Farm Bureau Federation (IFBF); Pat McCoy, Capitol Press; Lance Hebdon, IDFG; Cal Groen, IDFG; Pat Barclay, Idaho Council on Industry and the Environment; Nate Helm, Idaho Sportsmen for Fish and Wildlife, Emily Anderson, Governor's Office; George Bacon, Director, Department of Lands; Sarah Wire, Associated Press; Brian Murphy, Idaho Statesman; Jane Wittmeyer, Intermountain Forest Association (IFA); Ryan Perotto, Idaho Water Users Association (IWUA); Fred Riggers.

**Chairman Stevenson** called the meeting to order at 1:32 p.m. The Chairman introduced the new secretary, **Susan Oldenkamp**, to the committee.

**Steve Strack**, Office of the Attorney General, presented the Proposed Idaho Forestry Program Component of Snake River Basin Adjudication Settlement. He stated this process has never been done before. It took four years of doing homework and putting science into place to arrive at the National Environmental Policy Act (NEPA) process. He reported the program was started by a \$25 million settlement from the Nez Perce Tribe to protect salmon and bull trout. This program has already produced dividends by avoiding lawsuits with individuals who have been walked through the program and who have seen the riparian protections. The department has not received any reduction from the endowment program and has been able to maintain and continue the program. There is a \$2500 grant fund available that will be used for habitat improvements. The project must be entered into by choice.

**Mr. Strack** stated at this point they are going through the Environmental Site Assessment to acquire 1.5 million acres of land permits. The department has hired an outside contractor, **Parametrics**, to put together the Environmental Impact Statements (EIS) totalling 700-800 pages. The public scoping process begins in Riggins, ID, on February 23, 2009, and ends on March 3<sup>rd</sup> in Salmon. The department will continue to work with NOAA and the National Marines Fishery. There will be five locations

within those days with the entire process lasting 30 to 60 days total. They are hoping to keep the EIP to a "sign or do not sign" format. The desire is to finish the process within 24 months. He said the final plan is a cooperative agreement. Due to the fact that they are paying for the study, U.S. Fish and Wildlife will have some oversight by reviewing the chapters before they are published, ensuring the effects analysis has key items in it. The cost will be \$1.3 million, not being financed out of the state General Fund, but out of the endowment fund started out of the \$25 million settlement.

In answer to questions, **Mr. Strack** said that no permits will be held for a Chapter 6 agreement, but it will be signed by Office of Species Conservation (OSC), Idaho Fish and Game, and the Department of Lands. He also responded that the Department of Environmental Quality will be participating in the EIS process. He stated that logging sediment would be addressed in the process because it encompasses a wide variety of issues. Some of the additional issues he mentioned were harvest, construction, and reforestation. He replied that presently money was not being used from the Nez Perce. It was not built into the agreement. The money from the settlement was used for ground work but not for funding the program. It may be used to pay staff time of around \$20,000-\$30,000.

**Cal Groen**, Idaho Fish and Game (IFG), stated that IFG is looking for a Big Game Director. Control of the wolves has an impact on elk herds. If the amount of \$9.3 million is allocated towards enforcement, restocking, and flights and aerial surveys of elk and deer.

**Craig White**, Research Biologist, Idaho Fish and Game, reviewed cow elk survival and causes of mortality, in the Lolo zone, and the Elk/Wolf Interaction Study. There are 11 zones in Idaho. In 2005, 1000 mule deer and elk were captured. It was the largest big game radio -collar project ever in Idaho.

**Mr. White** reported that a zone needs to have a cow elk survival rate in the high 80% range to be considered healthy. The Weiser Zone has a survival percentage rate of 89%; Sawtooth Zone percentage rate of 87% with a wolf kill of 4%, and in the Lolo Zone the survival percentage rate is 75% with a wolf kill of 14%.

In the Lolo Zone the severe winter weather in 1997 lowered the total elk population along with black bear and mountain lions causing the calf/cow ratio to drop but raise in 2003. Late (December to June) calf/cow survival is dropping. Early calf survival is 27 calves to 100 with 22 calves to 100 cows in June with a total cow survival of 75%. The cow population growth totals -13% per year. The Lolo Zone elk are below objectives and not expected to reach objectives. The wolf is the primary cause of low cow and calf survival mortality. In 1988 there were 15,000 elk in the Lolo Zone but by 2006 there were only 6,000 elk.

**Mr. White** stated radio-collared elk are needed to identify wolf-caused mortality, and radio collars are expensive. Collars have been put on both elk and wolves in the Sawtooth and Lolo Zones. The GPS collars make it

possible to monitor the interactions of elk and wolves across space and time. The technology is being used to create a management tool that has statewide application for elk and wolf management. The tool predicts the impacts of wolves on elk at different wolf and elk population levels.

During discussion **Jim Unsworth**, Idaho Department of Fish and Game (IDFG), stated the Forest Service decided the use of helicopters was not allowed for collaring wolves. **Mr. White** added how this causes a problem due to the fact that helicopters are the primary source used to dart the wolves and elk to then collar them. He stated 500 collars for elk and 500 collars for deer were used this year. He explained that elk do have to be recaptured to retrieve data and wolves have collars that have an Argo antenna that transmits data. **Jim Unsworth** stated secondly the cost of the collaring is being paid directly by **Pitman Robinson**, from the money collected from licenses and sportsmen fees, and thirdly from approximately \$200,000 in Federal money. If wolves were delisted, the Federal Government would provide funds for an additional five years, but after that it would be necessary to use money brought in by tags or money brought in by a program created like the University of Montana created to cover the cost. Ultimately there would be no way to provide the same level of management currently provided. In addition **Mr. White** stated if the wolves are not delisted hunting and trapping may need to be incorporated for direct control. He stated that trapping or pelt money would go to the trapper but the state would get the trapper license fee.

**Mr. White** stated the status for the study in the Lolo Zone will be in the last peer review for the next two weeks and then to Fish and Wildlife. They will have the study for approximately a month.

**ADJOURN:** There being no further business to come before the committee, **Chairman Stevenson** adjourned the meeting at 2:30 P.M.

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Representative John A. Stevenson  
Chairman

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Susan Oldenkamp  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** February 23, 2009

**TIME:** 1:30 P.M.

**PLACE:** JR Williams Building - West Conference Room

**MEMBERS:** Representatives: Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence  
Senators: Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Siddoway, Brackett, Stennett, Werk

**ABSENT/  
EXCUSED:** Senator Cameron

**GUESTS:** Steve Howser, Aberdeen-Springfield Cannel Company; Randy Bingham, Burley Irrigation District; Dean Stevenson, Magic Valley Ground Water District (MVGWD); Chuck Cuddy, Idaho Water Resource Board (IWRB); Gary Chamberlain, IWRB; Steven Serr, Bonneville County Planner; Carol Chamberlain, IWRB; Leonard Beck, IWRB; Gerald Tews, Twin Falls Canal Company (TFCC); Ryan Perotto, Idaho Water Users Association (IWUA); Courtney Washburn, Idaho Conservation League (ICL); May Vaughn, Minidoka County Assessor; Rich Rigly, United States Bureau of Reclamation (USBR); Jeff Raybould, Fremont-Madison Irrigation District (FMID); Kent Lauer, Idaho Farm Bureau Federation; Brenda Tominaga, Idaho Ground Water Appropriators (IGWA); Terry Uhling, IWRB; Jeff Church, Veritas Political Consultant; Matt Howard, USBR; Brian Olmstead, Twin Falls Canal; Vic Armacost, IWRB; Lance Hebdon, Idaho Department of Fish and Game (IDFG); Hal Anderson, Idaho Department of Water Resources (IDWR); Norm Semanko, Idaho Water Users Association (IWUA); Harriet Hensley, Deputy Attorney General; Rich Hahn, Idaho Power; Beth Markley, Idaho Council on Industry & Energy; Todd Dvorak, Associated Press; Jerry Deckard, Idaho Prior Appropriation Doctrine Association (IPADA); Jay Kiiha, Surfacing Water Collation; Brent Olmstead, Milk Producers; Dar Olberding, Idaho Grain Producers; Roger Seiber, IPADA; Darrill Ker, Enterprise Canal; Stephen Goodson, Governor's Office; Walt Poove, IDFG; Alex LaBeau, Idaho Association of Commerce & Industry (IACI); Randy MacMillan, Clear Spring Foods; Peter Anderson, Trout Unlimited; Jim Tucker, Idaho Power; Linda Lemmon, Blind Canyon Aquaranch; Will Whelan, The Nature Conservancy; Shelley Davis, Lawyer for Barker Rasholt & Simpson LLP; Dan Schaeffer, A & B Irrigation District; Lynn Tominaga, Idaho Ground Water Appropriators; Nate Helm, Fish Creek Irrigation District (FCID); Stan Boyd, Idaho Wool Growers Association (IWGA); Colby Cameron, Sullivan and Reberger; Zach Hauge, Capitol West; Colleen Andrus; Fred Riggers; Stan Hawkins; Kathleen Gerry; Charlotte Armacost

**Chairman Stevenson** called the meeting to order at 1:35 p.m. The Chairman introduced **Brigham Duncan**, the new page from Rupert, to the committees.

**Terry Uhling**, Director of the Idaho Water Resource Board (IWRB), introduced fellow IWRB members: **Hal Anderson**, Department of Water Resources; **Gary Chamberlain**, Vice Chairman of IWRB; **Vic Armacost**, IWRB Board Member; **Leonord Beck**, IWRB Board Member; **Jerry Rigby**, IWRB Board Member; and **Chuck Cuddy**, IWRB Board Member. **Terry Uhling** stated the Eastern Snake Plain Aquifer (ESPA) has been a challenge for water users both past and present making the proposed Comprehensive Aquifer Management Plan (CAMP) needed to manage the use of the water. Ten billion dollars, 2.1 million acres, or 60% of agricultural output come from Idaho and that will not be enough to help feed the expected increase in population every year without proper water management. The plan is a good road map for where the ESPA should be now and in the future. To complete Phase I in 1-10 years it will take accountability and funding.

**Chairman Stevenson** asked anyone in the audience who had served on the Advisory Committee to stand, be recognized, and introduce themselves. Participants were: **Jim Tucker**, Idaho Power Company; **Rich Rigby**, Bureau of Reclamation; **Linda Lemmon**, Thousand Springs Water Users Association; **Dan Schaeffer**, A&B Irrigation District; **Randy MacMillan**, Clear Springs Foods; **Brian Olmstead**, Twin Falls Canal Company; **Randy Bingham**, Burley Irrigation District; **Steve Howser**, Aberdeen-Springfield Canal Company; **Steve Seer**, Bonneville County; **Dean Stevenson**, Water District 130-140; **Jeff Raybould**, Fremont-Madison Irrigation District; **Alex LaBeau**, IACI; **Will Whelan**, The Nature Conservancy; and **Max Vaugh**, Minidoka County Assessor.

**Hal Anderson** stated the process for the ESPA framework plan started in 2006 because the supply and demand in the aquifer and the Snake River were out of balance. There is a need to sustain the economic viability of the Eastern Snake Plain (ESP) through adaptive management, adjusting when necessary. It would increase predictability for water users, increase recharge to the aquifer, and reduce withdrawals from the aquifer. He stated the ESPA board is looking at a medium management package of 600 thousand acre feet (KAF) not including operation and maintenance. This would allow for improved aquifer levels, increased river reach gains, increased certainty and supply for all users, Municipal and Industrial growth, decreased litigation, and potential Fish and Wildlife enhancement.

**Mr. Anderson** stated Phase 1 of the ESPA would have an implementation cost bottom line of \$70 million to \$100 million for 200 to 300 KAF and take 1 to 10 years. It would initiate actions to increase aquifer, spring, and river levels, build institutional confidence for the long term plan implementation, work with surface water, and a pilot weather modification program. He reported the need to develop a CAMP implementation committee, taking in environmental considerations, education outreach, and managing with flexibility. These actions will take

sequencing, funding, legislation, monitoring, and evaluation of protocols. Water users, such as irrigated agriculture, Idaho Power, municipalities, spring users, industrial users, commercial users, recreational users, and conservation groups have conceptually agreed to pay 60% of the required funds with the State of Idaho providing the remaining 40%.

**Mr. Tuthill** stated the need for CAMP to be endorsed by the Legislature for water users. Right now the ESPA traditionally has a drought year followed by a good snow pack year. Repercussions would be serious if a drought year were to be followed by another drought year. He stated CAMP is a positive plan for water users to have hope in and use to modify the future for the ESPA and possibly Idaho. There are 10 priority basins in Idaho that could benefit from this management plan with the Treasure Valley already utilizing results from CAMP.

**Mr. Anderson** responded to discussion that funding will come from the creation of conservancy districts along with the current districts. There will need to be discussion of how to create a plan to fund \$6 million to \$10 million, which would be the responsibility of the Legislature. The remaining breakdown for how water users and businesses will fund Phase 1 can be found on page 30 of the presentation booklet (see page 30 of presentation booklet attached). He replied the overall footprint would be \$9 million. He stated progress had been made from last year to show where funds needed to be directed into CAMP, but the implementation committee needed to be created right away to continue working on targeting the funds, because no one knows how the Legislature will fund ESPA. The committee would have to work quickly and deliberately. It would benefit ESPA to front load the funds and allow a "pay as we go" funding structure. He stated there is \$70,000 to \$80,000 left in the CAMP funds that could be used to move forward in the implementation process. There may also be the possibility of Federal assistance that was not expected. He replied there is no cost benefit ratio in the plan, but he will bring the numbers back before the House and Senate. He stated there were discussions between ground water and surface water users and both parties were flexible in negotiations. He stated that the numbers found by ESPA have been peer reviewed by Idaho Power.

**Mr. Uhling** responded that the ESPA board gave the option to members to stay and join the CAMP implementation board. The Governor's office would provide names of possible candidates for the board if needed. He stated when ESPA was finished there were no guarantees that the rest of the aquifers in the state would need more funding. **Mr. Tuthill** added to the discussion that 2/3 of the agriculture in the state comes from the land in the ESPA. **Senator Coiner** was concerned with where the water would be put after for recharged, wondering if new structures would have to be built to accommodate it. **Mr. Tuthill** invited to have him to visit any time to see how the aquifer could handle all of the water.

**ADJOURN:** There being no further business to come before the committees,  
**Chairman Stevenson** adjourned the meeting at 2:53 p.m.

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Representative John A. Stevenson  
Chairman

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Susan Oldenkamp  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** February 25, 2009

**TIME:** 1:30 P.M.

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence

**ABSENT/  
EXCUSED:** Rep. Eskridge

**GUESTS:** Nate Helm, Sportsmen for Fish and Wildlife (SFW); Sharon Kiefer, Idaho Department of Fish and Game (IDFG); Wally Butler, Idaho Farm Bureau Federation (IFBF); Tom McFarland; Kennon McClitock, Forest Capital; Kent Lauer, IFBF; Suzanne Budge, SBS Associates; Jane Wittmeyer, Intermountain Forest Association (IFA); Courtney Washburn, Idaho Conservation League (ICL); Ryan Perotto, Idaho Water Users Association (IWUA); Dustin Miller, Office of Species Conservation (OSC); Emily Anderson, Governor's Office; Benjamin Davenport, Risch Pisca: Law & Policy; Colleen Andrus

**Chairman Stevenson** called the meeting to order at 1:30 p.m.

**HCR 018:** **Rep. Wills** presented **HCR 018** to the committee. He explained the simplicity of the concurrent resolution, by working with the Natural Resources Interim Committee to study the preservation of our heritage at this time and possible options for the future.

**Mr. McClintock**, Forest Capital, is a forester, land owner, and tree owner from Bonner County. He stated resource base lands are our heritage. They are the foundation for our families, fuel our economies, and provide stability for future generations. He said currently these lands are being squandered and underutilized. Their contributions have been marginalized with short sighted desires for financial gains. He stated that HCR 018 provides information needed to have foresight and continue conservation.

**Mr. McFarland**, has been a Rancher his entire life North of Salmon. He stated seeing the fragmentation of working lands into a checkerboard pattern causing problems in the migration patterns of wildlife. He stated the problems are very subtle at first. By the time they are drastic enough for everyone to notice it will be too late to fix the problems. HCR 018 will help identify problem areas and create answers such as continuing education about conservation, local planning assistance, non- profit organizations, and long term easements.

**Mr. McFarland** replied to questions that fragmentation is caused by ranches sitting next to housing subdivisions sitting next to ranches sitting next to housing subdivisions. He said cows must be loaded on trailers to move from field to field because they can no longer be driven without running into subdivisions. This land arrangement can also cause court battles over water rights. He stated this boils down to cultural differences between subdivisions and ranches. He is scared that the youth of ranches may grow up and not want to come back. He will not sell his ranch because it is at the headwaters and he has good working relationships. He stated his view of an easement was an expression of creating private property rights not having them taken from him. He would put an easement on his land to keep his ranch in tact if he must.

**MOTION:** **Rep. Wood** moved to send **HCR 018** to the floor with a **DO PASS** recommendation. **On a voice vote, the motion carried. Rep. Hagedorn** will be recorded as voting nay. **Rep. Wills** will sponsor the bill on the House Floor.

**HJM 001:** **Rep. Barrett** presented **HJM 001** to the committee. She stated the House Joint Memorial will be sent to the President and the Secretary of the Interior as a chance to have a conversation with them. We have Senators and Congressmen who will call for us to make sure they have read it. The wolves have been up for delisting two times in Washington D.C. and have been taken back off twice. The Attorney General's (AG) Office has listed a very concise history of the wolves in Idaho and if anyone feels the language in this bill is too strong they should go see the AG's Office. She stated we are still looking at a statutory redress, and we must do this in preparation. Idaho has kept our end of the bargain by allowing 10 breeding pairs of wolves to be released and by managing them. The Federal Government has not kept their end of the bargain by not allowing Idaho to completely manage the wolves where by increasing the wolves to over 800.

**Rep. Raybould** stated in discussion if a date to have a response from the Federal Government was added to HJM 001, and the Federal Government did not respond by the date stated, it would make the House Joint Memorial ineffective.

**Rep. King** stated that she would vote in favor of HJM 001 and that the wording was stated nicely, but that the Memorial was premature and the new Federal Administration should be give time before a House Joint Memorial was sent.

**Ms. Kiefer**, Idaho Department of Fish and Game, testified in favor of HJM 001 from a technical perspective. She stated there is a new annual reporting expectation for the IDFG and the Office of Species Conservation that will require their continued collaboration with Idaho Department of Agriculture, livestock producers, and other domestic animal owners. She looks forward to working with Chairman Stevenson to present the report next year.

**Mr. Miller**, Office of Species Conservation, stated the Governor is also frustrated with the wolf situation. Idaho has eight times the minimum number of wolves agreed upon to manage for recovery and the State is

not allowed to manage them. Idaho pledges to keep managing wolves. The Federal Government needs to understand the impact wolves have on livestock is real.

**Mr. Helm**, Sportsmen for Fish and Wildlife, testified in support of HJM 001.

**MOTION:** **Rep. Hagedorn** moved to send **HJM 001** to the floor with a **DO PASS** recommendation. **On a voice vote, the motion carried.** **Rep. Barrett** will sponsor the bill on the House Floor.

**ADJOURN:** There being no further business to come before the committee, **Chairman Stevenson** adjourned the meeting at 2:17 p.m.

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Representative John A. Stevenson  
Chairman

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Susan Oldenkamp  
Secretary

## MINUTES

### HOUSE RESOURCES AND CONSERVATION COMMITTEE

- DATE:** March 3, 2009
- TIME:** 1:30 p.m.
- PLACE:** Room 148
- MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood (35), Bell, Barrett Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence.
- ABSENT/  
EXCUSED:** Rep. JoAn Wood
- GUESTS:** Phil Homer, Idaho Association of School Administrators; Harold Ott, Idaho Rural Schools Association; Roger Seiber, Capitol West; Sharon Kiefer, Idaho Department of Fish and Game; Kent Lauer, Idaho Farm Bureau; Jack Lyman, Idaho Mining Association; Zach Hauge, Capitol West, Benjamin Davenport, Risch Pisca; Brenda Tominga, Idaho Ground Water Appropriators, Inc.; Sharon Shary, BSU Student; Dennis Stevenson, Legislative Services Administration; Stephen Goodson, Office of the Governor; Lance Hebdon, Idaho Department of Fish & Game
- Chairman Stevenson called the meeting to order at 1:30 p.m. Silent roll was taken all members were present except Rep. JoAn Wood who was excused.
- Jack Lyman**, representing the Idaho Mining Association presented a questionnaire to the committee which concerns some possible tours of some operating mines in Idaho. Mr. Lyman asked the members to fill out the questionnaire to see if there was interest in these tours.
- RS 18773:** Chairman Stevenson relinquished the gavel to Vice Chairman Shepherd, and then presented RS 18773 which proposes to approve the Eastern Snake Plain Aquifer (ESPA) Comprehensive Aquifer Management Plan (CAMP) as a component of the Comprehensive State Water Plan and to provide that the Idaho Water Resource Board prepare and submit for approval to the legislature a funding mechanism needed to implement Phase 1 of the CAMP. CAMP was authorized by HCR 28 and SCR 136. The CAMP establishes a long term program for managing water supply and demand in the ESPA. The CAMP calls for the establishment of an advisory committee to assist the Board in the development of an implementation plan, which includes a funding mechanism for Phase 1. This legislation authorizes state agencies to use previously appropriated funds to begin implementation of the CAMP
- MOTION:** **Rep. Bedke** moved to introduce **RS 18773**; **motion carried by voice vote.**
- SCR 105:** **Sen. Bair** presented **SCR 105** which rejects an entire **Docket Number 13-0108-0801** of a pending rule of the Fish and Game Commission relating to Rules Governing the Taking of Big Game Animals in the State of Idaho. The effect would be to prevent the agency rulemaking contained in that docket from going into effect. **Sharon Keefer**, Department of Fish and Game,

testified in favor of **SCR 105 and SCR 104.**

- MOTION:** **Rep. Fred Wood** moved to send **SCR 105** to the floor with a **DO PASS** recommendation; **motion carried by voice vote.** **Rep. Wood** will sponsor the bill on the floor
- SCR 104:** **Sen. Bair** presented **SCR 104** which rejects an entire **Docket Number 13-0104-0803** of a pending rule of the Fish and Game Commission relating to Rules Governing Licensing. The effect of this resolution would be to prevent the agency rulemaking contained in the docket from going into effect.
- MOTION:** **Rep. Raybould** moved to send **SCR 104** to the floor with a **DO PASS** recommendation; **motion carried by voice vote.** **Rep. Wood** will sponsor the bill on the floor.
- SCR 106:** **Sen Bair** presented **SCR 106** which rejects an entire **Docket Number 26-0120-0802** of a pending rule of the Department of Parks and Recreation relating to Rules Governing Administration of Park and Recreation Areas and Facilities. The effect of this resolution would be to prevent the agency rulemaking contained in the docket from going into effect.
- MOTION:** **Rep. Fred Wood** moved to send **SCR 106** to the floor with a **DO PASS** recommendation; **motion carried by voice vote.** **Rep. Raybould** will sponsor the bill on the floor.
- ADJOURN:** There being no further business before the committee, the meeting was adjourned at 1:45 p.m.

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Representative Bert Stevenson  
Chairman

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Joann Hopkins  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** March 9, 2009

**TIME:** 1:30 P.M.

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence

**ABSENT/  
EXCUSED:** None

**GUESTS:** Mary Steed; Walter Steed, Moscow City Council Member; Randy Fife, Moscow City Attorney; Sharon Kiefer, Idaho Department of Fish and Game (IDFG); Kirby Jensen; Brenda Tominaga, Idaho Ground Water Appropriators, Inc. (IGWA)/ Idaho Irrigation Pumpers Association, Inc. (IIPA); Rep Tom Trail; Norm Semanko, Idaho Water Users Association (IWUA); Wayne A. Fox; Rep Shirley Ringo; Pat McCoy, Capital Press; Ryan Perotto, IWUA; Dave Tuthill, Department of Water Resources Chairman

**Chairman Stevenson** called the meeting to order at 1:30 p.m.

**S 1002:** **Senator Schroeder** introduced **S 1002** which would add to the definition of a water "service area" by including in the definition areas outside of the State of Idaho which are adjacent to a municipality. The proposed legislation also strikes language which prohibits cities from providing water outside of city limits through a domestic water system. He stated there has been a committee study on the Palouse Basin and one University of Idaho researcher has suggested the aquifer might be bigger than thought and possibly the size of a large a lake. He said there are pro and con growth parties with some wanting to err on the side of caution. This legislation would allow a service area to exist in a contiguous area. Moscow already allows water outside of the City limits, this would allow Moscow to gain revenue from the water instead of Pullman pumping the water from the same aquifer without Moscow being in control.

**Walter Steed**, Moscow City Council Member, stated Moscow has been in mediation to resolve protests with a developer from Pullman, Washington. The developer has drilled two wells that could produce 300 gallons of water per minute each. They would pull a 45 acre foot total out of the aquifer. Moscow has an agreement to provide water to the developer for \$80,000 per year. He stated Moscow has one main well to draw from, and permission from the Idaho Department of Water Resources (IDWR) to drill another well right next to the Washington border to tap into the deeper part of the aquifer.

**Mr. Steed** replied to questions that the two wells drilled by the developer in Pullman would be used if an agreement with Idaho cannot be reached, and there is no longer an agreement to process Washington sewage in

Moscow. He would not state for certain if the Walmart in Moscow would be moving to Pullman. He affirmed S 1002 would impact every municipality that shares both a border and water with a neighboring State.

**Randy Fife**, Moscow City Attorney, stated if no legislation is passed this session to in turn create an agreement between Moscow and Pullman Idaho will not be open to a lawsuit. If an agreement is reached then it creates a safe way to expand service to the Whitman Pullman area. He stated IDWR protects natural resources so Moscow can not sell water they would still have stewardship. With this legislation municipalities would have flexibility to give water outside city limits. This would prohibit forced annexation of property just to provide water.

**Dave Tuthill**, Department of Water Resources Chairman, testified to having his staff look at the wording of the proposed legislation and finding it sound. He said it is not unusual to have Idaho water being used outside the state. Boise River water is used in the Bend Irrigation District along with Idaho water being used in Wyoming, Nevada, and Oregon. The purpose of this proposed bill is to remove an impediment. There is no clear cut line for what is a minor versus major draw of Idaho water from across state borders, but Palouse has a task force to make sure this is being done carefully.

**Mr. Tuthill** responded that a mall would be considered commercial water rights, not domestic, and that commercial water rights are not specifically mentioned in the Idaho Constitutional hierarchy. The Constitution mentions four uses starting with domestic, then mining, irrigation, and manufacturing. He knew that the 1990 law stated that municipalities can not provide water across state lines but was unsure how far into another state Idaho water could be utilized through adjacent lands.

**Wayne Fox**, resident of Moscow, stated his opposition to S 1002. He stated loss of jobs and revenue to Washington as two main reasons to vote against the bill. His said that Washington State would have more benefits from the agreement than Idaho.

**Representative Ringo**, who is from District 6 and lives in Moscow, stated no study has been done of how businesses in Moscow will be affected by providing water to Pullman. She stated IDWR and the Washington counterpart are working together. It is not time to make decisions about Idaho water going across State lines when the aquifer is not completely understood yet. More studies and adjudication needs to be done before legislation of this kind should be passed affecting the boarders of Idaho. She said Washington State University just expanded their golf course in Pullman while the citizens in Moscow refrain from watering their lawns in conservation efforts. There needs to be better understanding between Washington and Idaho. She stated the mayor of Moscow is against the bill and is worried that Idaho water users may have to curtail their use while Washington users would not have to.

**Representative Trail**, from District 6 lives in Moscow, stated water is gold. This legislation is not good policy for the Moscow area and would harm other areas of the State in the same way. Jobs, businesses, and sales tax are all tied to water and will all be lost when the water leaves the

state. More needs to be known about the aquifer before Idaho moves forward in the agreement with the Washington developer.

**Norm Semanko**, Idaho Water Users Association, stated S 1002 has been studied at length and found to be a tightly worded bill. This legislation would allow Moscow or any city in Idaho the ability to ask to provide water over state lines. Right now cities are prohibited from asking. If water was provided to the developer it would be considered Moscow water, so if Moscow were to be in a water shortage and have to ration water, the developer would have to follow the ration protocols as well. He stated Idaho already knows that Nevada will be asking for Idaho water in 10 to 15 years.

**Mr. Semanko** replied to questions that cities would have to apply to the director and show all criteria were met to start the process of hopefully providing water across state lines. If a city was denied they could challenge to have a hearing with a final decision again by the Director. If a city kept challenging the rulings it would ultimately go to the Idaho Supreme Court.

**MOTION:** **Representative Bedke** made a motion to **hold S 1002 to time certain, Tuesday, March 17; motion carried on voice vote.**

**S 1008:** Due to the length of the meeting **Chairman Stevenson** requested **Sharon Kiefer**, Idaho Department of Fish and Game, to postpone presenting **S 1008** until the following meeting on Wednesday, March 11, 2009 at 1:30 p.m.

**ADJOURN:** There being no further business to come before the committee, **Chairman Stevenson** adjourned the meeting at 3:38 p.m.

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Representative John A. Stevenson  
Chairman

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Susan Oldenkamp  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** March 11, 2009

**TIME:** 1:30 P.M.

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence

**ABSENT/  
EXCUSED:** None

**GUESTS:** Craig Evans, Bingham Ground Water District (BGWD); Lynn Tominaga, Idaho Ground Water Appropriators (IGWA); Scott Clawson, Water District 110 (WD110); Don Parker, Jefferson Clark Ground Water District; Lance Hebdon, Idaho Department of Fish and Game (IDFG); Ryan Perotto, Idaho Water Users Association (IWUA); Stephen Goodson, Governor's Office; Mark Duffin, Idaho Sugarbeet Growers Association; Norm Semanko, IWUA; Darrel Kerr, Enterprise Canal Company; Brenda Tominga, IGWA; Stan Hawkins; Hal Anderson, Department of Water Resources; Dave Tuthill, Water Resources Director

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

**S 1008:** **Lance Hebdon**, Idaho Department of Fish and Game (IDFG), proposed **S 1008** to provide license exemption of a disabled veteran who is participating in a hunt associated with a qualified organization. S 1008 was modeled after S 1391 passed in 2006 giving minor children with a life threatening medical condition the chance to participate in an organized hunt such as, "Hunt of a Lifetime." In response to questions he explained there have been ten tags set aside for children's hunts through S 1391 without all ten ever being issued in one year. They have decided to split the tags giving five to S1391 and five to S 1008. Disabled veterans must be referred through organizations to qualify for tags even if they do not belong to the organizations. He stated these are not yearly licenses, but would allow the veterans to participate in specific organized hunts for specified game. The tags could be given to, out of state recipients and do not affect the reduced fee scale for all disabled veterans.

**MOTION:** **Representative Wood (35)** moved to send **S 1008** to the floor with a **DO PASS** recommendation; **motion carried by voice vote**. **Representative Hagedorn** will sponsor the bill on the House Floor.

**H 210:** **Hal Anderson**, Department of Water Resources, presented some slides he had shown to the Senate Resources & Environment Committee about water supply, recharge and maintenance, cost benefit analysis, and distribution. In response to questions, he explained the amount of time and effort that goes into recharging each individual canal and the specific land area around it. Ground water flow data or the amount of water going in and coming out of land must be known for all the specific pieces of

land. He stated there will be allowances for incidental recharge under normal operation. On page 22 of the Comprehensive Aquifer Management Plan (CAMP) plan, item E, states a goal of no reduction in incidental recharge over the ESPA during the 10 year Phase 1 plan. To accomplish this goal the plan of action includes recognizing the role of incidental recharge and working with canal managers and funding agencies that are implementing water conservation measures to offset the effects of conservation to the aquifer. He stated they are operating within the winter water savings agreement within normal time of canals use. He explained that for ground base weather modification, a propane burner sends silver iodine particles up into the clouds if there is an updraft in a storm. These particles then act as artificial seeds, like dust normally would, to attract moisture and create beads of moisture that then fall to earth.

**Chairman Stevenson** relinquished the gavel to Vice Chairman Shepherd, and presented **H210**. The bill will approve the Eastern Snake Plain Aquifer (ESPA) CAMP as a component of the Comprehensive State Water Plan and provide that the Idaho Water Resource Board prepare and submit for approval to the legislature a funding mechanism needed to implement Phase 1 of the CAMP. Section 1 adopts CAMP as part of the Comprehensive State Water Plan. Section 2 states Phase 1 will be up to 10 years and the Water Board will work with the Interim Committee of Natural Resources. Section 3 is the implementation of Phase 1 of the funding mechanism through the Legislature using current funds and fund authority. This gives the Interim Committee the ability to continue working to reach these goals. He stated the surface water users would have some input when working with the Water Board and Interim Committee. Currently the estimated financial figure would be \$70 to \$100 million over 10 years. This will equal the 40% of the total amount needed and the other 60% will be contributed by water users. If the state does not fund the 40% needed then the water users will only be responsible to fund the same amount as the state contributes. He stated Recreational and Federal Grants through the Farm Program could become available to help with the funding.

**Lynn Tominaga**, Idaho Ground Water Appropriators, stated CAMP is part of the Agricultural Water Enhancement Program (AWEP). ESPA could possibly receive an AWEP grant of \$15 to \$20 million over five years to be spent on items such as 40 acre storage ponds, recharge, and crop mix.

**Craig Evans**, Bingham Ground Water District, stated the water district will be spending around \$300,000 per year which works out to approximately \$2 per acre for one and a half foot of recharge, but they are willing to invest in the CAMP because it is an adaptive management program. It needs to stay adaptive or it will lose the backing of all the people investing in it.

**Don Parker**, Jefferson Ground Water District, stated concern that incidental recharge is not being addressed. Water is needed in Egan Lake Region and it needs to be managed. The important part is to be adaptive, not just to adaptively manage the plan.

**Darrel Kerr**, Enterprise Canal Company, asked for an amendment to H 210. On line 27 the wording would read: The funding mechanism for implementation of Phase 1 of the CAMP shall recognize the value of water injected into the aquifer by surface irrigation practices. He proposed the bill did not recognize those who are already recharging, giving no credit or value to the thousand of gallons of water flood irrigators are donating to the aquifer. He stated flood irrigators make up a small percentage of water users yet use 25% of the water taken from the Snake River. Flood Irrigators should not be taxed to recharge when they are already recharging.

**Lynn Tominaga**, IGWA, stated there were 29 entities involved working together to create ESPA CAMP. No advantage was given to any one group, so to highlight anyone at this stage in the process could cause support to fall away.

**Norm Semanko**, Idaho Water Users Association, would take no formal position until after the official meeting tomorrow, but he would be surprised if many of the members were not in support of the substance of ESPA CAMP. After reviewing the bill there might be some constructive changes suggested for amendments. Funding between the state and water users will have to be resolved at some point.

**MOTION:** **Representative Raybould** made a motion to **hold H 210 to time certain, Tuesday, March 17; motion carried on voice vote.**

**MOTION:** **Representative Wood (35)** moved to approve the minutes of the January 19, 2009 Raybould Subcommittee meeting as written, January 19, 2009 F. Wood Subcommittee meeting as written, January 20, 2009 Eskridge Subcommittee meeting as written, January 21, 2009 meeting as written, January 21, 2009 F. Wood Subcommittee meeting as written, January 27, 2009 meeting as written, January 27, 2009 Raybould Water Subcommittee meeting as written, January 29, 2009 meeting as written, January 29, 2009 Raybould Parks & Rec Subcommittee meeting as written, February 3, 2009 meeting as written, February 5, 2009 meeting as written, February 9, 2009 meeting as written, February 11, 2009 meeting as written, February 13, 2009 meeting as written, February 17, 2009 meeting as written, February 19, 2009 meeting as written, February 23, 2009 meeting as written, February 25, 2009 meeting as written, March 3, 2009 meeting as written; **motion carried on voice vote.**

**MOTION:** **Representative Hagedorn** moved to approve the minutes of the January 15, 2009 meeting, with the following correction: On page 2, paragraph 4, Nate Fisher represents the Office of Species Conservation instead of Sportsmen for Fish & Wildlife Idaho. **By voice vote, the minutes were approved as corrected.**

**ADJOURN:** There being no further business to come before the committee, **Chairman Stevenson** adjourned the meeting at 3:08 p.m.

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Representative John A. Stevenson  
Chairman

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Susan Oldenkamp  
Secretary

MINUTES

**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** March 17, 2009

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

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence

**ABSENT/  
EXCUSED:** Representative Barrett

**GUESTS:** Ryan Perotto, Idaho Water Users Association (IWUA); Mary Steed; Walter Steed, Moscow City Council Member; Kent Lauer, Idaho Farm Bureau Federation; Norm Semanko, IWUA

**Chairman Stevenson** called the meeting to order at 1:31 p.m.

**Representative Pence** moved to approve the minutes of the March 9 meeting as written; **motion carried on voice vote.**

**Representative Pence** moved to approve the minutes of the March 11 meeting as written; **motion carried on voice vote.**

**MOTION:** **Chairman Stevenson** made a unanimous consent request to **hold H 210 subject to call of the Chair. There were no objections.** He commented there could be possible amendments to H 210 so the bill will be heard at a later date.

**S 1002:** Due to the fact that **S 1002** had already been heard in committee **Chairman Stevenson** stated there would be brief discussion about the bill.

**Walter Steed**, Moscow City Council Member, stated the developer in Washington would be able to use the wells already drilled if the agreement with Moscow did not come to fruition. He stated the total acreage being developed that would be affected in the agreement was somewhere between 40 to 90 acres.

**MOTION:** **Representative Eskridge** moved to hold **S 1002** in committee. **Motion carried on a voice vote.**

**ADJOURN:** There being no further business to come before the committee, **Chairman Stevenson** adjourned the meeting at 1:42 p.m.

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Representative John A. Stevenson  
Chairman

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Susan Oldenkamp  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** March 19, 2009

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

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Sayler, Chavez, King, Pence

**ABSENT/  
EXCUSED:** Representatives Bell, Bedke

**GUESTS:** Sharon Kiefer, Idaho Department of Fish and Game (IDFG); Pat McCay, Capital Press; Dar Olberding, Idaho Grain Producers; Stan Boyd, Idaho Cattle Association/Idaho Wool Growers Association (ICA/IWGA); Ryan Perotto, Idaho Water Users Association (IWUA); Kent Lauer, Idaho Farm Bureau

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

**Representative Pence** moved to approve the minutes of the March 17 meeting as written; **motion carried on voice vote.**

**H 239:** **Representative Barrett** introduced **H 239** stating that resident Idaho senior citizens should not have to live in the state for five continuous preceding years prior to qualifying for a discount senior hunting and fishing license. In 1986 the law was ruled unconstitutional because it read that prior to the age of 70 to qualify for a discount hunting license senior citizen must have lived in Idaho for 10 preceding continuous years. She replied to questions that she was bringing this bill before the committee at the request of one constituent and due to the fact that the five year time limit was decided upon after a suggested two years was turned down.

**Sharon Kiefer**, Assistant Policy Director for Idaho Department of Fish and Game (IDFG), stated the IDFG does not support **H 239**. It would cost IDFG revenue losses between \$34,000 to \$42,000 annually in class 4 licenses that would have to be made up by adjusting fees of other stakeholders. Class 4 licenses, or Senior licenses, cost 1/3 the current regular combination license fee and 50% the amount of other tags such as deer, elk, bear, and turkey. By only waiting six months instead of five years in residency, an average of 2,760 license buyers would be able to convert from regular to Senior licenses. She stated no Commissioner nor staff member had heard any specific request from any stakeholder at any public hearing requesting consideration of different residency requirements for Seniors. In response to questions, she stated that Seniors have to show extra documentation to buy the Senior licenses if they wish to buy one if they have not already purchased one. If one has been purchased previously a choice should automatically appear in the sales system.

**Representative Barrett** stated the change could potentially create sales as well.

**Representative Boyle** pointed out that five years is a long time for someone at 65 years of age to wait for a license. It does not seem just that at the age of twenty someone only has to wait six months.

**MOTION:**

**Representative Wood (35)** moved to send **H 239** to the floor with a **DO PASS** recommendation.

**Representative Harwood** spoke in support of the motion, saying putting any number of years on the Senior licences is unconstitutional.

**Representative Hagedorn** voiced concern that the committee did not have all the necessary data. He pointed out that everyone in Idaho can buy a license after six months. The point of the bill is not that Seniors can not buy a license for five years, but that they have to wait to buy a cheaper license.

**Representative Chavez** spoke in opposition of the motion, saying there will always be Seniors who will buy licenses for full price even though they qualify for the discounted price and that the price time limit should not be changed for one person.

**SUBSTITUTE MOTION:**

**Representative Saylor** offered a substitute motion, to **HOLD H 239** in committee. Speaking in support of his motion, Rep Saylor said this is no different than State Colleges charging "in state" and "out of state" tuition, and the loss of funding in the area of Seniors would only cause others to have to pay more to make up the difference.

**Representative Pence** spoke in favor of the substitute motion, stating that people moving in from out of state need to pay their dues.

**Representative Eskridge** spoke in favor of the substitute motion, saying the loss of fees for the IDFG could cause a shift in their budget in addition to the budget cut that was just approved for IDFG in Joint Finance-Appropriations Committee (JFAC).

**Representative Wood** stated her favor for the original motion, due to the fact that the real fiscal impact might not be as stated in Ms. Kiefer's numbers because not every Senior would purchase a discount tag if offered the opportunity.

**Ms. Kiefer** clarified that even a non-resident can purchase a hunting tag upon entering Idaho within approximately an hour. All residents of Idaho can purchase full price tags regardless of their age, but to buy a Senior tag there are restrictions for how long a resident has had to have lived consecutively in Idaho as well as an age requirement.

**Representative Andrus** spoke in favor of the original motion, stating that some Seniors will purchase tags at a discounted price that would not have purchased one otherwise just because they are at a discounted price.

**VOTE ON  
SUBSTITUTE  
MOTION:**

Roll call vote was requested on the substitute motion. **Substitute motion passed, 8-7-3. Voting in favor** of the substitute motion: Chairman Stevenson, Representatives Eskridge, Raybould, Wood (27), Saylor, Chavez, King, and Pence. **Voting in opposition** to the substitute motion: Representatives Shepherd (8), Wood (35), Barrett, Andrus, Boyle, Hagedorn, and Harwood. Representatives Bell, Moyle, and Bedke were absent and excused.

**H 240:**

**Representative Andrus** introduced **H 240** which will make all depredation claims the same priority regardless if they are claims pertaining to damage to crops, livestock or forage. Currently, Idaho Code states that claims filed for crop damages shall have priority and will be paid prior to claims filed for damage to livestock or forage. He stated that crops are given preference over livestock. Half of the claims are paid up front while the other half are paid at the end of the year. IDFG and the Department of Agriculture designate six people each to the Depredation Board. The Depredation Board makes payments out of interest earned on the original \$1.25 million provided by IDFG and \$1 million from the General Fund, and \$200,000 provided annually by IDFG. This bill strikes the language so everyone will be treated equally. The language occurs in three sections, so amendments will be needed to make the language consistent in all sections.

**Representative Wood (35)** stated at the time the depredation fund was created crops were being eaten by antelope. She thought enough money had been put into the fund to cover both crops and livestock. When some cattle are taken out of a herd it does not wipe out lively hood like having an entire year's crop destroyed.

**Dar Olberding**, Fish and Game Adviser Committee, stated that losing a cow or a sheep is equal to losing grain or hay. In a convention it was decided that \$1000 in livestock is equal to \$1000 in crops. Last year crop claims were paid out at 67cents on the dollar while livestock claims only received 50 cents on the dollar. In answer to questions he stated that the fund has been combined so there is no longer a primary and secondary fund. He stated at this time there is no wolf depredation taken out of this fund.

**Stan Boyd**, Idaho Cattle Association/Idaho Wool Growers Association, stated in 1990 wolves came down from the North driving antelope down into fields, eating crops. Between all of the crops being paid first and the livestock the depredation fund was depleted. He stated wheat crop has to be paid out before range forage and only black bears and mountain lions are covered for livestock. In reply to questions he stated there are no other sources for depredation funding other than crop insurance.

**Representative Wood (35)** stated if a crop is completely eaten those relying on it for a lively hood are in financial ruin, while those who loose some livestock can still survive. Fish and Game set up the Depredation fund to help people in two different ways, one for crops and one for livestock, they should be kept separate.

**Mr. Boyd** stated that one bear can kill 15 sheep by swatting through a herd and can kill the entire herd at the same time by scaring them and

driving them into a ravine.

**Ms. Kiefer** stated last year's annual appropriations was not enough to pay everyone with requests.

**Representative Boyle** pointed out that when livestock is lost there can be loss of breeding stock and that can set the owner back years or even generations in the breeding cycle.

**MOTION:** **Representative Shepherd (8)** moved to send **H 240** to **General Orders** with committee amendments attached; **Representative Wood (27)** seconded the motion. **Motion carried on voice vote.** **Representative Wood (35)** requested that she be recorded as voting nay. **Representative Andrus** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, **Chairman Stevenson** adjourned the meeting at 3:44 p.m.

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Representative John A. Stevenson  
Chairman

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Susan Oldenkamp  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** March 25, 2009

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

**PLACE:** J. R. Williams Building - West Conference Room

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd (8), Representatives Wood (25), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence

**ABSENT/  
EXCUSED:** None

**GUESTS:** Dave Burk, Outdoor Chanel; Tim Kemery; Ron Gillett; Kelton Larsen; Mitchel Tain; Anthony Bushong; Ben Rust; Bill Lancaster; Douglas Schleis; Lynn Tominaga, Idaho Ground Water Appropriators (IGWA); Hal Anderson, Idaho Department of Water Resources (IDWR); Alex LeBeau, Idaho Association of Commerce & Industry (IACI); Ryan Perotto, Idaho Water Users Associations (IWUA); Fred Riggers; Rick Lancaster; Randy MacMillan, Clear Springs Foods; John Walters; Marshall Sage; Ken Tabon; Kurt Jones; Bill Ward; Dan Cano; Chris Harris; Bill Tipton; Jess Nelson; Tom Nelson; Hank Elliott; John Mogus; Tony Myer, SaveElk.com; RJ Orem; Jake Stale; Joni Seibel, SaveourElk.com; Stanley Gunn; Nate Helm, Sportsmen for Fish and Wildlife (SFW); Stephen Goodson, Governor's Office; Kent Lauer, Idaho Farm Bureau; Steve West, Central Consulting

**Chairman Stevenson** called the meeting to order at 2:57 p.m.

**H 264:** **Chairman Stevenson** relinquished the gavel to Vice Chairman Shepherd, and presented **H 264**, a rewrite of H 210. The bill will approve the Eastern Snake Plain Aquifer (ESPA) Comprehensive Aquifer Management Plan (CAMP) as a component of the Comprehensive State Water Plan and provide that the Idaho Water Resource Board prepare and submit for approval to the legislature a funding mechanism needed to implement Phase 1 of the CAMP. He covered the differences between H 264 and H 210.

**Randy MacMillan**, Vice President of Clear Springs Foods, stated Clear Springs Foods has both senior and junior water rights from the ESPA and supports the CAMP for the 300 thousand acre-feet (kaf) annual recharge expected to occur for domestic users. Without recharge water conflicts occurring now could continue if not worsen. The passage of H 264 will be a historic event for our children to celebrate. He elaborated this is not the end and there still needs to be a collaborative effort.

**Lynn Tominaga**, Idaho Ground Water Appropriators (IGWA), stated there was going to be a meeting of the Ground Water Users the next day to discuss Section 4, but they offered support of H 264.

**Kent Lauer**, Idaho Farm Bureau, stated support of the bill and wanted to

recommend the committee send H 264 to the floor with a do pass.

**Steve West**, Central Consulting, stated adding section 4 resolved the concerns for the Great Feeder Canal. The bill is a solid plan for managing the aquifer.

**Norm Semanko**, Idaho Water Users Associations, stated support for H 264 and thanked the committee for holding H 210 back. The implementation committee is now listed in the bill. He said that existing water rights are protected and preserved.

**Alex LeBeau**, Idaho Association of Commerce & Industry (IACI), represented Business Industry, including Industry, Spring Interests, and Ground Water Users. He stated with 2/3 irrigated agriculture coming from the region the ESPA will affect, it creates a framework for Northern and Southeastern Idaho in the future. This bill is historic as the state moves forward.

**Hal Anderson**, Idaho Department of Water Resources (IDWR), stated both he and Director Tuthill had read all of the amendment and were in favor of H 264.

**MOTION:** **Representative Raybould** moved to send **H 264** to the floor with a **DO PASS** recommendation. **Motion carried on a voice vote.** **Chairman Stevenson** will sponsor the bill on the floor.

**H 210:** **H 210** was originally heard in committee on March 11 before amendments were added, it was rewritten, and heard in committee as H 264.

**MOTION:** **Representative Raybould** moved to **HOLD H 210** in committee. **Motion carried on a voice vote.**

**H 138:** **Representative Hart** introduced **H 138** and the amendments that combined H 138 and H 139. He stated there are now up to at least 842 wolves in Idaho in both rural and urban areas. Constituents deserve an answer to who is liable if someone is injured or killed by a wolf. The government has immunity, but the wolves were introduced by men therefore men should be held accountable. There are also economic losses to be considered such as those on ranches and businesses that are based on hunting.

In response to questions **Representative Hart** stated there will be consequences for presenting false pretenses over and over, such as the number of wolves or wolf facts. This will be entered alongside existing Idaho Code. Criminal charges could be pressed against someone who was involved with an original wolf released, while civil charges would be the highest charges that could be pressed when involved with the progeny of an originally released wolf. He stated the Constitution prohibits enacting lawsuits against someone for attacks that occurred before this bill becomes law. He stated wolves should be under a management plan so when wolves are outside of the plan there is a way to hold those responsible for the management of the wolves accountable.

**John Walters** stated a wolf pleasure killed 193 feet from the bus stop where he lives. The Carabao Herds are down to nearly nothing. Economically it is going to kill those who try to make a living off of hunting if the wolves do not kill a human first.

**Dave Burk**, Outdoor Channel, stated the ranchers on the edge of the Yellowstone Plateau have seen elk chased by wolves and destroyed. He estimates only 10% of the herds are left. He stated Fremont County has nine packs with the largest pack having up to 12 wolves.

**Tim Kemery** stated having done a search of historical sites using key phrases of "attacked by wolves" and "killed by wolves" to research how many people had been killed by wolves since the 1930s. He said he had been told there had been no human fatalities in the last 200 years, however he stated finding 63 human deaths reported due to wolves on remote farms and ranches alone, in all age classes.

**Ron Gillett** is part of the Idaho Anti-Wolf Coalition. He did not want to broadcast lies about wolves so he contacted Val Geist, a Canadian Wolf specialist, for accurate data. He said Mr. Geist suggested the wolves will act in Idaho the same way they do in Canada, consuming 16 to 24 ungulate animals annually and sport killing twice that many per year. Wolves will follow herds killing newborn calves and any cows in the birthing process. He also stated that when the prey base has been eliminated the wolves will move to other predators such as coyotes and even bears. If down to wolves alone, the species will become cannibalistic.

**Kelton Larsen** stated the killing by wolves is generational thefts for our kids and grandkids. He appreciates the passing of HJM 001. He stated it is negligence that lives lost as road mortalities are worth around \$3 million and nothing has been decided when it comes to life and wolves. The founding fathers were smart in setting up the 10<sup>th</sup> Amendment. The Federal Government should only be helping facilitate communication between states and let the states manage their own affairs.

**Mitchel Tain** lives 30 miles from Boise and has land. He has wolf tracks around his out buildings and has to scare what he suspects to be wolves away from his horses approximately two times a month.

**Anthony Boushong** stated his support for H 138.

**Tony Mayor** has 5,000 to 10,000 hits per month on SaveElk.com. The site was developed to display real facts about wolves and elk. They have 800 members from Wyoming, to Montana, to Idaho, and receive 20 to 30 e-mails per day. He said people are told wolves will stay away from humans, but he has seen them kill inside the town of Hailey, ID. If wolves can kill in a town then this legislation should be in place to stand on when a wolf finally does kill a human. He stated the Idaho Department of Fish and Game (IDFG) published a study showing a loss of \$24 million in state licensing revenue related to the wolves. He also stated IDFG were advising campers to get into their cars if they saw wolves after four wolves chased an elk through the middle of Alturas Lake Campground.

**Ben Rust**, a Stanley Basin land owner since 1964, has seen wolves since before the wolves were reintroduced to Idaho. He stated the introduced wolves make the original wolves look like puppies. When he was camping and hunting a bear he had wolves in and around his campground that were not afraid of him even when weapons were discharged in an attempt to scare them. He stated there is a growing danger to hunters from wolves.

**Bill Lancaster** was bow hunting elk by McCall when a wolf chased an elk calf by. He and his hunting partner found themselves surrounded by six wolves. They got away and made camp two miles away. They woke up that night with wolves around the tent. He stated hunters are in danger.

**Marshal Sage**, retired from the army and now has a radio show dealing with hunting, and feels there is impending disaster. He said Fish and Game has said the elk population will not be able to sustain the wolf population. He stated wolves have started to frequent a trash dump, like coyotes. It is a step of getting familiar with humans before taking them down.

**Kurt Jones** is from Calder, Idaho, and has served two tours in Iraq. He stated he went out during archery season, but had to carry a pistol specifically for the wolves. He said the wolves are a situation to be feared.

**Bill Ward** is from Bellevue, Idaho, where he stated a wolf pack runs in and out of yards around the town. There are wolves in almost every canyon around Bellevue. He said IDFG has hazed the wolves with fire crackers to no avail, so they tried rubber bullets. The wolves now come into town at night. He said the school kids can not go out and play in the canyons without an armed escort. In response to questions he stated the hazing is payed for out of sportsman dollars.

**John Mogus** stated that wolves have always been in Idaho. He had seen a pack of five wolves before wolves were reintroduced.

**Jake Stale** is a cowboy for a living, and stated that 10 to 20% of herds are being lost to wolves making it harder to find work.

**Stanley Gunn** stated watching the fast rise of the wolf population. He said there could be a better use of the elk population. The wolves were an anti-hunting ploy, and now something will have to be done to restock the elk herds. He suggested having to pay for a tag to go out and watch wolves.

**Mr. Burk** restated a story from the *Idaho Fall Post Register*. Approximately two weeks ago a man entered a pack of nine wolves to save his yellow lab. The wolves attacked the lab due to lack of prey in the area. Kids can no longer wait for busses alone.

**Mr. Mayo**, stated a man was killed by a wolf around a garbage dump and one more recently in Russia.

**Mr. Sage** stated the government is pro-wolf and tried to cover up the fatality in the garbage dump. He recommended reading Tom Remington's five part expose in *Idaho Hunting Today* for wolf/human interaction. He stated the reason Russian cosmonauts carry shotguns on their craft is for defending themselves against wolves when they land.

**Representative Hart** stated he would be striking lines 28 and 29 from page 3. The past can not be changed nor can events that have transpired in the past be made a crime, but this legislation can provide a leg to stand on in the future. It would provide a way to prosecute a private person and would provide sideboards for when IDFG had management of the wolves. The government has immunity, but it is a step towards being able to hold someone accountable.

**MOTION:** **Representative Chavez** moved to send **H 138** to **General Orders**; **Representative Saylor** seconded the motion. **Motion carried on voice vote.** **Representative Hart** will sponsor the bill on the floor.

**H 139:** **H 139** was rewritten to be amended and combined into H 138.

**MOTION:** **Representative Wood (35)** moved to hold **H 139** in committee. **Motion carried on a voice vote.**

**ADJOURN:** There being no further business to come before the committee, **Chairman Stevenson** adjourned the meeting at 4:52 p.m.

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Representative John A. Stevenson  
Chairman

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Susan Oldenkamp  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

- DATE:** March 31, 2009
- TIME:** 1:30 P.M.
- PLACE:** Room 148
- MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Sayler, Chavez, King, Pence
- ABSENT/  
EXCUSED:** Representatives Wood (27), Bedke and Moyle
- GUESTS:** Lance Hebdon, IDFG; Sharon Kiefer, IDFG; Nate Helm, SFW; Phil Homer, ID Assoc. of School Administrators; Fred Riggers; Emily Anderson, Governor's Office
- Chairman Stevenson called the meeting to order at 1:30 P.M. and a silent roll was taken.
- MOTION:** Rep. Pence made a Motion to approve the minutes from the March 19<sup>th</sup>, 2009 meeting as submitted. On a voice vote, the motion carried.
- MOTION:** Rep. Pence made a motion to approve the minutes from the March 25<sup>th</sup>, 2009 meeting with the following changes; on page 3, paragraph 3 insert "however" after years and before "he" and on page 5; correct the spelling of "Remingotr" to "Remington". On a voice vote, the motion carried.
- S 1015:** **Senator Gary Schroeder** presented this bill to the Committee. He explained that wolves were introduced in Idaho the mid 1990s. He further explained that states were not asked if they wanted wolves in their state. Wolves have multiplied faster than predicted, 500 to 700 wolves were in Idaho's management plan and now there are 1,100 to 1,400 wolves in the state.
- He explained that the state has the expertise to manage large carnivores and is striving to delist and manage these animals. He further explained that hunting is not going to eliminate the wolves and 28 of 50 collared elk cows were killed by wolves last year.
- He explained that the purpose of this legislation is to officially recognize that Idaho has a surplus of wolves and officially offer some of these surplus animals to other states. This legislation provides that the Idaho Fish and Game Department write to their counterparts in all other states and offer some of our surplus animals to these states. He explained that the question needs to be asked and if no one else wants them, then the state has to deal with them.

He explained that the Department of Fish and Game can capture wolves and

anyone who wants wolves from the state would pay the bill. He reported that Idaho has people who want to hunt elk and wolves have been killing the elk. He further explained that the purpose of this legislation is to keep this issue in the public eye and consider all questions.

**Sen. Schroeder** explained that he does not know of any other states that are interested in getting wolves from Idaho at this time.

**MOTION:** Rep. JoAn Wood made a **Motion to send S 1015 to the Floor with a DO PASS recommendation.** On a voice vote, the motion carried. **Rep. Boyle will carry the bill on the House Floor.**

**S 1022:** **Senator Schroeder** presented this bill to the Committee. He explained that the purpose of this legislation is to update processing fees to those currently charged by meat processors. He explained that the original legislation established that any person who pleads guilty, is found guilty, or is convicted of or received a withheld judgement for the illegal killing or the illegal possession or illegal waste of game animals shall be assessed a processing fee. This money is used to pay for the processing of game animals that are distributed to charitable organizations such as food banks or utilized by charitable organizations. The money can be used to pay the processing fees of the illegal kills or donated animals. He explained that these fees have increased to the point where the fund will soon be depleted, necessitating an increase in the assessment.

**MOTION:** Rep. Chavez made a **Motion to send S 1022 to the Floor with a DO PASS recommendation.**

**Sharon Kiefer**, Assistant Director of the Idaho Department of Fish and Game spoke **in support of S 1022.** She explained that in FY 2008, the revenue to the account for the funds gotten from penalties for poaching big game animals was \$11,496 and the expenses were \$16,492. She further explained that IDFG estimates that the passage of this legislation would result in an increase in revenues to the set aside account which covers commercial processing fees for big game animals by about 50%. The annual yearly revenue is forecast to increase from \$12,000 to \$18,000.

In response to a question regarding if a poacher would be fined if the meat was spoiled, **Ms. Kiefer** explained that it is rare that the Department would be able to bring a case to successful conclusion with evidence that was beyond use.

**VOTE ON MOTION:** **On a voice vote, the motion carried. Rep. Chavez will sponsor the bill on the House Floor.**

**S 1020a:** **Senator Schroeder** presented this bill to the committee. He explained that the purpose of this legislation is to prevent persons that have illegally taken wildlife in the state from purchasing the illegally taken wildlife for which they were cited at a Fish & Game sale.

It further provides that no other person may knowingly purchase that wildlife on behalf of the person that was cited for illegally taking the wildlife. He

explained that the state is not violating anyone's rights by not allowing them to go in and buy. He further explained that he had received a letter from AG's office that states there is no liability to the state and the amendment to the bill was based on the Attorney General's opinion.

**Senator Schroeder** clarified that there is a fine for poaching and an additional fine when the poacher tries to buy the trophy back. He explained that the experience of shooting an animal and then showing the animal is worth a lot of money.

**Ms. Kiefer** spoke to **S 1020a**. She explained that the position of the Department of Fish and Game is to monitor this bill. She explained that currently there is no law that prevents a person from re-acquiring wildlife confiscated from them by the courts at a Fish and Game auction. She further explained that violating **S 1020a** would be considered an illegal purchase, which is a felony pursuant to Idaho Code 36-1401(c)1. She explained if this bill becomes law, the Department would enact administrative procedures at auctions to cross check buyers to prevent a sale prohibited by the statute. She further explained that the Department feels that this administrative step will not have a substantial financial cost, but they have not yet reviewed the scope of action needed.

In response to a question regarding fines for poaching, **Ms. Kiefer** explained that it depends on what species of animal is poached and how the crime was committed. She further explained that judges have a range of fees they can assess. She clarified that poaching is not necessarily a felony, but the violation of this bill would be a felony.

**Sen. Schroeder** explained that this bill does not create a felony, but the section of Code that this falls under is a felony.

In response to a question regarding how the Department would establish if someone else is buying for the person who poached at an auction, **Ms. Kiefer** explained that the burden to prohibit the sale falls upon the individual and the Department would have no way to track this.

There was a brief discussion regarding the definition of a trophy animal and the fines associated with the illegal taking of these animals.

In response to a question regarding the reason to tie this bill to a felony, **Sen. Schroeder** explained that current Idaho Code is very specific to knowingly purchasing illegal animal parts and using a different penalty would cause problems. He further explained that this was the recommendation from the Attorney General's Office.

**MOTION:**

Rep. Raybould made a **Motion to send S 1020a to the floor with a DO PASS recommendation.**

Rep. Hagedorn commented that the intention is right, but there is a need to work on this more. Rep. Barrett commented that she had a problem with

second party enforcement. Rep. JoAn Wood commented that she felt that the purchase of illegal animal parts should not be a felony.

**By a show of hands, the motion carried. Chairman Stevenson will sponsor the bill on the House Floor.**

**ADJOURN:**

There being no further business to be brought before the Committee, Chairman Stevenson adjourned the meeting at 2:40 P.M.

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Representative John A. Stevenson  
Chairman

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Claudia Howell  
Secretary

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE  
HOUSE RESOURCES & CONSERVATION COMMITTEE  
JOINT MEETING**

**DATE:** April 1, 2009

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

**PLACE:** Room 316

**SENATE MEMBERS PRESENT:** Chairman Schroeder, Vice Chairman Bair, Senators Cameron, Pearce, Coiner, Siddoway, Brackett, Thorson, and Werk

**MEMBERS ABSENT:** None from the Senate or House

**HOUSE MEMBERS PRESENT:** Chairman Stevenson, Vice Chairman Shepherd, Representatives J. Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, F. Wood, Boyle, Hagedorn, Harwood, Saylor, Chavez, King, and Pence

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

**CALL TO ORDER:** **Chairman Schroeder** called the **Joint meeting** of the Senate Resources and Environment Committee and the House Resources and Conservation Committee to order at 1:30 p.m.

**The minutes of the Joint meeting were transcribed by Nancy Christensen, CSR.**

**CHAIRMAN SENATOR SCHROEDER:** I think that we'll get started. Now, for the committee members who don't normally meet in here, this is live, so if you start talking among yourselves, it will be recorded. Okay?

Pro-Tem, do you want to lead off?

**PRESIDENT PRO-TEM SENATOR GEDDES:** Thank you Mr. Chairman, and Mr. Chairman and members of the Joint Committee. It's my honor to be here. I'm not going to take a lot of your time because I have people -- or I don't have people, but there are people here who truly are qualified to speak to the committee and address the issues.

As is typical, you know, when Clive Strong from the Attorney General's Office is carrying a manila envelope we know that we're getting close to the end of the session. So, hopefully, this is a good indicator that that is the case.

But I think what you're deliberating over today, these three water bills, are monumental and will establish not only the agreements that were made in

the past from a historical standpoint but also have been addressed by our Supreme Court. And this will put, hopefully, a benchmark in place so that we never have to go back and revisit some of those decisions.

And Mr. Chairman, if I may, I'd like to defer the remainder -- or at least the next portion of opening debate, an introduction of these three bills, to David Hensley from the Governor's Office.

**CHAIRMAN SENATOR SCHROEDER:** Yes, you may.

And committee members, just so you know, the Agreement, copies of the bills in your folder. And I'm going to allow you to ask questions as we go. In other words, if you have a question, raise your hand and I'll allow you to ask it.

Welcome.

**MR. HENSLEY:** Thank you, Mr. Chairman, Chairman Stevenson, members of both committees. My name is David Hensley. I'm legal counsel for the Governor. I appreciate the opportunity today to be here.

**UNIDENTIFIED SPEAKER:** Mr. Chairman, (inaudible) could we get Mr. Hensley to put a microphone on his tie so that we can -- up close to the knot, Mr. Hensley, so it's being recorded and broadcasted properly.

**MR. HENSLEY:** Well, that's technology for you.

Mr. Chairman, Chairman Stevenson, members of the committee, again, my name is David Hensley, legal counsel for the Governor. I appreciate the opportunity today to be here on his behalf to share his insight into this historic occasion, his insight on the framework and the legislation that you have before you.

From the Governor's perspective, the framework is really a road map that settles the current litigation between the state and the company. And in addition to that, it is made up of various components that have to be completed in order for us to reach that settlement. One of the components is the legislation that you'll be considering today. And you'll hear more from Mr. Strong from the Attorney General's Office on that point.

I think it's also important to point out that the framework is an opportunity - it's an opportunity to reaffirm the original Swan Falls Agreement and the principles that were set forth in that Agreement.

Moreover, it provides an opportunity for the state and the company to move forward on other aspects of its relationship, our relationship with the company, and other things that we need to work on. It really establishes a new day.

The Governor supports the framework and as a signatory to that, he supports the passage of this legislation. He believes that it's a great

example of what people can do when they sit down and talk to each other, when they recognize the mutual interest that they have, and what can truly benefit everyone involved.

We believe that the framework and its components are the right thing to do, and the Governor believes it is the right time to do it.

With that, Mr. Chairman, I stand for questions or turn the time over to Mr. Tucker from Idaho Power.

**CHAIRMAN SENATOR SCHROEDER:** Any questions from Mr. Hensley?

All right. Mr. Tucker?

**MR. TUCKER:** Mr. Chairman, thank you. Chairman Stevenson, thank you, members of the committee. My name is James Tucker, I'm an attorney with Idaho Power Company. I've been before you before; I think you probably remember a few years ago when I was before you on a very contentious matter that we're going to resolve today.

I'm here to -- please don't be afraid. These are not my remarks. I'm not going to take that long, but I do have a copy of the framework in front of me, and if you have questions, I'll be happy to answer any questions you might have.

I want to start out by just kind of describing what this settlement is and what it is not. What it is not, it is not a change to the Swan Falls Agreement. We reaffirm the Swan Falls Agreement. We've sat down; we've looked at the matters that were in contest over the past several months and few years, and we've clarified those matters under the Agreement and come before you today to clarify, not only the Swan Falls Agreement, but matters that have been in contest.

So, it doesn't change the Swan Falls Agreement. What it does do, it addresses three primary issues that have been in contest, for at least some uncertainty, for a period of time. One relates to the -- what might be called the "Milner Divide." Now, there's been some concern by upstream water users that Idaho Power sought to assert its water rights above Milner Dam.

In my view, that has not been the case, but there has been uncertainty about that. And we clarify in this Agreement that Idaho Power does not intend and, in fact, cannot under 42-203B(6) assert its -- B(2), excuse me, its water rights above Milner Dam.

Now, the exception to that over the past few years has been the contest that we've had about recharge. And we also resolve that issue today.

We confirm that under the Agreement we put before you today that Idaho Power has no right to assert under the Swan Falls Agreement that recharge cannot occur, either above Milner Dam or below Milner Dam.

The other thing it does is it resolves the issues relative to the decrees for Idaho Power's Swan Falls water rights in conformance with the decision that was rendered by the SRBA Court in April of 2008. So, it does those three things, and it resolves those three things.

It also sets the table for continued discussions between Idaho Power and the State of Idaho on other issues that we think, and the state thinks, are critical to continued cooperation on the river and continued water management issues on the river. So, you'll see in this framework in Article III that there is essentially a laundry list of issues that the state and Idaho Power agree that we're going to sit down with other parties, other interested parties, and we're going to try to, at least, discuss those issues. And to the extent there are concerns, matters of uncertainty or matters in dispute, we will seek to resolve them through some type of collaborative process.

Not all of those, we don't believe, are going to be a matter where there is going to be any kind of contest between us. But we found that over the past few years that many of those issues that we've listed there are not really conducive to litigation. They're public policy issues. They're issues that the state water users and Idaho Power should try to sit down and try to resolve in unison, as opposed to taking them before a court. So, they weren't really subject to litigation. They weren't things that could be appropriately litigated.

So, it sets the table, if you will, for description, identification, and, hopefully, resolution of broader issues between Idaho Power and the state and any other water users that might be involved for other interests on the river, frankly.

So, the other thing we think it does is in the context -- or at least Idaho Power thinks it does, is it solidifies relationships and, hopefully, helps to build relationships so that we continue to work on common water management issues on the river. We found that this is important over the years.

Frankly, what I think happened between the Swan Falls Agreement in 1984 and when we came to contest again in the 2000s was really a lack of communication. We really quit communicating with each other. We walked away from issues and found that when issues did come up, we got in a contest about them rather than sit down and try to resolve them.

Now, another thing I just want to briefly touch on is why this Agreement is important to Idaho Power. Why we believe it's important to the state, and why it's important to the citizens of Idaho. Idaho Power is an investor-owned utility, as you well know. It serves over 400,000 customers in the state of Idaho, the largest utility in the State of Idaho.

We rely upon, if you will, for about 60 percent of our hydro-generation -- on our hydropowered projects on the Snake River. So, a large portion of the generation we get to serve the State of Idaho, it relies upon

hydropower. That makes us a partner, if you will, on the river, with a large presence up and down the river.

As you also know through the CAMP process, which has been going through the legislature this year and has been before the Water Board for the last year and a half or so, there are serious water management issues that need to be addressed, not only on the Snake River Plain, but up and down the river as the quality -- as well as, water management and water use.

We have been involved in the CAMP process for the last year-and-a-half. We think it's been a wonderful vehicle for getting parties together in a collaborative way to try to resolve those issues. And in that context, this Agreement allows us to go forward, we think, and be more cooperative and really put contested matters behind us.

Idaho Power is also involved in relicensing up and down the river. We have a relicense pending in the Hells Canyon project. We just finished relicensing in 2004 for our mid-Snake projects. So, we have -- again, our presence on the river, we find -- we have a lot of issues on the river that we need not only to address ourselves, but we need to address in a cooperative manner with other parties. In the context of resolving this litigation, we are hopeful. In fact, we fully expect that this is going to facilitate those relationships up and down the river.

One of the issues we had pending in the Hells Canyon relicensing relates to a 401 certification process. In order to get a license for Hells Canyon, we have to get certification from both Idaho and Oregon that our water quality at Hells Canyon complies with each of those state's water quality standards.

One of the issues that we're dealing with, as far as water quality at Hells Canyon, is temperature. We have what is called a "temperature load allocation" below Hells Canyon Dam. We have two ways to resolve that. One way is to build a structure in Brownlee Reservoir -- which we believe is really not a good idea because of its impact on other water quality parameters, as well as fish and wildlife -- and address the issue of temperature that way. Or, another alternative is to move upstream and see if we can't do watershed measures that address temperature impacts up and down the river.

Now, to do that, we're going to be looking for cooperative relationships with people up and down the river, landowners, the state agencies, federal agencies. And, again, arguing having a wedge, if you will, between Idaho Power and people up and down the river, in that context, simply is not good business. So, this facilitates, we think, that relationship we're going to have to have up and down the river to address some of those other issues.

Our presence on the river, from not only below Milner Dam, but also up through American Falls, also makes us realize that this river system is one system. We, perhaps, better than anyone else know that. We have

obligations, as I say, down in Hells Canyon. We have obligations in American Falls. This is the holistic -- we think we need to address the river problems in a holistic manner. This is something that CAMP realizes, and something, I think, in the coming years, we're going to have to all deal with.

Now, one of the questions that is probably in some people's minds is: How did we get to this process of resolving these issues two years after we had a rather contentious debate over recharge in this body?

Well, I have to say that one of the primary motivators, again, came from this body after that contentious debate with the issuance of Senate Concurrent Resolution 136. This body, in fact, is a motivator for getting more than 50 stakeholders together in that CAMP process through the Idaho Water Resource Board and getting them to sit down. And I would commend this body, as well Governor Otter, and also the Water Resource Board, for doing that, because in my 25 years of dealing with water management issues and water issues, I've not been involved with anything that has been more collaborative, that kept people at the table longer, and had a better interaction of interests than that CAMP process.

And that really brought us to the point where we started to talk about things in a more, again, collaborative manner, in a more -- educating each other with respect to what our interests were and what the needs of the system were and what recharge was and what recharge wasn't.

So, rather than argue about what we argued about in 2006 -- I won't go back to it, but we started to look at things a bit differently. And as you know, in this CAMP process, Idaho Power has been active. We support it. We are engaged in a pilot recharge project with seven canal companies in the Milner Dam area. And we found that there are ways to work together to solve these issues, as opposed to being apart.

So, this communicating, this broad stakeholder involvement, we think, has gone a long ways to bring the interests up and down the river together.

We also found, when we got into litigation, that the Swan Falls framework offered, really, kind of a pathway for us to get together. There was a framework that was done in 1984, about four or five months prior to the Swan Falls Agreement, that had a provision in it that recognized that recharge was a management tool that should be explored and should be considered by the state, should be considered by Idaho Power Company, and there should be communication between those interests as to the effect of recharge not only on the aquifer to benefit those interests up and down the river but also on hydropower. That created somewhat of a bridge between us, to allow us to sit down and start to ask questions as to why we were arguing about things that maybe we could find a pathway and come together on.

So, there is a myriad of things that happened, but after that 2006 debate that we had, the fact that we were essentially forced -- not forced by the standpoint that somebody forced us to be there, but because of the need

to get matters addressed up and down the river, it brought parties together. And I think that was really the primary motivator that brings us here today.

So, I would commend the Governor's Office. I would commend the AG's Office and would thank them for their cooperation in putting this together. And with that, I'm going to defer to Mr. Strong to talk about the legislation, and I would stand for questions.

**CHAIRMAN SENATOR SCHROEDER:** Any questions?

Chairman Stevenson?

**MR. STEVENSON:** Thank you, Mr. Chairman. Mr. Tucker, I personally would like to thank you for your endurance the last two years as you sat through all those CAMP meetings and listened to the rhetoric -- sometimes that was not always complimentary -- but I do thank you for doing that and would appreciate it if you would take to Mr. Keen my personal appreciation for willingness to sit down and bring this document to us in these bills. Thank you very much. We appreciate it.

**MR. TUCKER:** Thank you, Chairman Stevenson. I would say that, really, the CAMP process has been a very worthwhile experience, and I wouldn't have missed it for the world in the context of meeting other people and having the interaction with other people and really establishing relationships up and down the river, as I say. I think it's going to really bring back many, many times to, not only Idaho Power, but also other interests on the river a lot of benefits. Thank you, though, for your comments.

**CHAIRMAN SENATOR SCHROEDER:** Further questions?

Mr. Cameron and then Senator Coiner.

**SENATOR CAMERON:** Thank you, Mr. Chairman. And Mr. Tucker, thank you for being here and for your comments, and I want to thank you for Idaho Power's role in helping reach this compromise.

You started your comments with three points that you thought were the major components or you believe are the major components of this framework. And I want to reiterate in my words what I thought I heard you say and have you indicate for us whether that would be the case.

First of all, I thought I heard you say that as part of this Agreement the issue of rights above Milner is resolved and that the company, the Idaho Power Company, recognizes that they no longer have any -- or recognized that they do not have any rights to water above Milner.

Third -- or, secondly -- and I don't know if I have these in the same order that you indicated, that water rights in the State of Idaho are issued decreed on the basis of the Snake River Basin Adjudication and that the water held in Idaho is held in trust by the State of Idaho.

And thirdly, that recharge is and was available under the Swan Falls Agreement -- in the initial Swan Falls Agreement and that nothing in this -- this reaffirms that ability for recharge. That's kind of my interpretation what I heard you say.

Would you clarify that for me?

**CHAIRMAN SENATOR SCHROEDER:** Mr. Tucker?

**MR. TUCKER:** Mr. Chairman, and thank you Senator Cameron. That's essentially it. I think I'll just kind of add a little bit around the edges, if I might.

On the first issue, we do clarify that Idaho Power does not have the right to call out its Swan Falls water rights above Milner Dam. Now, there has been concern by some interests up above Milner Dam that Idaho Power was trying to assert its water rights below Milner Dam -- those associated with the Swan Falls Agreement -- to preclude the use of water above Milner Dam.

We had clarified that we don't have the right to do that. Now, that said, we, obviously, do have certain rights above Milner Dam at American Falls Reservoir. With respect to our storage rights, we have the flow right of American Falls Reservoir and, also, we think we have the right, and I think the state agrees with this, to bring water past Milner Dam in the event that we lease water or acquire water above Milner Dam and bring it downstream. So, subject to those kinds of qualifications, I think you're accurate in your comments.

On the issue of the decrees, the issue of the decrees is that's correct. The judge entered an order in April of 2008 and, essentially, defined how Idaho Power's rights were going to be decreed, how they were going to be held. Idaho Power holds rights up to the minimum flows 39/56 CFS. The flows above the minimum flows are held by the State of Idaho in trust for Idaho Power and the benefit of the people of the State of Idaho.

Idaho Power has the right to use those flows above 39/56 until the state reallocates them, essentially, in accordance with state law. So, that is the confirmation of that issue. And the issue as to recharge, we are confirming that we do not have the right under the Swan Falls Agreement to preclude recharge. Now, we, like anyone else, if recharge affects us in any other way or it's not done in accordance with state law, we have all those other rights, but we are resolving that issue with respect to Swan Falls.

**CHAIRMAN SENATOR SCHROEDER:** Senator Cameron, follow-up?

**SENATOR CAMERON:** Thank you, Mr. Chairman.

Just one follow-up. I also want to make sure that we retain the right as the legislature through this Agreement to be able to adjust state law with regards to issues of recharge, et cetera, and that nothing in this

framework precludes the legislature from that responsibility and/or opportunity.

**CHAIRMAN SENATOR SCHROEDER:** Mr. Tucker?

**MR. TUCKER:** Chairman, again, Senator Cameron, that's correct, Senator. We cannot bind this legislature, obviously, through any agreement that we have with the Governor's Office and the State of Idaho. The legislature retains that authority to change state law with respect to recharge, or anything else.

What we've talked about in the context of this framework is just a realization and an interaction with the state that the recharge, like any other use of water, should be done in the public interest. There should be broad public policy debates. There should be consideration of the public interest. And subject to that, obviously, this body has the ability to legislate and change laws, as necessary.

**CHAIRMAN SENATOR SCHROEDER:** Senator Coiner, and then Representative Chavez.

**SENATOR COINER:** Thank you, Mr. Chairman. My question was partially answered by Senator Cameron's question, so I'll hold for a minute.

**CHAIRMAN SENATOR SCHROEDER:** Thank you.

Representative Chavez, and then Representative Wood.

**REPRESENTATIVE CHAVEZ:** It has a life of its own. Thank you, Mr. Chairs.

And Mr. Tucker, in Article III, on page 5, No. 4 at the bottom, probably everyone in this room understands this, but I do not. "Resolution of water management issues associated with the trust and nontrust water areas."

Could you explain what "trust" and "nontrust water areas" are, please?

**CHAIRMAN SENATOR SCHROEDER:** Mr. Tucker?

**MR. TUCKER:** Mr. Chairman, Representative Chavez, that, obviously, opens up a lot of doors in people's minds. But what it's meant to capture in the context of what we put down, the state and Idaho Power. "Trust water" is that water that flows -- there is a trust water line that's associated with the Swan Falls Agreement where certainly water that is to -- I will say -- the west of that trust water line is considered to be tributary to Idaho Power's rights below Milner Dam. Water that is associated to the east of that trust water line is considered to be nontributary to below Milner Dam.

Now, the reason that we put this particular article in here, this particular number in here, was because what we're finding is that -- in 1984, and let me assure people that we're not intending to redraw a trust water line here, but for the purposes of water management, in 1984 engineers drew

a trust water line that was not necessarily based upon the best science. It was an estimation. We're finding after 25 years that there are modeling results. There are various data that's out there that calls into question exactly what is tributary and what's nontributary. And for the purposes of administration, all we're doing is capturing here what we think -- moving forward, we need to sit down and talk about these issues so we're all on the same page as to what is tributary and what's nontributary and see if we can't work that out. It's probably more complex than that, but that's simply what it's intended to address.

**REPRESENTATIVE CHAVEZ:** Simple is good for me. Thank you.

**CHAIRMAN SENATOR SCHROEDER:**

Representative Wood, Representative (inaudible).

**REPRESENTATIVE WOOD:** Thank you,

Mr. Chairman. I might follow-up on that. The question I'm asking is also on the trust water. You said that Idaho Power has some right to use those trust waters that are not allocated to other uses that you have the same right. I'm asking you: What does that right entail? Is that a continuous right? Is it a rental right or a year or a season or exactly what? Would you tell me what that is?

**CHAIRMAN SENATOR SCHROEDER:** Mr. Tucker?

**MR. TUCKER:** Mr. Chairman, Representative Wood. Yes, the reference there is -- at the time of the Swan Falls Agreement, Idaho Power -- well, even now Idaho Power has water rights associated with the Swan Falls Dam, for instance, of 8400 CFS.

What we agreed to in the Swan Falls Agreement was to subordinate our water rights on the river and at Swan Falls down in the 39/56 -- 3,900 CFS in the irrigation season and 5,600 CFS in the wintertime. Now, that portion of the water that's above those minimum flows was set aside and placed in trust and was available to the State of Idaho to -- essentially, to reallocate to new uses in accordance with state law. In other words, someone would come in and say, "I would like to irrigate 100 acres of land." And they would get a water right, what is called a "Trust Water Right," they would get a water right to irrigate, and it would deplete that trust water amount.

What I'm referring to is that we have the right to use the balance or the overage -- is that until that trust water is used up, if you will, or allocated, we have the right to pass that through to our plants, and it's in perpetuity. I mean, if it's not ever used up, we have the right to pass through to our plants. In other words, we still hold that subordinatable right, what they call a subordinatable right, until the State reallocates it to someone else. I hope I'm being a little clear on that.

So, that's about the extent of it. If I'm not clear, please say so, and I'll be

happy --

**REPRESENTATIVE WOOD:** Mr. Chairman, that answers my question. Thank you.

**CHAIRMAN SENATOR SCHROEDER:** Thank you.

Representative Hagedorn and Representative Raybould.

**REPRESENTATIVE HAGEDORN:** Thank you, Mr. Chairman. It appears that our Murphy gauging station is kind of central to determining our livelihood. Who owns the Murphy -- who owns and operates the Murphy gauging station? Who calibrates that and (inaudible) that calculation?

**MR. TUCKER:** Well, I'm not sure that I can answer that, specifically. Maybe ask that to Mr. Strong.

My -- I want to say it's owned by the USGS, but I'm not sure that is what I'm thinking. And they do the calibrations, but I think Mr. Strong or, perhaps, Director Tuthill could probably address that better.

But, you're right. It is central to these issues because that's where the measurement, the ultimate measurement is made.

**CHAIRMAN SENATOR SCHROEDER:** Mr. Strong, do I see your head saying affirmative on the USGS thing? Okay. Thanks.

Okay. Representative Raybould?

**REPRESENTATIVE RAYBOULD:** Mr. Chairman and Jim, I just want to add my thanks to you and your company for the good faith negotiations that have taken place here. This Agreement reflects, I believe, on the same grounds and the same philosophy that we did in the Swan Falls Agreement.

I was involved in that Agreement in putting together -- working with the Attorney General's Office and many of the things that went into that Agreement. And in looking this over, I believe that this does clarify a number of those questions that came up over the past two or three years from the Swan Falls Agreement. And I appreciate the Attorney General's Office, the Governor's Office, and your company in these good faith negotiations, and I believe this document that we have here and these three bills that are going to accomplish this, I think are a great advantage to the State of Idaho. Thank you.

**CHAIRMAN SENATOR SCHROEDER:** Thank you, sir.

Mr. Strong, would you like to --

**MR. STRONG:** Mr. Chairman, Chairman Stevenson, members of the committee, it's a pleasure to be here this afternoon to address you on this framework agreement.

Before I get into my remarks, I would like to acknowledge two of my colleagues that are here in attendance with me today: Michael Orr and Shasta Kilminster-Hadley. They've worked tirelessly on this effort, and I wanted to give them acknowledgment on the work that they've done on that.

Turning to the Agreement, itself, my responsibility is to walk you through the Agreement. There are a lot of attachments to that Agreement, but the bottom line, and the ones that we need to look at are the framework, the memorandum of agreement, and, then, three pieces of legislation, so I'll kind of work through those in that regard.

With regard to the framework, Mr. Tucker has done an excellent job of describing what that is. It is what it's intended to be: A road map for how we would resolve the current and pending litigation over the interpretation of the Swan Falls Agreement. Itself is not a settlement document. The settlement constitutes the acts that are required under the executive and legislative and judicial branches.

With regard to the intent, I would echo Mr. Tucker's comments, as well, that the purpose here is not to change, alter, or affect in any way the original Swan Falls Agreement, but rather to, as noted in the title, to reaffirm those principles. And what we're really reaffirming is the fundamental policy decision that was made back at the time in the Swan Falls Agreement reflecting historic practice that we treat the river as a divided river at Milner. The water above Milner is intended to be administered as one source, and the water below Milner is administered as a separate source.

Now, having said that the river is divided, I would also concur in Mr. Tucker's comments that the river is united because regardless of the fact that whether we administer water rights below Milner to affect waters above Milner, the reality is that water flows past Milner and contributes to the flows that help in providing the generation necessary to provide the low-cost power we get from the company.

And so, in that regard, I think one of the fundamental characteristics of the original Swan Falls Agreement was to get the company and the state on a common footing to talk about how to effectively manage this resource in a way that achieves the many multiple benefits that we need to have as citizens of Idaho from this particular resource, both low-cost power and the opportunity for economic growth and development and protection of the various recreational and aesthetic values that we get from the river, as well.

I would also concur with Mr. Tucker's comments that what likely has happened is the situation with many families where over time you have a common purpose, but as you grow up, your purposes change, and sometimes you don't come back and reconcile those as necessary and instead what happened after the Swan Falls Agreement there was this kind of sense of relief. Anybody that lived through that particular battle

will recall that that was a pretty intense conflict. So, just the relief from having that conflict resolved, I think, led to us moving on to other issues and, unfortunately, not maintaining those relationships that we need to have within our families and within our business structures.

And what we're hopeful this Agreement will do today is restore that conversation we need to continue to have with the company and with our other citizens in the state to make sure that we're managing this resource in an effective way.

In that regard, the issues that were really at play are the three that were discussed. The idea of: Do we administer water above Milner to satisfy needs below Milner? How are the water rights intended to be decreed given the legislative trust that was created? And third, Was it the intent at the time of the Agreement to include aquifer recharge as one of those uses that could have the benefit of the water made available through the Swan Falls Agreement?

And Mr. Tucker accurately represents that, in fact, we have resolved all three of those questions in the affirmative. And affirmative being in the sense that this acknowledges that under 42-203B(2) that the river is divided at Milner and that the company's rights do not extend above Milner for purposes of administration. And that the -- we agreed that the court's decision on summary judgment is the appropriate resolution of the ownership of the rights.

The decrees that are set forth in Exhibit 6, you will see that the initial rights for the Swan Falls facility up to 3,900 CFS -- during the irrigation season and 5,600 CFS during the nonirrigation season are to be held in the name of the company, subject to those subordinations that are contained in the original Swan Falls Agreement and the 1180 contract.

So, for example, water rights with the priority date earlier than 1984 are the ones that enjoyed the benefit of a subordination and would not be subject to call even if the flows fall below 39- and 56-. And, likewise, those water rights that were intended to be protected that were in the process of perfection at the time the Agreement would also enjoy the benefit of subordination.

The other water rights for Swan Falls, plus the water rights for other facilities, other than CJ Strike, upstream to Milner Dam, as you will see in the decrees, will be decreed in the name of the State of Idaho as trustee for the benefit of the citizens of the State of Idaho and for the benefit of the power company. And correctly, Mr. Tucker reflected the fact that the company is entitled to use that water that's available at its facilities but that is a defeasible right. To the extent that we develop new water rights, these new water rights will then enjoy the benefit of the subordination that was provided for under the Swan Falls Agreement.

So, how do we go about reflecting that in the context of the settlement that you have before you? Well, the first place that we do that is in the framework. And there are four parts to the framework that serve distinctly

different functions. The Article I is intended to provide the context of how we related the settlement that we're bringing to you today back to the original Swan Falls Agreement. And the "whereas" clauses that are contained in that article are drawn largely from the original Swan Falls Agreement, the Swan Falls framework, and the state water plan amendments that were adopted, as part of the original Agreement.

By referencing some, but not all, of those provisions, there is no intent to diminish or to suggest that the value of the other provisions that are contained in the original Swan Falls Agreement are no longer valid; rather, the objective here was just to isolate those provisions that are necessary to identify and put in context the resolution that we are reaching. So, for example, the recognition under the original Swan Falls Agreement about the importance of the family farm and the farming traditions continue to remain in Idaho Code and remain unchanged and are not affected by this Agreement.

Likewise, in Article I, we try to make the point that as we move forward, we're reaffirming these principles. We're not changing them. They're to remain unchanged. Now, as having said that, Article II, is actually the framework that will lead to the settlement. And it calls for certain actions to be accomplished by this body, by the judiciary and by the executive branch in order to fully effectuate the Agreement. The framework is that first step that has been signed by the company and the state. The second step is approval of a memorandum of agreement. And the contemplation is that memorandum of agreement will be executed once legislation has passed and decrees are moving towards the court.

That memorandum of agreement I'll talk about a little bit more, later. It would be between the Governor's Office and the Water Resource Board and Idaho Power Company.

Then there are three pieces of legislation that will be the next part of my presentation that are critical to effectuating the intent that we've discussed, and, finally, entry of the decrees. So, that's the road map that we're on and assuming that all of those actions are accomplished in a timely fashion within 90 days, then we will have an effective resolution of the pending litigation and it will provide the pathway forward in terms of implementation of other aspects in the Swan Falls Agreement.

Now, Article III is separate and apart from the Swan Falls Agreement. And it's not intended to identify any or suggest any changes to the original Swan Falls Agreement; rather, what it is is an acknowledgment that there are certain issues that we need to discuss. And one of those was brought up in questioning Mr. Tucker. That is: How do we measure the flows at Murphy gauge? Because it is central to this Agreement that Murphy gauge is the place where we make the decisions on how to administer the water rights.

Presently, the USGS gauge is controlled by the United States Geologic Service, USGS. Other water measuring stations upstream, some of them are under USGS administration, some are under Idaho Power Company Administration. It's kind of a mix. And that's why one of the first issues

we list in this Article III in terms of future discussions is making sure that we have a common understanding on how that administration is to occur. And an example of why we need to have that and why we need to make sure that everyone agrees on the gauging stations that are going to be applicable and how they are calibrated is that in the Swan Falls Agreement -- the original Swan Falls Agreement, it provided that the fluctuations and the operation of the company's facilities are not to be considered as part of the flows and the Murphy gauge.

So, for example, if the company is doing load following for one of its upstream facilities and that would cause the flow to fall below 3,900 CFS or 5,600 CFS, that doesn't constitute a violation of the Agreement. Likewise, if the company, as Mr. Tucker referenced acquires water above Milner, the intent is to make sure that that water is not counted towards those flow conditions that come through the facility. The original Agreement contemplated that those would be supplemental to those particular rights.

Other issues that are of need of immediate attention deal with the American Falls Dam. American Falls, like these facilities, has a long history of relationships between the power company and water users, and certain agreements and commitments were made, and so we need to get those reflected in the SRBA decrees that are coming forward. And so, we're committing ourselves to begin discussions with the water users, the Bureau of Reclamation, and the company to see if we can't amicably resolve those issues consistent with the principles of this Agreement.

The issue about reevaluating term permits -- one of the issues under the Swan Falls Agreement is: How is the state going to be able to effectively ensure or provide that that 39/56 CFS flow at the Murphy gauge? And one way we did that was in issuance of new trust water rights was to impose a term condition on those water rights of 20 years. Those terms are now coming due, so it's now time to evaluate how those water rights affect or play into the overall agreement, so we need have those discussions and the Department has begun its process evaluating those rights.

The water management issues with regard to the trust line -- Mr. Tucker is correct in his representation to you on that, as well. Nothing in this Agreement contemplates change in changing the trust line. The trust line will remain in place where it's at, but the practicalities are the water rights -- some of the water rights outside the trust water could affect the flows in the river, and we need to take that into account in how we do our administration and achieve our particular flow conditions.

The next item, "Effective Water Marketing System." That was proposed as part of the original Swan Falls Agreement that there would be discussion of a water marketing system. I believe at the time of the Swan Falls Agreement that focused primarily on DCMU use. But as history has shown, our water use patterns have changed since the Swan Falls Agreement. We now have flow augmentation. We have water acquisitions to Bell Rapids, and there have been a lot of other factors that

affect how we conduct our water marketing activity above Milner.

And so, the idea is that we need to sit down and have that conversation. But the important point to take away from this provision is that we're not predisposed to a particular outcome. We're not indicating that we're intending to change state law or any other aspect of agreements that exist now presently between the parties, but rather, we need to have a conversation to talk about how we globally take into account all of the various competing demands for water supply.

The next item, "Resolution of Idaho Power Water Rights and American Falls, and the American Falls Reservoir Contract." I've spoken to you about that. Those are issues that are pending, either in the SRBA or in federal district court that we'll need to work through.

And I thought Mr. Tucker did an excellent job of describing to you the importance of the state and the company and water users working together on the relicensing the Hells Canyon Dam. It is the facility that carries the lion's share of the load for us, providing us with dependable low-cost power supply. It's in the state's interest, as well as, the company's interest, to find an opportunity to relicense that facility in the most effective way.

And, we, in looking at some of the proposals that are coming forward from the company, see some opportunities where by enlarging the (inaudible) will have an opportunity to resolve not only the company's needs but some other water supply problems, as well. So, the contemplation would be that we would have water discussions.

This list is not intended to be comprehensive. It's intended to be suggestive on some of the things that we should be talking about. Again, it's not intended to be focused on a particular outcome or disposition, but rather a reaffirmation that is consistent with the Swan Falls Agreement; that we need to dialogue on these issues.

With regards to Article IV, it's what we call in legal parlance, "the general provisions." It's intended to set forth the understanding of the parties, specifically, the first paragraph of Article IV reaffirms all aspects in the Swan Falls Agreement. And I think that is critical because if we get down the road in terms of interpretation issues, we're making it clear that our intent of this Agreement should be interpreted consistent with the original Swan Falls Agreement.

We also set forth recognition -- Senator Cameron asked the question about the legislature's authority. This Agreement fundamentally contemplates that these issues with regard to water management, are public policy decisions that are committed to the Water Resource Board and the legislature. And so, by this Agreement, what we do is resolve the company's water rights and those are fixed and set. But in terms of the legislative policies that are set forth in statutory provisions, those are within your prerogative to leave in place or alter or amend as you see fit in the future. So, that's quickly what the framework does.

Turning to the Memorandum of Agreement, again, the "whereas" clauses are drawn from the original Swan Falls Agreement, Swan Falls framework, and the water plan amendments that were adopted at that time to provide context for this particular memorandum of agreement. The agreement does two things, really. First, it fundamentally acknowledges that the state and this body are in the process of making a decision that the way we're going to manage the Eastern Snake River Plain Aquifer is pursuant to the Comprehensive Aquifer Management Plan. And within that CAMP document is the recognition that recharge up to between 150,000 and 250,000 acre feet is in the public interest, and that we are going to implement that recharge through a phased-in approach, and you're being asked to consider during this session, Phase I.

And what we have set forth is an understanding that that is going to be the template for future recharge in this particular basin, absent an amendment or change by this body as required for any change to the state water plan.

There is language in here that contemplates a phase-in approach, the original contemplation under Phase 1 is that we would do 100,000-acre feet of managed recharge, but there is an acknowledgment that the Board may find it necessary in terms of Phase I to look at some amount of recharge in excess of that, so the idea is to build in flexibility. And so, up to 175,000 acre feet of recharge could go forward under CAMP without coming back to the legislative body. If we go above that within the first 10 years, then the contemplation is that we would come back not as an amendment to the state water plan but rather just to get the concurrence of the legislature that we need to move to a different amount of recharge.

We expect those decisions will be informed by the adaptive management program. We, in talking with the agency, feel that this is an appropriate way both scientifically and from a policy perspective to implement recharge in a way that we can evaluate its effectiveness as one of the tools. And I want to emphasize "one of the tools" for restoring the water balance in the Eastern Snake Plain Aquifer.

The other aspect of the Agreement is an acknowledgment that while the company doesn't have the right to assert the hydropower water rights as a basis for opposition to recharge that they haven't relinquished the rights that any other citizen would have under state law to voice its concerns and work with the Board to take into account the impact of recharge. Frankly, it's good public policy that we have those discussions because where recharge is done can have dramatic effects in terms of the operation of the river, just like a reservoir would. So, from that perspective, we believe it's important that before we move forward that we have that dialogue and try to optimize the tools that are available to us to achieve the broader policy objectives we're after.

There is also a provision in there. And I think it's fundamental to the Agreement is that if we're going to make these decisions, if we, as a state, choose to take on this authority to make decisions about water policy that

we be held accountable for those decisions. So, in the event that we're implementing recharge and we see that there is a direct effect of recharge on hydropower resources that they could be used to generate power. There is an acknowledgment that the Governor and the Water Board would so advise the PUC of those direct effects, but those are determinations made by the Board and the Governor. That's really the effect of the memorandum of agreement.

Now, let's turn quickly to the three pieces of legislation -- the part that we're asking you to handle today. And the --

**CHAIRMAN SENATOR SCHROEDER:** Excuse me.

Senator Coiner?

Before we move on, can we have some questions?

**CHAIRMAN SENATOR SCHROEDER:** Senator Coiner?

**SENATOR COINER:** Thank you, Clive.

Could you explain the zero flow at Milner and what that means and put that in context for us?

**CHAIRMAN SENATOR SCHROEDER:** Mr. Strong?

**MR. STRONG:** Chairman, Senator Coiner, I'd be pleased to do so.

There's probably few concepts of water law that are more misunderstood more than the zero flow at Milner. Conceptually, when we think about it, our minds go immediately to the idea that we're going to regulate the river down to no flow.

In reading historical documentation, though, the zero flow policy at Milner really relates back to a decision that was made back in the 1920s, interestingly enough, by the Bureau of Reclamation and the State of Idaho that because as the water enters the canyons below Milner, it wasn't accessible; that the maximum or optimal utilization of the resource would occur by optimizing the amount of water that could be diverted and used above Milner.

So, the intent was, at least from my recollection and review of historical documents, was that we were not necessarily managing the river to zero, but, rather, the intent was to make it clear that we have the ability to divert water if we could make beneficial use above Milner, because there wasn't a contemplation that we would manage the river to zero, per se.

**CHAIRMAN SENATOR SCHROEDER:** Senator Coiner?

**SENATOR COINER:** Yes. And, then, could you address how the Swan Falls Agreement and this settlement has affected other water rights that are in the reach?

**MR. STRONG:** Mr. Chairman, Senator Coiner, the intent of the parties is for this Agreement to effectuate the relationship between the power company and the State of Idaho. It's not intended to affect other issues. So, for example, there is a current controversy over the permit for Milner Dam that is held by Twin Falls and North Side Canal Company, and whether the director appropriately imposed a subordination condition on that permit. That is a separate matter. It is not resolved by this issue.

Likewise, there are other interpretation issues with regard to the Swan Falls Agreement in terms of its effect on spring flows. Those are not intended to be resolved; rather, this Agreement is intended to focus exclusively on that relationship between the state and the power company.

**CHAIRMAN SENATOR SCHROEDER:** Senator Coiner?

**SENATOR COINER:** The other thing you addressed is the water marketing. And I've had concerns about this that you and I have talked about a lot. In looking at that into the future and being a part of this and working more on water marketing, what do you see in the development of adequate and transparent accounting and the prevention of injury to senior water rights by that marketing?

**CHAIRMAN SENATOR SCHROEDER:** Mr. Strong?

**MR. STRONG:** Senator Coiner, the reason I took some special time to talk about water marketing is because it is one of those types of lightning rod issues. There are a lot of expectations built around the water supplies in the Upper Snake River Basin. We're having more and more demands placed on us, the flow augmentation, the idea of trying to provide water for recharge, water for soft conversions from groundwater to surface water use, to address the (inaudible) aquifer. The point that I'm making is the demands on that supply are very intense; yet, how we administer that system can have dramatic effects on different people.

If there's more demand placed on the system in terms of storage water rights, it can create a bigger burden for the storage-space holders. On the other hand, if the storage-space holders have too much freedom to move water below Milner it can have impacts on junior users that had come to expect the storage water to be used above Milner.

And so, from that perspective, I think we need to all take a step back, review the history of how we got to where we're at and then figure out how all of these various agreements come together. So, from that perspective, I think there is a need for a very serious dialogue on how we go about water marketing in terms of a particular outcome.

I'm not capable today to tell you what that might be, but I do know that that discussion needs to occur. And I think it needs to occur in the context where there is true transparency. More often than not, when you get into these types of controversies, it's because people are operating

on what they believe to be the facts, as opposed to what somebody else may see as the facts. And oftentimes, neither one of them are quite accurate in terms what that outcome is.

And so, I know that's a long answer, but it's a true answer that we need to have that discussion so that we can get that transparency and that those who rely on those water supplies can have confidence that the water rights are being administered by the Department in a way that provides the opportunity to use the water without creating secondary impacts on other users.

**CHAIRMAN SENATOR SCHROEDER:** Thank you, Mr. Strong. Thank you, Mr. Chairman.

Representative Wood?

**REPRESENTATIVE WOOD:** Thank you, Mr. Chairman. Clive, just so that I'm clear in my mind on the issue that I did talk about on the trust water, and you mentioned that Department -- or that Idaho Power might prescribe to use those waters that are not allocated.

My mind went further to the question if the director were to -- the petition for a water right to use some of that, is Idaho Power able to then, I guess - - I don't know whether they would be in a lawsuit -- that they would be able to protest that in some way or are they bound by any agreement to not interfere with the Department of Transportation -- or Department of Water Resources if they are petitioned for another use for some of that water.

**CHAIRMAN SENATOR SCHROEDER:** Mr. Strong?

**MR. STRONG:** Mr. Chairman, Representative Wood. The ground rules for allocation of trust water were spelled out as part of the original Swan Falls Agreement. And it's a two-step process. You've got the normal process for issuance of a water right and then you have what's called 42-203C, Idaho Code 42-203C, that spells out the criteria for how to make the determination whether it's appropriate to issue a trust water right. Nothing in this Agreement changes that standard.

Now, having said that, the company wouldn't be able to come in and make the argument that this is somehow injuring their water right. On the other hand, the company would have a right, as any other citizen, to use the processes that are available to the Department to make their opinion known about the effect of that water right. But it's not based on a water right. It's based upon the public interest standards of the statute that is enacted.

**REPRESENTATIVE WOOD:** Thank you, Mr. Chairman.

**CHAIRMAN SENATOR SCHROEDER:** Any further questions?

Senator Siddoway?

**SENATOR SIDDOWAY:** Thank you, Mr. Chairman. Clive, Mr. Tucker talked about the 3,900 – and, I believe, 5,600 CFS at Milner. And we always talk about 3,900. And when you see the jeopardy that we can have over, say, 4 CFS at one of the fish farms in the state that 56 CFS could be significant.

Could you straighten that out for me?

**MR. STRONG:** Mr. Senator, Mr. Chairman, Senator Siddoway. The way the agreement is set up is that from April -- the original Swan Falls Agreement is from April 1 to November 1. The flow conditions, 3,900 CFS at Murphy gauge. From November 1 to March 31, the number is 5,600 CFS. That is a nonirrigation season. It's the storage season.

Because of the zero flow at Milner, there is nothing that impairs the ability to store water above Milner. That's what that zero flow accomplishes -- or the zero flow policy accomplishes. And so, there really aren't competing uses in which we should have conflict with the 5,600 CFS other than the issue that we have been dealing with which is recharge. And by the resolution today, the ability to continue to do recharge that is found in the public interest pursuant to state law would not be affected by this Agreement. In fact, what it does is it allows that to go forward. You are correct, though, in observing -- and it's a concern that I think that we, as a state, need to address is the 3,900 CFS flow.

The original intent of the Swan Falls Agreement was that in the future as we develop that trust water, we were going to rely principally upon the flows of the Thousand Springs reach to satisfy that 3,900 CFS. And at the time of the Agreement, the thinking of the Department, their understanding was that those spring water rights were not ones that had a right to call against the aquifer. That was a fundamental assumption of the Swan Falls Agreement.

What we know today, though, is that that assumption is incorrect. That those spring flow water rights do have a right to call against the aquifer. And so, as a practical matter, to me, the problem we're going to have is not so much 3,900 CFS at Milner – I mean, at Murphy, but more the issue: How do we manage or deal with those spring flows? So, it's critical from my perspective that we get the CAMP process in place, start addressing the impacts on the spring flows; that way we'll help ameliorate the problems that we're having right now serving those fish farm rights while at the same time it will enhance those spring flows and have the benefit to the power company. I think that is fundamental to why this Agreement makes sense to us today and work forward to try to solve that problem in a way that uses tools that don't require a sledgehammer to get to 2 CFS.

**CHAIRMAN SENATOR SCHROEDER:** Questions? All right. Let's go through the bills.

**MR. STRONG:** Mr. Chairman, the first bill that I would bring your

attention to is Senate Bill 1167. And it's a rather simple bill, but what we're trying to do with 1167 is to acknowledge the fact that incidental -- not incidental, excuse me, managed recharge may have effects on surface flows similar to storage reservoirs.

For instance, as -- ironically, as you look back, one of the first fights that we had on the Upper Snake River was between the storage water holder -- storage space holders and the natural flow water users. We believe that the storage water rights were affecting their diversions of water. And that, ultimately, led to the committee of nine. Well, today we have that same issue coming back, but it's the spring users versus the surface water users and the storage-space holders. So, replaying history again here. But the idea is that since we know they can have those effects that we ought to be looking at these large managed recharge projects in the way that we take account of their effects up-front rather than waiting for the delayed effects.

And so, the idea is that under 42-1737, presently, we require reservoirs -- surface reservoirs of 10,000-acre feet or more to go through a public review process to make sure it's consistent with state law. We're proposing that we add that same requirement here for managed recharge projects that are in excess of 10,000 acre-feet an average annual basis.

And that way -- by doing that, hopefully, we can avoid creating an unintended problem by failure to consider how this private recharge project might affect the state water plan. That's really the only effect of that particular statutory provision.

**CHAIRMAN SENATOR SCHROEDER:** Do we have questions on Senate Bill 1167? Anyone?

Okay. Proceed.

**MR. STRONG:** The second bill that you have before you today is Senate Bill 1169. And Senate Bill 1169 is -- we're skipping 68. Sixty-eight is gone, and I'll come back to a new one in a second. Senate Bill 1169 deals with the PUC jurisdiction. And as part of the original Swan Falls Agreement, this body passed Senate Bill 1005, I think it was -- or 115. And that was codified in Chapter 14 of the 1985 Session Laws. It's an uncodified section that what it was intended to do was to make it clear that the company wouldn't be subject to ratepayer actions for entering into the original Swan Falls Agreement. Why was that necessary? Because the original Swan Falls controversy arose out of a conflict over whether the company had taken adequate actions to protect its water rights at the Swan Falls facility.

By reaffirming the Agreement, what the company is asking for is to make it clear that that same protection that they received back in 1984 continues forward to this 19 -- or 2009 settlement agreement. It's not intended to create any new benefits or any new burdens, nor is it intended to deprive PUC of its jurisdiction to determine whether a petition by the

company for inclusion of its rates of new resources acquired are reasonable and necessary. Those decisions are made. What it simply says is that the PUC will not go behind the framework of the Swan Falls settlement to say that entering into the agreement was a waste of the company's resources. So, that's the purpose for which it's intended.

**CHAIRMAN SENATOR SCHROEDER:** Questions for Clive on Senate Bill 1169? Anyone? Okay.

Do you want to tell them what we did with 1168?

**MR. STRONG:** Yes. Senate Bill 1168, we're withdrawing that and substituting in place of it Senate Bill 1185. And the only difference -- well, let me first describe what the bill is intended to accomplish and then I'll describe the difference between the two bills.

The purpose of Senate Bill 1185 is to confirm that the Swan Falls Agreement did not and does not preclude aquifer recharge. That is the first and primary purpose of that bill. And it does so by removing the reference to Idaho Code Section 42-234, which had the language in it that created the controversy during the House Bill 800 dispute a couple of years ago. It also would repeal Idaho Code Section 42-4201A, which contained similar language in it. But the reason that we're repealing Idaho Code Section 42-4201A is to consolidate all of the state -- or most of the state policies within Idaho -- the new Idaho Code Section 42-234, so there will be an easy reference to see what state policies are with regard to recharge. The legislation would reaffirm that recharge water rights will be issued in accordance with Idaho law and the State water plan, and it will reconfirm that the director has authority to regulate how recharge is implemented in order to avoid or prevent the creation of adverse effects on other beneficial uses.

A prime example of that is we certainly wouldn't want to be doing a recharge project that is causing a water quality problem that would thereby impact a water use that relies on water quality. So, it gives the director the authority to look at a broader basis and to make sure that as we do, as we implement the recharge project, we can avoid those kind of adverse effects.

The only real difference between the original bill that was before you and Senate Bill 1185 occurs in paragraphs 3 and 4.

In the original bill, we, as attorneys, were trying to consolidate and make things more concise, but there was a concern that in the process of doing that that somehow we may have lost some the intent, and that was expressed to us by the Idaho Water Users, some of the intent of the original bill. So, rather that create that kind of unintended consequence, what we agreed to do was to go back and include the express language from the current Idaho Code Section 422 – 4201A, subsections (3) and (4). So, those two sections that you see in the new bill substitute for the original section (3), and by doing so, this gives comfort that we are not changing the current recharge policy.

In addition, you'll see in this bill a couple of additional sections that are being referenced. That's only for the purpose of making it clear that since we're repealing -- we would be repealing 42-4201A and making the cross reference back now to 42-234 it's a way to do some housekeeping to make sure that we don't have inconsistent reference in those statutory provisions, but there are substantive changes by the inclusion of that particular provision.

So, Mr. Chairman, that is a quick summary.

**CHAIRMAN SENATOR SCHROEDER:** Just a note.

Committee, we suspended rules to reprint 1185, so you've probably noticed that the format of this is not like the other bills. 1185 you have in front of you. It's just a copy of the official bill that most of the time just the chairman sees.

So, anyway, question from Representative Wood?

**REPRESENTATIVE WOOD:** Thank you, Mr. Chairman. Just to be clear, Clive. I heard you say that you were now trying to consolidate all of the state policies for recharging into one place. And then if I got that correctly, would that be in the 42-25 or -- I didn't get the code section exactly right, I don't believe.

**CHAIRMAN SENATOR SCHROEDER:** Mr. Strong?

**MR. STRONG:** Mr. Chairman, Representative Wood, it would be consolidated in 42-234.

**CHAIRMAN SENATOR SCHROEDER:** Further questions?

Senator Hagedorn?

**SENATOR HAGEDORN:** This particular bill, 1185, page 2, paragraphs 3 and 4, was the director of the department (inaudible.) Is there built in somewhere a process where someone may protest that decision?

**CHAIRMAN SENATOR SCHROEDER:** Mr. (inaudible)?

**UNIDENTIFIED SPEAKER:** Mr. Chairman, Representative Hagedorn, yes, there is.

**CHAIRMAN SENATOR SCHROEDER:** Further questions?

Representative King?

**REPRESENTATIVE KING:** Thank you.

Mr. Strong, I'm concerned about recharge and how you measure it. And so, if a person that drills down to 100 feet this year and that goes dry into

the aquifer, are we going to try to maintain 100 feet or 50 feet that they have to drill? I'm sure --

**CHAIRMAN SENATOR SCHROEDER:** Mr. Strong?

**MR. STRONG:** Mr. Chairman, Representative King, the question you ask is not so much about recharge. Recharge is a way to try to replenish that water supply; rather, it's a question about how do we maintain an aquifer level.

And there are statutory provisions that give the director the authority to establish what's called "a reasonable pumping level." Without getting too far afield today, let me just suggest to you that establishing a reasonable pumping level is extremely complicated, particularly by the fact that we have an aquifer that extends over an 11,000 square mile area and doesn't have homogeneity in the types of rock formations in which the water is flowing through.

So, that's one of the issues that is front and center right now in the A and B delivery call that Justice Schroeder just issued a decision recommending to the Department that they consider establishing reasonable pumping levels. I'm confident that the department hasn't had a chance to take a position on that yet, but that is an issue that we'll have to deal with because as a practical matter, if we draw the water down too far, it becomes an economic impact, and at some point an economic impact should not be visited on the existing user.

**CHAIRMAN SENATOR SCHROEDER:** Further questions?

Now, I understand that Norm (inaudible) from the Idaho Water Users Association has called and said 1185 is acceptable to them. I think it was Senator Coiner that related that to us.

Okay. So, further questions? All right. Thank you.

Anyone else here that wants to --

**UNIDENTIFIED SPEAKER:** I have one question for you, Clive, and that's not on this legislation, but on your Agreement. It's based on the legislature passing House Bill 264. If for some reason that didn't pass, is that null and void there? Because that's the one that puts the CAMP process into the river -- or into the water.

**MR. STRONG:** Mr. Chairman, Representative Stevenson, that would be a potential outcome, not necessarily the outcome, but, certainly -- although we don't incorporate the CAMP legislation into this bill, if that were to change, then it affects some of the fundamental aspects of the Agreement, and we would have to sit down around the table and see if we can resolve that issue.

**CHAIRMAN SENATOR SCHROEDER:** It's scheduled for hearing on Monday.

Further questions? Representative Wood?

**REPRESENTATIVE WOOD:** Mr. Chairman, if I might, just be sure that I'm writing this down correctly, are you saying that House/Senate Bill 1185 replaces Senate Bill 1168?

**CHAIRMAN SENATOR SCHROEDER:** That's correct.

**REPRESENTATIVE WOOD:** Okay. Thank you.

**CHAIRMAN SENATOR SCHROEDER:** Further questions?

**UNIDENTIFIED SPEAKER:** Mr. Chairman, I guess the only other question that I would like to ask does not involve Mr. Strong but the director.

**CHAIRMAN SENATOR SCHROEDER:** Absolutely.

Mr. Director, would you answer questions of the Chairman?

**UNIDENTIFIED SPEAKER:** Mr. Tuthill, you have reviewed this. Have you found anything here that you wouldn't be able to administer or to live with?

**MR. TUTHILL:** Mr. Chairman, Representative Stevenson, through the process, there has been good coordination between those that were involved in developing this Agreement and the agency. We've had many opportunities to provide input and weigh in. The Department is very supportive, as is the Governor's Office, of this bill and the various provisions. And these elements are administrable in my view, so I'm very supportive.

Mr. Chairman, if I could add on to that one clarification. There was a question by, I believe, Representative Hagedorn about the entity that conducts the measurements at Swan Falls. And Mr. Strong asked me at the break if it really is USGS. I confirmed "yes." And while on one hand at one time the USGS did for many years conduct a measurement. I might clarify I was told -- we just double checked, and that is one device that has been assigned to Idaho Power Company for measurement as a cost-saving measure.

And as Mr. Strong indicated up and down the Snake River system there are many measuring devices; some are monitored by USGS, others by Idaho Power. That particular one right now is monitored by Idaho Power Company, and it points out that we do want to beef up our measuring capabilities on the Snake River below Milner, as we move forward, and that is one provision of the Agreement.

**CHAIRMAN SENATOR SCHROEDER:** All right. Any questions for the director?

Representative Raybould?

**REPRESENTATIVE RAYBOULD:** Thank you, Mr. Chairman.

Director Tuthill, do you know if the Murphy gauge, if that measurement is by telemetry or if that has to be physically measured?

**MR. TUTHILL:** Mr. Chairman, Representative Raybould. I believe it's on the hydro method. Let me take a look at Mr. Anderson just for a moment to confirm. And he is nodding, "yes, it is."

**UNIDENTIFIED SPEAKER:** Mr. Chairman, just a comment. If that is by the hydro telemetry process, there would be a record of that all of the time then, automatically, wouldn't there?

**UNIDENTIFIED SPEAKER:** Yes, Mr. Chairman, Representative Raybould. For most of us, as we look at the device, it's transparent as to who was actually monitoring that gauge. It's a multi-year gauge measurement, and it's been continuous through many years as it's passed from USGS to Idaho Power Company.

**UNIDENTIFIED SPEAKER:** Thank you.

**CHAIRMAN SENATOR SCHROEDER:** Further questions?

All right. Thank you, Director.

Is there anyone else that wanted to testify on these bills?

Okay. What we're going to do at this time is we're going to allow the house members to leave and the Senate is going to consider the bills, and we can get this moving.

Chairman Stevenson?

**CHAIRMAN STEVENSON:** Mr. Chairman, for the House members of the committee, these will then go through the process in the Senate? And when they're read back across the desk for the House, then we'll have to have a short meeting to vote on each one of these bills as they come back, and that's the intent.

**CHAIRMAN SENATOR SCHROEDER:** All right.

Thank you, everyone, for coming.

(End.)

**ADJOURN:** The Joint meeting was adjourned at 2:45 p.m.

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Senator Gary Schroeder  
Chairman

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Juanita Budell  
Secretary

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Representative John Stevenson  
Chairman

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** April 7, 2009

**TIME:** 1:30 P.M. or Upon Adjournment

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence

**ABSENT/  
EXCUSED:** None

**GUESTS:** Nate Helm, Sportsmen for Fish and Wildlife; Sharon Kiefer, ID Dept. of Fish & Game; Beth Markley, ID Council on Industry & Environment; Colleen Andrus; Charles Chapin, Disabled American Veterans; James Burgess, Disabled American Veterans; Dustin Miller, Office of Species Conservation; Cal Groen, IDFG; Matt Compton, ID Sportsman Caucus Advisory Council; Douglas Schleis; Wally Butler, ID Farm Bureau Federation; Benjamin Davenport, ID Outfitters and Guides Assoc.; Colby Cameron, Sullivan & Reberger; Kent Causer, ID Farm Bureau, John Chatburn, Governor's Office

Chairman Stevenson called the meeting to order at 2:40 P.M. and a silent roll was taken.

**MOTION:** Rep. Pence made a motion to approve the minutes of the March 31<sup>st</sup>, 2009 as submitted. On a voice vote, the motion carried.

Chairman Stevenson provided copies of a letter to the Secretary of the Interior from Committee members regarding the delisting of wolves and asked members to sign if they desired.

**S 1141aa:** **Senator Siddoway** presented the amendments to this bill to the Committee. He explained that **S 1141aa** is the fee increase asked for by the Idaho Department of Fish and Game. He reported that when the bill was in the Senate, it was amended to freeze the resident license and fees and gave a 7 ½ % increase to out of state residents. The amendment also set up a bonus or preference program to be developed by the Commission. He explained that the purpose of the preference or bonus program is to ensure that hunters have an equal chance to obtain tags for controlled hunts and makes sure that newcomers do not get pushed out of the process. He further explained that these tags would be for high sought after areas that have few permits available.

In response to a question regarding the fiscal impact of the bill with the proposed amendments, **Sen. Siddoway** explained that the fiscal impact would be the same as the original bill with the additional income from sales of the preference or bonus program.

In response to a question regarding the impact of the amended bill on

outfitters, **Sen. Siddoway** explained that fee increase of 7 ½ % would not inhibit anyone from coming to the state to hunt. He further explained that in comparing Idaho's license tags to surrounding states, Idaho is in the middle of the pack. In response to a question regarding if other states are facing the same kind of situation with wolves, **Sen. Siddoway** explained that time will tell. He further explained that with the wolf situation, Idaho is losing some of its reputation of being one of the best places in the nation to hunt.

In response to a question regarding the fiscal impact of the amendment on the bill proposed by **Sen. Schroeder** which asks for the continuation of monitoring of elk, deer and moose, including predation by wolves; **Sen. Siddoway** explained that there is no additional fee or fiscal impact attached to the amendment.

In response to a question regarding the reason to raise fees in the middle of a recession, **Sen. Siddoway** explained that the Department has been up front with stakeholders in explaining their needs. He further explained that the Department's financial needs will be taken care of for at least one year with the passage of this legislation depending on how many non residents come to hunt in the state.

**Cal Groen**, Director of the Idaho Department of Fish and Game addressed the Committee. He explained that the initial proposal would have kept the Department stable for three years and with the proposed amendments, the Department will be kept stable for one year and that depends on how many out of state hunters come. He explained that the Department has delayed asking for a fee increase for two years. He reported that there is broad support for the fee increase. He also reported that sportsmen's licenses fees have not kept up with fish and wildlife program demands. He explained that the Commission and sportsmen advocate that their license dollars should be directed at hunter and angler activities.

**Mr. Groen** reported that over the past four years, the Department has grown only 2% while other agency budgets have averaged a 25.9% growth. He explained that as a solution, the Commission approved and recommends a 15% overall revenue increase that would generate \$5.1 million per year. He further explained that the amended revenue increase would last one year and could provide for some on the ground programs desired by hunters and anglers if nonresident license sales for elk and deer remain stable.

**Mr. Groen** also reported that the Department will continue to monitor and study elk, deer and moose populations, including predation by wolves as outlined in **Sen. Schroeder's** amendment. He explained that the Department is spending about \$1 million a year on monitoring and has the biggest operation in the nation.

**Mr. Groen** explained that without the revenue increase, the Department anticipates it will drain the \$3 million Budget Stabilization Account, and further erode existing sportsmen services.

**Mr. Groen** briefly discussed the Department's proposed program expansion.

Some of these programs include, additional cost for food for the trout hatcheries, wildlife habitat, wildlife management areas, pheasant hunting and public access.

In response to a question regarding possible revenue from the sale of wolf tags, **Mr. Groen** explained that delisting is a good plan and the sale of wolf tags could generate \$.5 million. He further explained that the Department will encourage and promote wolf tags.

**Mr. Groen** explained that 90% of Idaho citizens value wildlife and most feel that if you play, you should pay. He reported that 31 states have broader funding and the Department is desperately searching for broader funding.

**Sharon Kiefer**, Assistant Director of the Idaho Department of Fish and Game addressed the Committee. She discussed some of the elements of what **S 1141aa** does. She explained that the license schedule in the bill erases the current Control Hunt Permit and its fee of \$6 for all species except for turkey. She further explained that this represents a reduction of up to \$243,000 in revenue. She reported that the license schedule in the bill creates a differential resident/nonresident fee structure for certain licenses and permits which currently have a single fee. This would require some administrative changes and there will be some limited up front cost.

**Ms. Kiefer** explained that new revenue generated from this bill comes from nonresidents. Nonresident sales will ultimately dictate how much new revenue is accrued. She further explained that **S 1141aa** does not create long term funding stability for the Department, but would get them through FY 2010.

In response to a question regarding the possible interest in wolf tags, **Ms. Kiefer** explained that they estimate about 250,000 would be interested and the bulk are residents with about 30,000 nonresidents.

**Nate Helms**, representing Sportsmen for Fish and Wildlife addressed the Committee. He explained that the Department of Fish and Game had a good plan to move forward to implement their vision. He explained that his group is in support of the proposed enhancements. He also explained that the Department has responded to the challenges presented to them and the reduction in fees could have an impact on programs.

**Benjamin Davenport**, representing the Idaho Outfitters and Guides Association addressed the Committee. He explained that IDFG has been very straight forward and accommodating throughout the process of proposing fee increases. He explained that the original proposal would have generated a much larger more viable amount of new revenue for the Department and would have made it easier for the Outfitters and Guides Association to not comment on the legislation. He reported that with the amendments, **IOGA is in opposition to S 1141aa**. He explained that the focus solely on nonresident fee increases will be a detriment to Idaho's rural economy and their industry. He further explained that current bookings for their Association are down 35 to 40% compared to this time last year.

**Mr. Davenport** explained that the IOGA is also concerned with the "bonus

or preference point” system. He further explained that this system does not guarantee success in draw hunts. He also explained that the organization is concerned that the “emergency clause” in the bill will catch those who are currently applying for controlled sheep, goat and moose tags in the middle of a process that began April 1<sup>st</sup>.

In response to a question regarding nonresident fee changes, **Mr. Davenport** explained that nonresident fees will increase 7 ½ %, but this is an average and individual fees will be considerably higher.

**Doug Schleis**, a sportsman, **spoke in opposition to S 1141aa**. He explained that the Commission did a good job and came up with a reasonable proposal. He further explained that he is in favor of the original bill, but supports relieving the disabled veterans an increase in fees. He reported that nonresident sales are down, and 80% of sportsman have spoken for the original bill. He also explained that this would not be a tax increase, but a voluntary fee increase. He concluded that the Department needs money to carry on in a respectable manner.

**Matt Compton**, representing the Idaho Sportsman Caucus Advisory Council made up of about 30,000 hunters addressed the Committee. He explained that the Council had sat down with the Department and spent a lot of time to balance fee increases and with the amendments, nonresidents have all of the burden. He spoke in support of bringing the bill back up to the 15% increase in fees.

**Charles Chapin**, representing the Disabled American Veterans explained that they object to the disabled veterans getting a fee increase.

**MOTION:** Rep. Hagedorn made a **Motion to send S 1141aa to the Floor with a DO PASS recommendation.**

**SUBSTITUTE MOTION:** Rep. King made a **Substitute Motion to send S 1141aa to General Orders** to strip the bill back to the original language.

Committee discussion followed with the following points made; if the bill is sent back to the Senate, then it would die, the Department has the opportunity to use preference points for controlled hunts and it is permissive language in the amendment, and the Department will be back before the legislature next year because they will need more funding.

**ROLL CALL VOTE ON SUBSTITUTE MOTION:** A roll call vote was requested on the **Substitute Motion to send S 1141aa to General Orders. The motion failed, 2-16. Voting in favor** of the Substitute Motion were Representatives Wood (35) and King. **Voting in opposition** to the Substitute Motion were Representatives Shepherd, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Sayler, Chavez, Pence and Chairman Stevenson.

**ROLL CALL VOTE ON** A roll call vote was requested on the **Original Motion to send H 1141aa to the Floor with a DO PASS recommendation. The motion carried, 13-5.**

**ORIGINAL  
MOTION:**

**Voting in favor** of the Original Motion were Representatives Bell, Moyle, Eskridge, Raybould, Bedke, Wood (27), Boyle, Hagedorn, Saylor, Chavez, King, Pence and Chairman Stevenson. **Voting in opposition** to the Original Motion were Representatives Shepherd, Wood (35), Barrett, Andrus, and Harwood. **Rep. Wood (27) will sponsor the bill on the House Floor.**

**Dustin Miller**, environmental liason for Governor's Office on Species Conservation addressed the Committee. He reported that U.S Interior Secretary Salazar has announced that wolves will be delisted on May 4<sup>th</sup>. He explained science has indicated that wolves have biologically recovered and are no longer endangered. He further explained that advocacy groups plan to sue and it is an illegal rule to exclude state of Wyoming . He explained that one of the crucial components will be to obtain a good attorney to defend this rule. He reported that currently there are 843 wolves in packs in the tri state area which is 8 times the minimum recovery amount. The desire is to maintain a viable population of wolves of about 500 animals. He reported that wolf hunting season for this fall may be set.

**Mr. Miller** clarified that the 2002 Wolf Management plan called for the Department of Fish and Game to come up with an acceptable population figure. In 2005, the Commission approved 500 wolves related to the wildlife population at that time. He further explained that the Commission took conservative numbers.

**Mr. Miller** explained that it is costing about \$250,000 per year for depredations and approximately 90% of elk are taken out by wolves. He reported that some areas have had to remove 80% of wolves.

**Director Groen** explained that there has been a lot of misinformation about the wolf management program. He explained that Idaho manages wolves more precisely than any other species and 14 areas have quotas for wolves. He further explained that the state has good biology, a good plan and will adjust the number as we go on. He explained that the discussions with the tribe concerning wolves are ongoing.

In response to a question regarding what the sustainable number should be for wolves in the state, **Mr. Groen** explained that there should be 10 packs in each state.

**ADJOURN:**

There being no further business to be brought before the Committee, Chairman Stevenson adjourned the meeting at 4:40 P.M.

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Representative John A. Stevenson  
Chairman

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Claudia Howell  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** April 9, 2009

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

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Sayler, Chavez, King, Pence

**ABSENT/  
EXCUSED:** Reps. Wood, Bell, Moyle, Bedke, Sayler, Chavez

**GUESTS:** Norm Semanko, Idaho Water Users Association; Ken Harward, Association of Idaho Cities; Benjamin Davenport, Risch Pisca; Zach Hauge, Capitol West; Kent Lauer, Idaho Farm Bureau; Jane Wittmeyer, Intermountain Forest Association

**MOTION:** **Rep. Pence** moved to approve the minutes from April 7, 2009. **Motion carried on voice vote.**

**Norm Semanko**, Executive Director, Idaho Water Users Association reported on the "Summit on Rural and Urban Water Delivery Challenges". The number one problem that irrigators are encountering are encroachments occurring in urban areas on existing irrigation systems.

This problem came to the forefront January, 2008 after a breach in a canal caused flooding to an urban home area. As a result, there is now a court regulation dictating how much water the irrigators can use. The homeowners are driving this issue and it should have been taken care of at the time of the home developments between all the parties.

Due to these types of issues, on October 8, 2008, a summit was put together with the help of several cities, counties, planning and zoning departments, Bureau of Reclamation, and irrigation districts. A facilitator was hired who moderated a workshop wherein different stakeholder perspectives on the issues were heard. Success stories where different stakeholders partnered together to avoid problems in the future were discussed.

There were 170 people at the summit and as a result of the process, work groups were formed and potential solutions discussed. One idea was for master plan agreements to be signed among the stakeholders in every development. Also discussed was how to handle storm water in canals and the reasons why dumping the storm water into these canals caused problems. Subgroups were formed on data collection, storm water and master plan agreements.

Mr. Semanko discussed how the City of Eagle has adopted a standard condition they put into all their approvals for zoning that says if there is a canal or drain running through a property, a written agreement between the parties must be brought to the city before a building permit will be

authorized. The association is hoping for more of this type of cooperation.

The Bureau of Reclamation identified five canals of concern throughout the State. A canal is more likely to break if there are encroachments on it and it is more difficult to maintain a canal and deal with small breaks if encroachments have occurred.

**Ken Harward**, Executive Director, Association of Idaho Cities, discussed the summit and the results that it will produce. He stated there will be additional conferences and workgroups throughout the year which will lead to good results.

**Mr. Semanko** stated in response to questioning that there is a process requiring a fee if a person would like to exclude themselves from an irrigation district. This process is governed by statute and the irrigation districts are usually more than willing to accommodate the person.

**Alan Newbill**, President of Pioneer Irrigation District in Caldwell, discussed the effect that encroachments have had on their canals. The Pioneer Irrigation District was formed in 1901 to irrigate approximately 34,000 acres in Canyon and Ada Counties. As the farmland has been reduced and the urban areas have grown, encroachments are occurring more rapidly.

The two main areas of concern are the risk of flooding and water quality. Water quality concerns have increased given that more urban storm water is flowing into the canals and there are higher pollution levels of things like bacteria and petroleum. This water is still used on farm lands and could lead to contamination of livestock and produce which is shipped worldwide. These two issues have driven Pioneer Irrigation District to find solutions and the summit was a good step in the process. A lot of good ideas have come out of it, but so far the district has not been able to implement any.

Mr. Newbill stated in response to questioning that bike trails and drains can be a good idea, however there could be problems with the drains in carrying away upper ground seepage. One of the things they would like is to create marshy lowland areas where the drains can carry some of the excess water, as well as creating parks with nice walking areas.

**George Bacon**, Director, Idaho Department District of Lands, gave a report on the 2010 Timber Sales Plan. The Department of Lands has been active looking at forest inventories in the last 18 months. Studies have indicated the department could sustain a higher harvest.

The department has always been conservative in its harvesting and has seen problems with overstocking and maximizing revenue. Over the time between 2004-2007, a lot changed in computer modeling and knowledge of forests which indicated there was an excess of over 3 million board feet in maintaining proper stocking levels.

The result of the studies have shown that the harvest should increase. The department is taking a proposal to the land board increasing the harvest to 257 million board feet per year. This will enable the remaining trees to grow better as they obtain more light and have more room to grow which will allow greater harvest in the future.

The department is attempting to obtain the peak harvest level. The sales plan is for 230 million board feet ramping up to 247 million board feet which is an increase over past years.

The department studied different areas of Idaho and found the wood baskets in southern Idaho are saturated with the result of the boards not selling there, even with lowering the price. In these areas, the harvest needs to be lowered.

There are four factors which have an impact on harvest. These factors are biological, market related, silvicultural and economic.

The biological factor is harvest vs. growth. In McCall, they have been harvesting 15 -17 million board feet. In 1999, they started harvesting 21 million board feet due to a spruce beetle infestation. In 2006 they went to 25 million in this area but due to the spruce mortality, they needed to capture as much as they could quickly with the intent to lower the disease level. 25 million board feet is not sustainable for long, but 17 million board feet in this area is going to be the recommendation.

Market Related - maintaining the state's industrial infrastructure is a major concern. The wood basket study shows an 18 million board feet oversupply in the McCall area due to saturation. They are offering 25 million board feet and only selling approximately 18 million board feet. The local mills have not brought anything from the department since October, 2007.

Silvicultural is the art and science of growing trees. The department is starting to see problems in the stands. They are having trouble with regeneration in Southern Idaho, planting trees and having them fail. They are working on understanding what is occurring. Growth is dependent on regeneration.

Economic situation - in today's market, not all the ground is available for harvesting. They are working 120,000 acres at McCall with only two-thirds available for harvest. They also are not working the entire land base, which the 17 million board feet in McCall reflects. Some sites are just not practical to grow and harvest from. There is also the concern that costs will exceed income.

Overall, the department is looking to increase the harvest on its lands, except for southern Idaho where it will be slowed down. They have seen a demand for their product, but many mills have shut down with the result that milling capacity is down. This has left a surplus of timber that no one wants, but not enough timber left that someone would want to invest in building a new mill. A new mill would need 100 million board feet each year to be sustainable.

Mr. Bacon stated that competition from the Canadian industry has not been a problem. His understanding is that when the fuel prices went really high, locally grown wood became more cost effective. Canada was also hit with a large insect infestation which hurt their timber industry.

The department has not seen any problem with lawsuits in southern and eastern Idaho. They are getting some pressure in Northern Idaho with

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

- DATE:** April 13, 2009
- TIME:** 1:30 P.M.
- PLACE:** Room 148
- MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence
- ABSENT/  
EXCUSED:** Rep. Harwood
- GUESTS:** Dr. Robert Digrazia, Wild Sheep Foundation; Alan Schroeder, Shirts attorney; Ron Shirts, sheepman; Kurt Houston, ID Dept. of Lands; Sharon Kiefer, ID Dept. of Fish and Game; Courtney Washburn, ID Conservation League; John Robinson, ID Conservation League; Lynn Tominaga, ID Ground Water Appropriators, Inc.; Norm Semanko, ID Water Users Assoc.; Candice McHugh, ID Ground Water Assoc.; Jim Unsworth, ID Dept. of Fish & Game; Zach Hauge, Capitol West; Jim Tucker, Idaho Power; Frank Shirts, sheepman; Colby Cameron, Sullivan & Reberger; Clive Strong, Attorney General's Office; Nate Helm, Sportsmen for Fish and Wildlife; Stan Boyd, ID Wool Growers Assoc.
- Chairman Stevenson called the meeting to order at 1:30 P.M. and a silent roll was taken.
- MOTION:** Rep. Pence made a motion to approve the minutes from the April 9<sup>th</sup>, 2009 meeting as submitted. On a voice vote, the motion carried.
- Chairman Stevenson announced that the committee will discuss the three water bills that were discussed in the joint meeting held on April 1<sup>st</sup>, 2009. He further announced that a vote will be held individually on each bill.
- S 1169:** **Mr. Lynn Tominaga**, representing the Idaho Ground Waters Appropriators, Inc. addressed the Committee. He explained that at the joint hearing held on April 1<sup>st</sup>, 2009, in which the water agreement between Idaho Power and the State was discussed. He further explained that the Idaho Ground Waters Appropriators have no problem with **S 1167** and **S 1185** but they do have concerns with **S 1169**. He explained that the group has a concern with the Memorandum of Agreement referenced in **S 1169**. He reported that the group is in the process of working with the Attorney General's Office and Idaho Power to resolve their concerns. He provided copies of a letter from IGWA to the Attorney General's Office and Idaho Power addressing these concerns. (See copy of letter). **Mr. Tominaga** explained that IGWA does not want to hold up this legislation and the potential issues of concern would be 5 to 15 years down the road.

**Candice McHugh**, attorney for the Idaho Ground Water Appropriators, Inc.

addressed the Committee. She explained that IGWA will continue to enter into a dialogue with the State and Idaho Power to address their concerns. She further explained that IGWA does not oppose **S 1169**.

**Clive Strong**, representing the Attorney General's Office addressed the Committee. He explained that the proposed legislation does not modify or change original Swan Falls agreement. He further explained that the proposed 2009 Reaffirmation Settlement will resolve three issues of the original Swan Falls Settlement. These issues are 1) consistent with Idaho Code § 42-203B no portion of the waters of the Snake River of surface or ground water tributary to the Snake River upstream from Milner Dam are to be considered in the administration of hydropower water rights below Milner Dame, 2) it will reaffirm the Swan Falls Agreement by decreeing the hydropower water rights for Idaho Power's facilities between the Milner Dam and the Murphy Gage consistent with the Court's decision dated April 18<sup>th</sup>, 2008; and 3) it reaffirms that the original Swan Falls Settlement does not preclude use of water for aquifer recharge.

**Mr. Strong** discussed three aspects of the Memorandum of Agreement in the Reaffirmation Settlement. The first aspect is that the MOA acknowledges that through the original Swan Falls Settlement, the State and Idaho Power have a shared interest in ensuring that the Swan Falls minimum flows are maintained and recognizes that it is in their mutual interest to work cooperatively to explore and develop a managed recharge program that achieves, to the extent possible, benefits for all uses including hydropower. The second aspect is that the Memorandum acknowledges that the Idaho Water Resource Board adopted the Comprehensive Aquifer Management Plan (CAMP) and that the CAMP establishes a long term hydrologic target for managed recharge from 150,000 to 250,000 acre feed on an average annual basis and that any amendment of this long term hydrologic target shall constitute a change in the State Water Plan. The third aspect provides that the Governor and the Idaho Water Resource Board will cooperate with and inform the Public Utilities Commission of any direct effects of managed recharge on hydropower generation capacity. He explained that this provision does not divest the Public Utilities Commission of its authority to independently evaluate Idaho Power's request. He further explained that the Memorandum does not require the Governor or the Board to take any affirmative position on whether a specific request by Idaho Power is appropriate or necessary or on how any resulting rate impact should be allocated.

**Mr. Strong** explained that **S 1169** reconfirms that Idaho Power by reaffirming the 1984 Swan Falls Settlement is entitled to the same protection as contained in the uncodified provisions in Chapter 14 of the 1985 Idaho Session law. He further explained that the bill is not intended to create any new or additional benefits for Idaho Power that do not already exist in Idaho State law. The bill does not deprive the Public Utilities Commission of authority to independently determine the necessity or reasonableness of any rate request by Idaho Power.

**Mr. Strong** explained that the State and Idaho Power will work through the concerns raised by the Idaho Ground Water Appropriators Association. He further explained that the proposed settlement is fair and reasonable and is good sound water policy as referenced in the summary. (See attached summary)

**Mr. James Tucker**, representing Idaho Power addressed the Committee. He explained that Idaho Power collaborated with the State on the summary of the Swan Falls Reaffirmation Settlement. He further explained that he had not seen the letter from the Idaho Ground Water Appropriators Association. He reported that he concurred with **Mr. Strong** and stood behind the summary.

In response to a question regarding the effect of Paragraph 5 of the Memorandum of Agreement, **Mr. Strong** explained that Paragraph 5 of the Memorandum of Agreement provides that the Governor and the Idaho Water Resource Board will cooperate with and inform the Public Utilities Commission of any direct effects of managed recharge on hydropower generation capacity. This provision does not divest the Public Utilities Commission of its authority to independently evaluate Idaho Power's request. Rather, paragraph 5 is merely an extension of the recognition under the original Swan Falls Settlement and this Reaffirmation that the State should make informed decisions with regard to water management in an effort to enhance and manage the water supply in the Snake River for the benefit of agriculture, hydropower and other beneficial uses. Consistent with that recognition, Paragraph 5 provides that upon making such an informed decision with regard to the implementation of managed recharge, the Governor and the Board will so inform the Public Utilities Commission of any "direct impacts" they determine may arise from implementation of managed recharge and acknowledge that such impacts may have an effect on the Company's ability to provide electrical energy. Paragraph 5 of the Memorandum does not require the Governor or the Board to take any affirmative position on whether a specific request by the Company is appropriate or necessary or on how any resulting rate impact should be allocated.

Rep. Raybould discussed the rental pool in the water supply bank in District 1. He explained that irrigators in Water District 1 can put a portion or allotment of water in the rental pool for others to use. He further explained that the Water Resource Board has the authority to create the rental pool and has set up priorities as to who is eligible to rent water from this pool. Rules have been set up by the Rental Pool Committee of 9 members. He explained that the Water Resource Board has to put their stamp of approval on the rules. He explained that there are severe penalties for renting water below the Milner Dam. He explained the priorities and how they are set up. These priorities include; first priorities are rentals by participants whose storage was impacted by the prior year's rental; second are rentals by participants for agriculture and uses up to the amount of their space; third are rentals by participants for any use above the Milner Dam; fourth are rentals by non space owners above the Milner Dam; and fifth are rentals for proposed users below the Milner Dam up to 50,000 acre feet per year.

**MOTION:**

Rep. Raybould made a **Motion to send S 1167 to the Floor with a DO**

**PASS recommendation. On a voice vote, the motion carried. Rep. Pence will sponsor the bill on the House Floor.**

**MOTION:** Rep. Raybould made a **Motion to send S 1169 to the Floor with a DO PASS recommendation. On a voice vote, the motion carried. Rep. Raybould will sponsor the bill on the House Floor.**

**MOTION:** Rep. Raybould made a **Motion to send S 1185 to the Floor with a DO PASS recommendation. On a voice vote, the motion carried. Rep. Wood (27) will sponsor the bill on the House Floor.**

**S 1175a:** **Senator Siddoway** presented this bill to the Committee. He explained that the purpose of this legislation is to make three changes in Idaho Code to clarify actions that shall take place before the transplant or relocation may take place. It provides for certain agreements provides that domestic sheep and livestock operators will be held harmless from adverse impacts by the State of Idaho, provides for control of certain bighorn by the Director of the Idaho Fish and Game and that the shared veterinarian program between the Idaho Department of Agriculture and the Idaho Department of Fish and Game be dissolved.

**Sen. Siddoway** explained that the proposed legislation is trying to shield private industries and trying to protect people by guaranteeing a separation.

He discussed the new language in the bill which states that "It is the policy of the State of Idaho that existing sheep or livestock operations in the area of any bighorn sheep transplanted or relocated are recognized and that the potential risk, if any, of disease transmission and loss of bighorn sheep when the same invade domestic livestock or sheep operations is accepted."

**Sen. Siddoway** also explained that the proposed legislation states that should any bighorn sheep come in contact with domestic sheep the director of the Idaho Fish and Game shall relocate or control the bighorn sheep to ensure that appropriate separation is maintained.

The proposed legislation also deletes language regarding the dual veterinarian for the Department of Agriculture and the Department of Fish and Game. **Sen. Siddoway** explained that each Department has their own veterinarian and has asked for this deletion.

**Sen. Siddoway** provided copies of a pamphlet with various facts about the bighorn sheep in the State. He explained that there were 87 strains of diseases in the bighorn population in Hell's Canyon from 1988-2006. The pamphlet also outlined the distribution of bighorn sheep and public land grazing by domestic sheep in the state. Also included in the pamphlet was a letter which clarified that the bighorn die off in Hell's Canyon was not from domesticated sheep.

**Sen. Siddoway** also explained that according to Marie Bulgin, a University

of Idaho veterinarian, no scientist has found a single instance of pasteurilla moving from domestic sheep to bighorn in 19 years of research.

**Sen. Siddoway** also provided copies of a letter to the Idaho Wool Growers Association dated January 16, 1997 from the U.S. Forest Service. He explained that the intent of the letter was to hold domestic sheep operations harmless from any risk associated with the introduction of bighorn sheep into the Hell's Canyon complex. **Sen. Siddoway** further explained that one of the signers of the letter, Robert M. Richmond of the U.S. Forest Service explained that he was authorized to sign the letter on behalf of the Nez Perce and Payette National forest and did so knowing that the letter and its "hold harmless" language was intended to apply to those national forests.

In response to a question regarding "appropriate separation", **Sen. Siddoway** explained that the Idaho Department of Fish and Game and the U.S. Forest Service have come together as to how to keep the animals separated. He further explained that there are many strategies to use. He also explained that the Governor has set up a task force to deal with this issue.

In response to a question regarding the possible fiscal impact on the Department of Fish and Game to separate the bighorns, **Sen. Siddoway** explained that this is unknown and he did not know of any instance of domestic and bighorn sheep mixing.

**Sen. Siddoway** explained that there have not been any bighorn sheep seen on the east side of the Snake River in the last 9 years. He also explained that with the passage of the legislation, it is hoped that the U.S. Forest Service will try separation strategies.

**Sen. Siddoway** explained that there was opposition to bill in the Senate. He stated that the bill passed on a party line vote and those opposed felt that the federal government has supremacy over the state. He also reported that the sportsmen organizations were not involved in putting this legislation together.

**Dr. Robert Digrazia**, a dentist in Boise and past national president of the Sheep Foundation, **spoke in opposition to SB 1175a**. He recommended that this issue should be discussed in the Governor's Task Force. He reported that nationally there has been a separation and an increase in the number of wild sheep. He explained that the wild sheep in Hells Canyon provides an economic boost to city of Lewiston and the economic impact is immense to the state. He also reported that a sheep tag for a nonresident costs \$1,500. He also explained that the 1997 National Forest Service agreement was never signed by the Forest Service Chief. He reported that he would like to see this issue solved in a cooperative way and the Governor's process is a valid means of addressing this issue.

In response to a question as to what part of the proposed legislation he

objects to, **Dr. Digrazia** explained that he is against the disease transmission part of the bill.

**Sharon Kiefer**, assistant director of the Idaho Department of Fish and Game **spoke in opposition to S 1175a**. She explained that IDFG has not contributed to **S 1175a**. She further explained that the Fish and Game Commission adopted an "Interim Strategy for Management Separation Between Bighorn Sheep and Domestic Sheep in Idaho." The interim strategy directs the Department to implement management protocols creating temporal and spatial separation of bighorn and domestic sheep to manage and reduce risk to each. She explained that it is the Department's view is that neither the interim strategy, **S 1175a**, or the Governor's task force will prevent current federal litigation and potential difficult outcomes. She explained that the mandate contained in the bill regarding modifying the duties and powers of the Director regarding bighorn sheep management is more rigid than the current interim separation strategy. She further explained that close proximity is not defined and a timeline for reporting the close proximity is also not defined. She explained that a separation strategy can only be "managed" and not "guaranteed" as outlined in the proposed legislation. She concluded that the Department will look to their interim strategy, law, and the work of the Governor's Advisory group to continue to address the difficult management issues and the future framework to ensure the viability of both bighorn sheep and domestic sheep in Idaho.

**Ms. Kiefer** explained that by making it a law requiring the Director to make a finding without scientific information would be open for challenge.

**Ron Shirts**, a sheep man from Weiser **spoke in support of S 1175a**. He explained that he had trust in government agencies. He also explained that he has herded sheep from young age and is proud of the business that he and his family have built. He further explained that he is in danger of losing his business. He reported that he put his trust in the 1997 agreement and has not been offered an alternative allotment.

When asked if he could wait for recommendations from the Governor's advisory committee, **Mr. Shirts** explained that he is trading water now and his life line is about to be cut.

**John Robinson**, public lands director of the Idaho Conservation League **spoke in opposition to S 1175a**. He explained that his organization does not oppose the veterinarian issue in the proposed legislation. He further explained that the future of Idaho depends on the viability of the bighorn and domestic sheep. He explained that the ICL is concerned that this bill would hamper IDFG to manage the sheep population. He further explained that by focusing on this issue, the state is missing the big picture. He reported that this is only part of the story and there is a need to look at the whole measure. He explained that if bighorns continue to decline they could become endangered. He further explained that the Governor's Task Force will give the guidelines needed to avoid this situation. He reported that the task force is having their third meeting this week. He explained that the bill is a step back to address this issue.

**Mr. Robinson** explained that he does not speak for the Forest Service but

does offer a technical report. He explained that the risk of potential disease must be addressed in the policy of separation. He further explained that the Forest Service looked at areas of conflict and the best ways to provide for bighorn sheep is to separate them.

When asked who serves on the Governor's Advisory group, **Mr. Robinson** explained that others in the group include the Shirts brothers, the Woolgrowers Association, U.S. Department of Agriculture, Department of Fish and Game, the tribes, representatives from the Forest Service, the Bureau of Land Management, river guides, hunting guides and representatives from sportsmen groups. He explained that it is a comprehensive group and efforts do take time.

**Mr. Robinson** explained that the League would like to work with the ranchers to work out concerns. He also explained that the bill would remove some of the options down the road and create a false sense of security. He explained that the bill will not have the affect on the ground that is desired.

In response to a question regarding why the federal government is reneging on the agreement, **Mr. Robinson** explained that the League represents 9,000 members who care about Idaho's landscape and wildlife and he was present to recommend that this policy will not accomplish these goals.

It was commented that government agencies are looking out for themselves and they should be a representation of other people at the table who have their livelihood in danger. **Mr. Robinson** explained that there is a need to look at the big picture and sportsmen, outfitters and guides are trying to find a way for everyone to co-exist.

**Mr. Robinson** reported that the Forest Service is going through all of the comments on the Payette National Forest and some type of significant changes are going to happen.

In response to a question regarding the 1997 agreement and why it should be voided, **Mr. Robinson** explained that the ICL was not a party to that agreement and the agreement never went through a public process. He explained that there is an effort underway to try and avoid this in the future. He further explained that the goal is to try to set up a framework with sheep men and the government to try to address these issues before they come up. He also explained that this bill would not affect the Forest Service agreement and also would not affect the Shirt's problem.

Rep. Bedke commented that the domestic sheep issue is a surrogate issue for a larger agenda. He further commented that the Forest Service is doing nothing to other transmitters of disease, just the domestic sheep.

He also suggested that the Legislature do something to keep domestic

sheep herders in business. **Mr. Robinson** responded that there should be careful discussions with all stakeholders. He further commented that the best thing to do to is to bring all the stakeholders together with the goal to preserve domestic sheep and bighorn sheep together.

**Mr. Robinson** reported that the League supports the full suite of native animals in Idaho.

In response to a question regarding if there is language in the bill that would preclude the successful collaboration of the Governor's Task Force, **Mr. Robinson** explained that with the amended bill, he is concerned that the Department of Fish and Game will have fewer tools available to them and not focus on better proactive measures.

**Nate Helm**, representing the Sportsmen for Fish and Wildlife addressed the Committee. He explained that his organization has no interest in seeing harm to Shirt family or to the 1997 agreement. He further explained that his organization has the same concerns as the IDFG. He also explained that his organization has not taken an official position on this bill. He expressed his concern that passage of this legislation would create a false sense of hope.

**Stan Boyd**, representing the Idaho Woolgrowers Association **spoke in support of S 1175a**. He explained that this legislation puts in place a separation policy for the state.

In response to a question regarding what kind of separation, **Mr. Boyd** explained that it would be worked out on a case by case basis. He also explained that domestic sheep allotments are governed by annual instruction and are grazed in a rotation fashion.

In response to a question regarding bighorn sheep in the Salmon River area, **Jim Unsworth** from the Department of Fish and Game explained that these sheep have always been there, but they do have some disease issues.

**Mr. Boyd** explained that all parties involved will work together, but the problem is the U.S. Forest Service refusing to listen to what the state has to say. He reported that the state has 9% of sheep that was here 20 years ago and he did not know what is causing the die off. In response to concerns raised by the Department of Fish and Game, **Mr. Boyd** explained that the cost is going to be there and there should be a policy in place to show federal government that the state has separation.

**Mr. Boyd** explained that proposed legislation just puts into code what is in the 1997 agreement.

**Alan Schroeder**, attorney for Shirts brothers, **spoke in support of S 1175a**.

He explained that other domestic sheep owners are at risk in addition to Shirts brothers. He further explained that it is the present intent of the Forest Service to close these allotments and eliminate the domestic sheep livestock in Payette National Forest. He also explained that there is a need to reinforce the 1997 agreement.

**Senator Siddoway** concluded that the domestic sheep industry brings more money into the state than any of the tags sold by the Department of Fish and Game and environmental groups have shut down many industries in this state.

Rep. Chavez commented that there are bighorn sheep in her area and they are important to her area economically. She further commented that she is not unsympathetic to Shirts brothers but has concerns about what it is going to cost the Department of Fish and Game.

**MOTION:**

Rep. JoAn Wood made a **Motion to send SB 1175a to the Floor with a DO PASS recommendation.** In speaking to her Motion, Rep. Wood (35) explained that the state cannot afford to lose another industry.

In the discussion on the Motion, the following comments were made; sheep herders have to adjust as others have done elsewhere, the real issue is about private property rights, this legislation is designed for the state of Idaho to support a private contract with the citizens and the 1997 was a good faith agreement and it should be honored.

**ROLL CALL VOTE:**

A roll call was requested on the Motion to send **S 1175a** to the Floor with a DO PASS recommendation. **The motion passed, 14-3-1. Voting in favor** of the Motion were Representatives Shepherd, Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Saylor and Chairman Stevenson. **Voting in opposition** were Representatives Chavez, King and Pence. Rep. Hardwood was absent. **Rep. Boyle will sponsor the bill on the House Floor.**

**ADJOURN:**

There being no further business to be brought before the Committee, Chairman Stevenson adjourned the meeting at 4:30 P.M.

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Representative John A. Stevenson  
Chairman

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Claudia Howell  
Secretary

endangered species groups and they are reducing their harvest at Priest Lake.

Mr. Bacon stated that in the early 1990s there were lawsuits in Priest Lake with the court ruling that the groups bringing the suit had no standing. The trust is the owner of the land. This stopped the lawsuits but the bill that required groups to file a bond also helped to prevent frivolous suits to delay things.

He further stated in response to questioning, that the Fish and Game Department are their advisors on habitat and wildlife concerns, and they design the harvest and sales with their recommendations in mind. Most of the purchasers of the sales receive their product quickly; however, it depends on the purchaser and time of year.

The department has been talking to biomass energy producers in potentially developing contracts long term where they could receive biomass fuel. These contracts would be for the slash/burn waste products. The department can't develop bio-energy by themselves, but as one develops they would like to be part of the supply.

Mr. Bacon explained that fertilization of a forest is an expense that is judiciously used in certain areas. This is in pellet form consisting of a nitrogen, potassium and a mix of trace elements distributed by air. Someone on the ground with a walkie talkie directs the dropping of the pellets in each area.

Rep. Stevenson recognized the committee's page, Brigham Duncan and thanked him for his hard work and dedication.

**ADJOURN:**

There being no further business before the committee, the meeting was adjourned at 2:34 p.m.

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Representative John A. Stevenson  
Chairman

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Jennifer Coggins  
Secretary

MINUTES

**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** April 21, 2009

**TIME:** 11:45 A.M.

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Saylor, Chavez, King, Pence

**ABSENT/  
EXCUSED:** Representatives Moyle and Bedke

**GUESTS:** None

Chairman Stevenson called the meeting to order at 11:45 A.M. and a silent roll was taken.

**MOTION:** Chairman Stevenson explained that the minutes from the joint meeting on April 1<sup>st</sup> were transcribed by the Senate Resources & Environment secretary. Rep. Pence made a motion to approve the minutes from the joint meeting with the Senate Resources and Environment Committee held on April 1<sup>st</sup>, 2009 as submitted. On a voice vote, the motion carried.

**MOTION:** Rep. Hagedorn made a motion to approve the minutes from the April 13<sup>th</sup>, 2009 meeting as submitted. On a voice vote, the motion carried.

Chairman Stevenson announced that further meetings of the Committee would be held at the call of the Chairman.

**ADJOURN:** There being no further business to be brought before the Committee, Chairman Stevenson adjourned the meeting at 11:50 A.M.

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Representative John A. Stevenson  
Chairman

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Claudia Howell  
Secretary

## MINUTES

### HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** April 29, 2009

**TIME:** Upon Recess of the House

**PLACE:** Room 148

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Sayler, Chavez, King, Pence

**ABSENT/  
EXCUSED:** Reps. Bedke, Moyle

**GUESTS:** Benjamin Davenport, Risch Pisca

Chairman Stevenson called the meeting to order at 2:50 p.m.

**S 1232a** **Chairman Stevenson** reminded committee members that they had already considered and passed S 1175 and that Governor Otter had vetoed that bill. He said the bill before the committee today, **S 1232a**, is a replacement that had originated in the Senate and was subsequently amended and passed by them. Chairman Stevenson said Rep. Boyle would explain the amendments to the original S 1232 since she had been involved in their discussion.

**Rep. Boyle** explained that the original replacement bill, S 1232, was found to be problematic by the Attorney General's office and was therefore amended to meet those concerns. She acknowledged that the resulting S 1232a is still not perfect, but it is probably the best compromise legislation acceptable to all parties.

During committee discussion, **Rep. Boyle** said the stricken language on page 7, regarding the veterinarian program, is the same language that was stricken in the original S 1175. She stated that the term "agreement" is substituted for the term "letter" on page 3, line 26, because the document actually is an agreement, although it has taken the form of a letter in recent years.

Asked whether Governor Otter is supporting this legislation, Rep. Boyle said the language in the bill is his language. She said it is her understanding that the bill is also acceptable to the Governor's task force, to the Forest Service, and to other parties. **Chairman Stevenson** said David Hensley from the Governor's office had been involved in the discussions over the past couple of days and had indicated this was the agreement the Senate thought they could achieve. He also noted that he had talked to the Fish & Game Commission and they are aware of the language in the bill.

Asked about the requirement in S 1232a that the state shall develop a

management plan, **Rep. Boyle** said Fish & Game does have a management plan for bighorn sheep, but it has not been updated since 1995. She said Fish & Game began discussing an update to the plan in May 2008 and planned to have an updated version ready for presentation to the public by January 2009. According to Mr. Hensley, however, that plan is still being refined.

Rep. Boyle was asked about how this legislation will impact the Payette National Forest's plan. She responded that the Payette National Forest is developing an environmental impact statement (EIS), but this is different from the state's plan which will say how Idaho will manage its bighorn population. She noted that all wildlife belongs to the state and the state bears the responsibility for managing the animals. The federal government has to abide by the state's management plan. This is especially important in the case of large animals such as the bighorn because such animals travel back and forth across federal land, state land, and private land. Rep. Boyle said the Forest Service has to take all these factors into account as they develop their environmental impact statement.

Responding to further committee questions, Rep. Boyle said Mr. Hensley has not indicated who is developing the management plan for the state. She noted that the working group is made up of a wide variety of interested parties, but that it has no authority and is only an advisory group. The final plan will still need to go to Fish & Game and the Governor's office. Fish & Game is ultimately responsible for developing the final plan for managing and hunting bighorn sheep.

A concern was expressed over the time frame of the plan and the fact that if it takes too long to develop and implement a plan, the sheep grazers may be gone from the state of Idaho before it becomes effective. A question was also raised about the Statement of Purpose's fiscal note, which states that there will be no fiscal impact as a result of this bill. Since the management plan will have to be developed by someone, probably a state employee, the real cost of that person's time is not accurately reflected in the fiscal note.

**Chairman Stevenson** expressed gratitude to **Rep. Boyle** for handling the presentation and explanation of **S 1232a**, saying she was the only person available who was familiar with the changes made and the work done on the bill during the last couple of days.

**MOTION:**

**Rep. Eskridge** moved to send **S 1232a** to the floor with a **DO PASS** recommendation.

**Rep. Hagedorn** stated his belief that the Fish & Game Commission has lagged behind in its responsibility to manage the bighorn sheep population, and this legislation will be a clear signal to them that they need to perform this function in a timely manner. Chairman Stevenson again noted that, although S 1232a is not a perfect bill, it is the one that has been negotiated and agreed upon by the Governor's office, the Senate, and the Shirts family's attorney. Although no one got the bill they wanted, all agreed this would have the best chance of passage by the Senate and House.

**Rep. Wood (27)** noted that the 1997 agreement dealt with risk but had

nothing to do with a management plan. He said there will be two management plans. One will originate with the Fish & Game Commission and will deal strictly with managing wild sheep and hunting them. The other plan is associated with grazing on the Payette National Forest lands, and is addressed in this legislation. This plan is what the Forest Service, the State of Idaho, and the Shirts family have come to agreement on. He said Fish & Game may have some input but they won't be drawing it up. S 1232a will allow the state to develop this plan without conflicting with federal rules.

Asked whether any plan will be developed in time to have any good effect in Idaho, Rep. Wood pointed out that the bill does have an emergency clause, which will allow development of the plan to start immediately. **Rep. Andrus** noted that the legislation contains a 90-day time limit for such a plan to be developed. He also said that legal counsel for the Shirts family had requested a 30-day time limit, but that very short time frame was not acceptable to the Governor, who thought it would be impossible for the Fish & Game Commission to come up with a plan in only 30 days.

**Rep. Harwood** indicated that, in his opinion, this bill does not seem to contain timely enough help for the farmers or sheepherders, and he asked whether an override of the Governor's veto of **S 1175** was feasible. **Chairman Stevenson** said the Senate has already indicated it will not entertain an override effort.

**Rep. Hagedorn** reminded committee members that Idaho's bighorn sheep belong to the state and it is Idaho's responsibility to develop a management plan. He said there needs to be clear direction given to the Forest Service, to the Executive branch, and to the Fish & Game Commission. If the Legislature takes no action, Rep. Hagedorn said, the situation will default to the old 1990 plan. He acknowledged that this bill may not be perfect, but the Governor has already indicated his position by vetoing the previous bill.

**Rep. Boyle** stated that she supports S 1232a, although reluctantly. Her support is based on two sections of the bill that remain from the previous S 1175, namely, the elimination of the dual veterinarians, which will help with budget concerns, and the language on lines 18-22, page 3 of the bill, which explicitly states the policy of the State of Idaho.

**VOTE ON  
MOTION:**

**Chairman Stevenson** called for a vote on the motion to send **S 1232a** to the floor with a **DO PASS** recommendation. A roll call vote was requested. **Motion passed, 12-4-2. Voting in favor of the motion:** Reps. Shepherd, Bell, Barrett, Eskridge, Raybould, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Sayler, and Chairman Stevenson. **Voting in opposition to the motion:** Reps. Wood (35), Chavez, King, and Pence. Reps. Bedke and Moyle were absent and excused. **Rep. Wood (27)** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 3: 25 p.m.

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Representative John A. Stevenson  
Chairman

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MaryLou Molitor  
Secretary

MINUTES

**HOUSE RESOURCES & CONSERVATION COMMITTEE**

**DATE:** May 5, 2009

**TIME:** Upon Adjournment of the House

**PLACE:** Room 145

**MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representatives Wood (35), Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood (27), Boyle, Hagedorn, Harwood, Sayler, Chavez, King, Pence

**ABSENT/  
EXCUSED:** Reps. Shepherd, Wood (35), Barrett, Moyle, Eskridge, Bedke, Boyle, Sayler

**GUESTS:** None

**Chairman Stevenson** called the meeting to order at 2:03 p.m.

**MOTION:** **Rep. Pence** moved to approve the minutes of April 29, 2009 as written; **motion carried on voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:05 p.m.

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Representative John A. Stevenson  
Chairman

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MaryLou Molitor  
Secretary